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Current Trends in the Acceptance of Refugees by their Chosen Host Countries Globally

STANDA SANI, NOBESUTHU T. NDLOVU, NOMEL RAISSA AND STANLEY MURAIRWA[1]

Abstract

Refugees and asylum-seekers face various obstacles in their quest for refuge in destination countries of their choice. These include dangerous border crossings and the possibility of being exploited by criminals. For refugees in particular, state-initiated barriers also take the form of restrictive immigration control measures once the refugees and asylum-seekers have landed in the foreign countries of their choice. Because of such measures, refugee and asylum petitions are not processed expeditiously as most industrialised countries tighten their borders to pass off asylum-seekers to their neighbours. Restrictive immigration control measures are now the developed world's primary and, some might argue, sole response to the growing number of refugees and asylum-seekers. Addressing the existing unequal distribution of responsibility for and protection of refugees should be a fundamental component of immigration control measures. Greater commitment to multilateralism should be based mostly on sharing responsibility for refugees, through relocation, humanitarian visas, or regional and international distribution systems, and the sharing of resources such as emergency assistance, specialised personnel, expertise and funding.

Keywords: immigration, refuge, deportation, policy, management

INTRODUCTION

Refugees and asylum-seekers continue to face significant barriers in their pursuit of asylum and refugee status in host nations of their choice. Some of these challenges, inherent in unofficial migration across the borders, include risky border crossings and the possibility of travellers falling prey to criminals along the way (Smith and Van Reisen, 2023). Similarly, state-sanctioned barriers for refugees also exist in the form of restrictive migratory control mechanisms (Kiyani *et al.*, 2023). For this reason, refugees' requests for asylum are often turned down as developed countries tighten their borders to divert the flow of asylum-seekers and refugees to neighbouring countries (Matera, Tubakovic and Murray,

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2023). After the devastation of World War II, the newly formed United Nations, founded in 1945, adopted the 1951 Refugee Convention, which aimed at legally defining who qualifies as a refugee and codifying rights for those who have been forced to flee their homes. A refugee was defined as someone who has been compelled to leave their country because they have a well-founded fear of being persecuted because of their race, religion, nationality, political opinion or membership in a particular social group, according to the United Nations High Commissioner for Refugees (UNHCR). The 1951 Convention and the 1967 Protocol that followed, which significantly broadened the 1951 Convention's geographical and temporal boundaries, lay out how refugees should be treated (Landefeld, 2023). They emphasise the cardinal principle of non-refoulement, preventing refugees from being tortured in countries where they face grave threats to their lives or freedoms (Perrolini, 2023).

Restrictive immigration control measures are currently the developed world's main and, as Segarra (2023) argues, exclusive response to the rising number of refugees and asylum-seekers. There is, therefore, now an unbalanced refugee system in place, both in Europe and globally, that places more emphasis on deterrence policies than on the promotion and protection of the fundamental human rights of refugees and asylum-seekers (Scott, 2023). Although most European countries continue to formally support the international legal framework for protecting refugees, most of these countries such as Austria, Spain and France, go to great lengths to exclude people seeking international protection and provide minimal assistance to countries hosting the greatest number of refugees (Tallis, 2023).

LITERATURE REVIEW

Refugee crises revolve around the word "crisis", defined by its potential, intensity, quickness, and sensitivity (Nil *et al*., 2023). A significant number of refugees will quickly create an unmanageable refugee crisis once the initial wave of migrants has arrived in a country, posing several difficulties for the bordering nations of the country of origin (Atar, 2023). As a result, both a country's internal and exterior governance may be affected by the refugee crisis. As discussed above, today's refugees frequently leave their home nations because of conflict, environmental degradation, economic hardships and other circumstances (Chatterjee, 2023). When there is a refugee surge, host nations experience a refugee crisis. For national decision-makers, the choice of whether to open

borders or close them, or whether to give moral or domestic precedence, is a puzzle (Roberts, 2023).

Despite previously being the world leader in the number of refugees resettled, United States President Donald Trump's administration drastically reduced the number of refugees accepted each year, setting new lows in the process (Calhoon, 2023). The United States lost ground to Canada as the leading resettlement nation internationally in 2018. Less than 12 000 refugees were relocated to the United States in fiscal year (FY) 2020, a sharp decrease from the 70 000 to 80 000 refugees resettled yearly just a few years previously and the 207 000 refugees accepted in 1980, the year the official US resettlement programme started (George, 2020).

The suffering of asylum-seekers removed from reception facilities after their asylum petitions was denied was brought to attention of the world in February 2017 when a group of Iraqi and Afghan asylum-seekers set up tents in the chilly Finnish evenings. They made several requests, one of which was the correction of inaccurate and unfair documentation produced by the Finnish Immigration Service (Migri) (Näre, 2020). The weekend-long tent protest turned into the 200-day Right to Life demonstration in front of the Kiasma Contemporary Art Museum and the Helsinki Train Station.

To determine whether one is a refugee or not, the German government bases its decision on the definition included in the Protocol Relating to the Status of Refugees (1966) issued by the United Nations. Persecuted individuals have the right to asylum, according to Article 16a of the Basic Law for the Federal Republic of Germany (2022). The "right to political asylum" is a basic right in Germany, according to this article. Before receiving refugee status in Germany, the asylum-seeker must first meet the requirement of "not coming from a safe country" and be assessed by the German government. Only those who have been evaluated by the German government may be awarded refugee status.

GLOBAL CONFLICTS AND FORCED IMMIGRANT MOVEMENTS

The Syrian War began in 2011 (Akhmedov, 2022), when many Syrians protested against corruption and the high unemployment rate in their country in response to the Arab Spring protests in Tunisia and Egypt. Vehement government opposition sparked more dissent and bloodshed, resulting in confrontations that developed into a protracted and complicated civil war (Alsaleh, 2021). Because of this war, Syria is currently experiencing an economic crisis, widespread poverty and mass

evictions, all of that causing millions of people to go hungry or become displaced (Plamper, 2023). An astounding 6.6 million Syrians have been compelled to seek protection as refugees in Lebanon, Turkey, Jordan and other countries, while almost seven million are internally displaced (Ghazzoul, 2022).

Another example is the armed conflict that erupted in eastern Ukraine at the beginning of 2014 because of Russia's annexation of Crimea (Stojanović, 2022). Despite diplomatic efforts and ceasefire attempts, fighting has been raging on ever since. Furthermore, over seven million people have been internally displaced since Russia began a full-scale military invasion of Ukraine in February 2022, and six million of them are currently refugees in nearby countries such as Moldova, Poland, Romania, Slovakia, Hungary, and Belarus (Cockbain and Sidebottom, 2022).

Elsewhere, Afghanistan's economic development has been stalled by decades of violence and instability that have also torn communities apart. The lives of millions of Afghan households were affected by the withdrawal of foreign soldiers in 2021, and they are now facing uncertainty and severe famine. More than six million Afghans were displaced by force by the end of 2021, including 3.5 million who were internally displaced and 2.6 million who were displaced as refugees (Crawley and Kaytaz, 2022). Furthermore, in other politically volatile nations such as Pakistan and Iran, a great majority of people have migrated (Verma, 2022).

In South America, six million Venezuelans have been forced to leave their homes after years of misery. This is the second-largest refugee crisis in history in a nation where an estimated 5 000 people continue to leave daily (Roth, 2019). Venezuela had a horrific economic collapse in 2014, as well as substantial unrest because of the crisis (Wang, 2022). Hyperinflation, violence and food and medication shortages brought on by this unrest, have forced migrants and refugees to leave their country (John, 2019). Not only has cholera and malaria returned to the country, but 2.3 million people are also suffering from severe malnutrition (Castro and Garcia, 2022). Children die more often because of hunger and famine, and COVID-19 somewhat exacerbated the issue. Venezuelan refugees who returned home after losing their jobs overseas due to the epidemic, have been unable to find employment. Moreover, persistent shortages of gasoline, power and clean water have triggered riots, forcing many people to leave once again (Del Real *et al.*, 2023).

Myanmar, formerly known as Burma, has been ravaged by decades of violence, displacing millions of people in recent years. The Rohingya are by far the most affected group in the nation, having been subjected to violent attacks, targeted atrocities, and human rights breaches, forcing hundreds of thousands to flee from their home territories (King, 2022). The Rohingya are referred to as "the most persecuted minority in the world" by the United States of America (Ansar and Khaled, 2023). Since 1982, they have been refused citizenship, making them the largest group of stateless people (Al Imran, 2022). Moreover, because of the aforementioned factors, they are extremely vulnerable to exploitation, abuse, gender- and sexually-based violence. As a result, the largest refugee camp in the world, Cox's Bazaar in neighbouring Bangladesh, is currently home to approximately 1 million Rohingya who have found relative protection there (Bhat, 2022).

It is apparent, from the foregoing, that the world is witnessing large-scale displacement of people because of wars, conflicts and famine, among other factors. This gives rise to large numbers of refugees who are vulnerable to exploitation and abuse. Rather than resisting this refugee movement, there is need to ensure access to foreign borders and the speedy processing of asylum documentation according to refugee status (Falola and Yacob-Haliso, 2023).

In Africa, meanwhile, South Sudan declared its independence from Sudan on July 9, 2011, following 20 years of conflict (Kostelyanets, 2022). High hopes for the future of the newest nation in the world were dashed in 2013 when fighting broke out within the governing Sudan People's Liberation Army (SPLA). Since then, waves of violence have continued unabated (Rosell, 2022). Over four million people have been displaced and hundreds have died because of the fighting. Also, more than two million people have fled to neighbouring countries such as Ethiopia, Sudan and Uganda in a desperate attempt to find refuge, while many more are still displaced within the nation (Arinze and Nwankwo, 2022).

The Central African Republic (CAR) has experienced decades of conflict and instability since the country attained independence in 1960. More than 640 000 individuals were forced to leave the nation in 2013 because of armed conflict, while a similar number were internally displaced Kouame (2022). The majority fled to neighbouring countries such as Cameroon, Chad, the Democratic Republic of the Congo (DRC) and the Republic of the Congo, while some travelled to Sudan and South Sudan (El-Badawy *et al*., 2022). After a decade, approximately two million

Central Africans have been displaced, accounting for more than a third of the country's population, with about 700 000 people internally displaced (Wolter, 2022).

METHODOLOGY

The study adopted a qualitative methodology that was based mostly on the evaluation of data from books, papers and journal articles. For other purposes, this data was already collected and kept (Perez-Sindin, 2017). Making suggestions for the protection and promotion of the right of refugees to choose their place of refuge will involve analysing the legal and factual concerns that result from this information.

FINDINGS

FACTORS AFFECTING ACCEPTANCE AND REJECTION OF REFUGEES AND ASYLUM-SEEKERS
After World War II, the 1951 Convention Relating to the Status of Refugees (often known as the "1951 Refugee Convention") was established, serving as the foundation of the present refugee regime. The Convention established a legal system that accorded political refugees a foundational set of personal freedoms. International refugee law became essential to the Cold War efforts to validate Western policies (Romero, 2022). Awarding asylum to defectors sought to gain political capital throughout the 1950s and 1960s when refugee movements mainly assumed the form of an East-to-West migration. To facilitate the development of localised instruments and the 1967 Protocol Relating to the Status of Refugees (the "1967 Protocol"), lifted the significant constraints imposed by the 1951 Refugee Convention (Andre, 2023). This Eurocentric strategy was essentially abandoned. The scope of the Convention has been further expanded by subsequent advances in legal interpretation and these include the extension of the scope of *jus cogens* and the general rules on treaty law while broader ideas of subsidiary protection have emerged within general international human rights legislation (Pustorino, 2023).

During the past three decades, however, asylum has become more politicised in both established and emerging asylum-seeking countries such as the United States and Canada (Côté-Boucher *et al.*, 2023). Regular migration ceased when various European countries abandoned their welcoming labour immigration policies in the 1970s (Vankova, 2022). Numerous regions in the Global South have seen widespread relocation because of the proxy conflicts of the 1980s (UNHCR, 1995b). After the end of the Cold War, receiving refugees no longer served any

ideological purpose (Hardy, 2023). At the same time, globalisation has increased the accessibility of both information about distant places and transcontinental travel. Rather than the stereotypical lone genuine asylum applicant, refugees are increasingly drawn into illegal migration patterns, often made possible by people traffickers who are skilled at evading conventional border control (Zolberg, 2001; Barnett, 2002; Castles and Miller 2005; Gibney and Hansen 2003). As a result, governments in developed countries, such as Australia and the UK, have implemented various laws to discourage or bar migrant and refugee arrivals on their soil (Matera, Tubakovic and Murray, 2023). These countries have begun retrospectively enacting legislation relating to "procedural door" refugees who had already entered their territories from the 1980s (Gammeltoft-Hansen and Tan, 2017).

REFUSAL OF ADMISSION

Legal efforts to retroactively reject refugees who have already entered a territory, such as accelerated processes based on a "safe third country" or other ideas, are a classic commonly used deterrent measure (Vedsted-Hansen, 1999b). Such measures, targeting certain types of refugees based on their nationality, claims, methods of entry or points of arrival have, as their common goal, to restrict access to or rush through standard asylum processes. When governments are dealing with a significant number of unauthorised immigrants who are not likely to qualify for international protection and when there are enough protections to provide individual asylum-seekers with the opportunity to refute the presumption of safety, the implementation of such accelerated processes may be justified. These cases would then be redirected into a thorough and complete asylum procedure.

Nonetheless, numerous governments, such as the Trump Administration in the USA, use these processes in response to major inflow scenarios or groups of asylum-seekers, where the basic safety presumptions are not met (Hallmann, 2022). Despite the concerns of human rights organisations, Hungary, for instance, has deemed all asylum requests from people crossing the border from Serbia – the transit route for 99%of migrants into Hungary — ineligible (Reuters, 2015; GarboVan, 2015; Hungarian Helsinki Committee, 2011). Asylum-seekers crossing the US-Mexico border are handled under the "expedited removal" method that involves detaining and removing individuals unless they pass a "credible fear" test (Schrag *et al*., 2023).

An individual will be found to have a credible fear of persecution if he or she establishes that there is a "significant possibility" that he or she could establish in a full hearing before an Immigration Judge that he or she has been persecuted or has a well-founded fear of persecution or harm on account of his or her race, religion, nationality, membership in a particular social group, or political opinion if returned to his or her country (Credible Fear | Homeland Security, 2022).

DENIAL OF ENTRY

Another increasingly popular deterrence method is preventing migrants from entering the territory of asylum countries. In carrying out various types of offshore blockades, several governments have followed the American example. In the Asia-Pacific region, Thailand, Malaysia and Indonesia sent vessels transporting the Rohingya and Bangladeshi migrants and undocumented migrants back to the Bay of Bengal and the Andaman Sea (Azis, 2023; HRW, 2015; Tisdall, 2015), before deciding to offer Rohingya illegal migrants limited protection. Since 2013, Australia has turned away 28 vessels headed to Sri Lanka, Indonesia and Vietnam (Minister for Immigration and Border Protection, 2016). Europe, too, has employed both individual member countries and coordinated marine operations as a means of controlling migration on the high seas (Heller *et al.*, 2023). Frontex, the EU border agency, has served as the coordinator for both methods. Although recent EU directives specify that the non-refoulment principle applies to people who are intercepted on the high seas, member countries' approaches are varied (Gkliati, 2022). As a result, some of the deported immigrants were confirmed to be genuine refugees and asylum-seekers (Dominguez *et al.*, 2022).

Given the continued imposition of penalties on carriers, private firms now play a broader range of functions in immigration management (FitzGerald, 2020). One important aspect of state deterrence policy is the engagement of private actors for border control, surveillance technologies, immigration detention, and transportation (Bloom, 2015; Gammeltoft-Hansen, 2015). Sweden expanded carrier restrictions to Schengen-area train and ferry firms in 2016 to limit the usually unrestricted flow of refugees into the country.

SCREENING, HANDLING, AND PROTECTION DONE OUTSIDE THE COUNTRY OF REFUGE CHOICE

Processing asylum claims or providing refugee protection by third-party governments is a third method of deterrence. There has recently been advocacy in affluent countries, primarily first-world countries, for the

development of offshore refugee camps that calls to mind the 1980s US Guantanamo Bay detention centre for refugees (Shachar, 2022). In 2012, Australia resumed its collaboration with Nauru and Papua New Guinea on the offshore processing of asylum applications, reviving a crucial element of the Pacific Solution initiated in 2001 (Billings, 2013; Grattan 2012). Around 1 500 asylum-seekers were housed or detained in these two countries with funding from Australia (DIPB, 2017). During offshore confinement, a variety of human rights problems have been brought to the fore. Conditions of "overcrowding, poor health care, and ill-treatment" producing "severe bodily and mental agony and suffering", have been recorded by the Committee Against Torture (CAT, 2014). Australia and Cambodia have reinforced their refugee resettlement agreement. Cambodia offers anyone accorded refugee status on Nauru permanent relocation in exchange for development aid (DFAT, 2014). Asylum-seekers and refugees who are forcefully transported outside of the country where they sought protection may suffer at the hands of such offshore asylum processing and resettlement agents.

PROSECUTION

Because of the marked increase in mixed migrant patterns in recent years, there has been strong emphasis on criminalising both illegal migration and those who facilitate it. The non-arrival regulations described above force most refugees to rely on migrant traffickers and irregular entry to gain access to asylum jurisdictions (Bowling & Sheptycki, 2017). As a result, migrant smuggling has evolved into a multibillion-dollar industry with linkages to well-established and very sophisticated criminal networks (Goździak, 2021). Countries, therefore, have valid reasons to oppose such illegal activities and they have the legal authority to do so under the Protocol against the Smuggling of Migrants by Land, Sea and Air, which encourages cooperation among member countries to prevent and combat smuggling. However, the Protocol emphasises that the non-refoulment principle and other refugee rights must be upheld as part of such efforts.

Therefore, in the absence of legal movement options available to refugees, access to asylum may be limited. For example, the Bali Process in Asia-Pacific, seeks to discourage and combat migrant smuggling and trafficking networks, with little emphasis on complementary access to refuge. Indeed, in 2015, countries in the Asia - Pacific region such as Brunei Darussalam, Malaysia, Singapore and Thailand justified denying refuge to 8 000 migrants by claiming that doing so would promote migrant smuggling (Moretti, 2022). Third-country

criminalisation of irregular departure has also been a major focus of the European Union. In Morocco, Algeria, Tunisia, Libya, Egypt and Turkey, leaving the country illegally is punishable by a monetary penalty and/or imprisonment (Shaffer, 2023). The prosecution of the owners of private boats that rescue migrants in trouble at sea could also be criminalised. Efforts to stop migrant smuggling have led to a rise in militarisation, with the use, for example, of naval forces, military equipment or military methods in migration control. For example, the EU began a military operation to seize and destroy boats used for human smuggling in international waters off the coast of Libya in 2015 and NATO began an operation in the Aegean Sea to prevent the smuggling of migrants from Turkey to Greece (Drake, 2018).

SUBTLE NON-PROLIFERATION TECHNIQUES

The growth of indirect deterrence policies, intended to discourage asylum applications or redirect them to other countries, has been notable in developing countries, particularly the United States of America during the Donald Trump administration. Such policies may include forced detention practices, restrictions on family reunions, reductions in social benefits and the provision of less comprehensive and less permanent kinds of protection than those provided for in the 1951 Refugee Convention, (Gammeltoft-Hansen, 2017). While these policies do not directly limit access to asylum, they often have a detrimental effect on other rights guaranteed by the Convention, including freedom of movement, the right to equality before the law and access to work, public education and hosting. If any of these measures do not go against the wording of international refugee legislation, they may, nonetheless, violate other human rights laws.

Denmark has explicitly defended more restrictive refugee legislation by seeking to divert asylum-seekers away from the country (Fletcher, 2023). Accordingly, and in stark contrast to its two neighbours, Sweden and Germany, Denmark has been able to keep the number of asylum applicants relatively low. The category of temporary asylum, a new tertiary protection category for those escaping armed conflict and widespread violence, was established in 2015 (Serpa, 2023). Under this category, initial residence permits are issued for one year only, ensuring that cases are consistently assessed to see whether ongoing protection is required. If temporary asylum is granted, access to family members is prohibited for the first three years of residency, unless specific circumstances exist. It is common practice to place asylum-seekers under mandatory custody to stop new arrivals (Emilsson, 2018).

Greece, Macedonia, Malta and other European countries have lately increased the systematic imprisonment of asylum-seekers (Papagianni, 2015; Global Detention Project, 2015). Australia has maintained a policy requiring asylum-seekers who arrive by boat to be detained and has aggressively urged Indonesia to adopt a similar policy. Israel holds undocumented immigrants for up to a year in the remote detention facility of Holot where inhabitants are unable to escape (UNHCR, 2014). Although the imprisonment of asylum-seekers for identification or security purposes may be justified, widespread detention practices are inconsistent with the ban on punishing unlawful entry or stay in Article 31 of the 1951 Refugee Convention. Long-term imprisonment has been shown to have negative effects, notably on young asylum-seekers.

SOVEREIGNTY

New concerns relating to sovereignty claims have been triggered by the refugee crisis (Beurskens and Miggelbrink, 2017). Most countries have begun to assess their level of sovereignty, particularly regarding the acceptance or rejection of refugees, as they believe that the autonomy that they possess as prescribed by the Westphalia Treaty, gives them the right to make the decision themselves without external influences (Dempsey and Myadar, 2023). Borders are the major mechanism used by countries in their quest to maintain their position of sovereignty (Beurskens and Miggelbrink, 2017), hence the establishment of restrictive measures to control the entry and exit of refugees. According to Seunghwan (2016), the concept of state sovereignty has contributed significantly to the establishment of restrictive refugee policies and laws as governments have developed a plethora of deterrence policies based on this traditional concept that allows countries to implement migration and refugee policies at their discretion. Most developed countries in the EU, the USA and Asia-Pacific have resorted to offering humanitarian assistance schemes to refugees in their respective regions of origin in the hope of avoiding provision for refugees (*ibid.*).

DISCRIMINATION

Some countries can accept refugees from one country but also reject refugees from another based on the perceptions that they have about the people from each country. Most countries have taken aggressive steps to block the placement of refugees in their communities due to their national origin (Faul, 2017). According to Fox and Akbaba (2015), Muslims are usually discriminated against by most European countries that view them as potential terrorists, and data reveals that, compared to other

religious minorities, they face the highest levels of discrimination and are shunned by most potential destination countries (Fox and Akbaba, 2015).

REMEDIES AVAILABLE TO ASYLUM-SEEKERS

LEGAL REMEDIES
The bulk of existing deterrence strategies are predicated on the idea that affluent countries may absolve themselves of responsibility by delegating refugee protection or migratory management to other countries. However, it has become increasingly more difficult to justify the notion that countries are free to do whatever they want within their borders, through others, or in contravention of international refugee and human rights law. Current developments in both human rights and refugee law are undermining attempts by developed countries to absolve themselves of responsibility by shifting it onto others. History provides several examples of successful legal challenges to overreaching by countries. An important legal subject called extraterritorial jurisdictional jurisprudence has grown in response to various "offshore" deterrence strategies (Gammeltoft-Hansen and Vedsted-Hansen, 2016). The pushback of refugees on the high seas, according to the Grand Chamber of the European Court of Human Rights in *Hirsi Jamaa v. Italy*, 55 E.H.R.R. 21, 55 Eur. Ct. H.R. 627 (2012)**,** was a violation of Article 3 of the European Convention on Human Rights. The Court also suggested that international refugee legislation, especially the principle of non-refoulement, must be observed when conducting operations on the high seas. The resettlement of refugees in politically designated "safe third countries" and the ability to detain indefinitely individuals deemed to be security risks without allowing them access to the asylum process have all been called into question in Australia (Greenfields, 2023).

At the European level in particular, recent advances in general human rights legislation have acknowledged the extraterritorial application of human rights treaties. As a result, the European Court of Human Rights, for instance, determined, in *Al-Skeini v. Secretary of State for Defence*, 2007 U.K.H.L. 26 (2007), that human rights legislation is applicable in any circumstance in which a state "exercises control and power over a person". Furthermore, the Strasbourg Court determined, in *Issa and Others v. Turkey*, 2004 Eur. Ct. H.R. 629 (2004), that accountability is engaged "when people on the territory of another state are judged to be under the former state's jurisdiction and control through its agents functioning... legally or unlawfully". These changes relating to the shared responsibility of countries, whether independent, joint or derivative,

mean that two or more governments may potentially be held accountable for the violations that occur because of deterrence policies.

A variety of indirect deterrence strategies are challenged by advancements in human rights legislation. Most recently, in the case of *Biao v. Denmark*, 64 E.H.R.R. 1 (2017), the European Court of Human Rights ruled that denying a family reunion constituted indirect discrimination, dealing a severe blow to Denmark's infamously harsh immigration laws. Future developments in human rights legislation pose a threat to several indirect deterrent tactics. In a case involving the Pacific region, Papua New Guinea's Supreme Court struck down the country's bilateral agreement with Australia to detain asylum-seekers and refugees because this violated their constitutional right to freedom (Australia/Papua New Guinea: Supreme Court Rules Asylum-Seeker Detention Is Unconstitutional, 2021). Of course, as already indicated, the deterrence paradigm's policymaking environment includes both existing and upcoming legal obstacles. Legal issues may, therefore, contribute indirectly to the advancement of new policies and more diverse measures in situations when countries simply modify existing policies. However, there are limitations to what Western governments can do in this regard, as shown by the numerous successful legal challenges to deterrence strategies, and the most recent set of deterrence measures will likely face a similar backlash in national and regional courts.

DISCUSSION
In the foregoing section, it is evident that conflicts are destabilising countries and regions so much that millions of people are forcefully displaced, with some losing their lives as a result. World Refugee Day is observed every year on June 20 to raise awareness about the plight of these refugees. The right to seek safety was topical in 2022. Indeed, every individual has the right to seek safety and protection, irrespective of who they are, where they come from or the opinions they espouse. People who are forcibly displaced should, furthermore, be treated with dignity. This is an unalienable universal human right. Forcibly displaced people should be welcomed and duly protected. Irrespective of the nature of the threat - war, violence or persecution - everyone deserves to be protected and kept safe.

Any person suffering persecution, violence or human rights violations has the right to seek refuge in another nation (Schimmel, 2022). All those who are compelled to leave their places of origin should have access to free borders. Restricting access and shutting borders can make their

journey to safety even more perilous (Shachar, 2022). Thus, people cannot be coerced to return to a nation if their lives or freedom are in jeopardy. This means that countries should not drive anyone seeking refuge back without first assessing the risks that they face back home.

Article 6 of the UDHR states that everyone has the right to recognition everywhere as a person before the law. This means that it is an unalienable right that every person can enjoy wherever they are, whether they are within or without their country of origin. Article 7 of the UDHR proclaims that all people are equal before the law and are entitled without any discrimination to equal protection of the law.. Article 28 guarantees the right to a free and fair world and says, in its entirety, that "everyone is entitled to a social and international order in which the rights and freedoms outlined in this Declaration can be fully realised". Article 10 states that everyone is entitled to a fair and public hearing by an independent and impartial tribunal in the determination of rights and obligations.

The UN High Commissioner for Refugees was established in 1950, just two years after the UN General Assembly ratified the UDHR (UNHCR). The UNHCR had three years to assist the millions of Europeans who fled or lost their homes during World War II, before it was dismantled (UNHCR, 2018). The UN Refugee Agency is still operating years later, and there are more than 68 million displaced persons worldwide. Out of that total, 25 million are refugees — people who have crossed an international boundary to escape violence or persecution — and 40 million are internally displaced people looking for work. The last group consists of asylum-seekers, who may or may not eventually be confirmed to be refugees (*ibid.*). This indicates that while there exist legal frameworks to deal with refugee issues, the crisis continues to be witnessed worldwide.

The right to seek and receive refuge from persecution is outlined in Article 14 of the UDHR. This right, along with Articles 13 and 15's rights to nationality and to leave one's own country, is closely related to the Holocaust. Many nations, whose drafters worked on the UDHR, were keenly conscious of the fact that by turning away Jewish refugees, they had probably condemned them to death. The Nazis' persecution of Jews, Romans and other groups, meant that many of them were unable to flee Germany in time to save their lives (*ibid.*).

Millions of people have received life-saving protection as refugees over the years under the auspices of Article 14 which is thoroughly outlined in

the 1951 Refugee Convention. These people have been able to rebuild their lives and frequently return home once the threat has passed. Many have also been relocated to kind third nations, where they employ their talents to benefit their new places of origin. Others can establish themselves permanently in the nations where they sought safety, such as the more than 170 000 Burundians who fled their country in 1972 and were granted Tanzanian citizenship in what is thought to be the largest refugee naturalisation ever (*ibid.*). The ability to apply for asylum is restricted. People cannot get refuge only to escape prosecution for "non-political crimes or activities detrimental to the aims and ideals of the United Nations," according to Article 14 of the UDHR. Therefore, persons who have committed a war crime or a crime against the peace or a crime against humanity are ineligible for refuge (*ibid.*).

CONCLUSION
State sovereignty, lack of resources, fear of threats and uncertainty have been significant factors affecting the choice of refuge by refugees. The discussion revealed that the 1951 Refugee Convention should be at the centre of any political reforms relating to the plight of refugees. Any person suffering persecution, violence, or human rights violations has the right to seek refuge in another country and should be able to exercise this right in any country of their choice. All those compelled to leave their home countries should have access to free borders. They cannot be coerced to return to their country of origin if their lives or freedom are in danger. This means that countries should not drive anybody back without first assessing the risks they face back home. The 1951 Refugee Convention should be adhered to, TO ensure that this right is upheld.

RECOMMENDATIONS

AN EFFECTIVE BURDEN- AND RESPONSIBILITY-SHARING SYSTEM
Extensive adjustments may be made to the institutional and political framework for coordinating international refugee protection within the confines of the present legal system. Addressing the existing unequal distribution of refugee responsibility and protection capabilities must be a fundamental component of this approach. Greater commitment to multilateralism should be based primarily on the sharing of responsibility for refugees, often through relocation, humanitarian visas, or regional and international distribution systems, as well the sharing of resources, such as emergency assistance, specialised personnel, expertise and funding.

A BROADER NOTION OF REFUGEE PROTECTION

Refugee protection in the major first-asylum countries has, for far too long, been focused primarily on ensuring basic physical safety and humanitarian aid without any meaningful commitment to refugee protection or sustainable solutions. However, drawing from the experiences of the Syrian crisis, other rights are equally crucial if refugees are to build a new life and not feel forced to leave. These additional rights relate to the capacity of refugees to make a living, access fundamental institutions such as the legal system and health care and guarantee a bright future for their offspring through education. It is, therefore, imperative to stop using existing containment strategies and consider refugee protection. The questions to be asked are: How can refugees' work options be expanded, and how can their chances of being self-sufficient be enhanced more quickly? How can refugees have access to education such that they may profit from it regardless of whether they must remain in the nation they are in or eventually return home? What can be done to prevent refugees from being treated unfairly by the legal systems and societies of host countries?

OBSERVING INTERNATIONAL LEGISLATION RELATING TO REFUGEES

A rigorous distinction must be made between existing regime's current political framing and its underlying moral basis. It is difficult to find a human rights tool that is so inherently and excessively susceptible to governments' political interests.

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Digitisation of Legal Processes and Its Impact on the Right of Access to Justice in Zimbabwe

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Abstract

Like many jurisdictions, Zimbabwe has adopted digitisation of legal processes. While the concept is progressive and modern, it limits the right of access to justice that is protected by Section 69 of the Zimbabwean Constitution. This article explains the concept of access to justice and its origins. It then brings to light various aspects of digitisation that limit the right of access to justice in Zimbabwe. The article also examines different international instruments ratified by Zimbabwe that promote the right of access to justice. Furthermore, it shows the developments that have been made by jurisdictions such as South Africa, Kenya, Russia, and China pertaining to digitisation of their legal processes. The main aim of showing the developments that have been made by the aforementioned jurisdictions is to look at opportunities that Zimbabwe has by drawing lessons from their different electronic case management systems. Also, regardless of the strides that the selected jurisdictions have made in accessing justice through digitisation of legal processes, they still face challenges that Zimbabwe is facing or might potentially face. Therefore, in the final part, recommendations are made on how the right of access to justice may be realised in Zimbabwe considering digitisation of legal processes.

Keywords: information communication technology; electronic case management system; case management; constitutional framework; Kenya; China; Russia

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INTRODUCTION

All persons in a society ought to receive justice and equal protection of the law. It has been argued time and again that the law is not an end but a means to an end-the end being justice (Von Jhering, 1913). Justice can be defined as fairness, not in the abstract, but that that can be seen. Human beings, by virtue of their rational nature, expect a certain standard of treatment in society regardless of their standing. People have an expectation of the best treatment when it comes to the law (Malaba, 2022). The best treatment in this regard would be to access justice. The right of access to justice, like any other right, implies that there is a party that must ensure that the right is realised. Justice is perpetual in nature and should be accessed at any point. However, not everyone is able to always access justice due to the advent of the digitisation of legal processes in Zimbabwe. Digitisation of legal processes is twofold. Firstly, it involves virtual court sittings in that all or any of the parties to a civil suit may (by mutual agreement) participate in sittings of the Court by electronic means. It also extends to criminal matters whereby accused persons may not be required to physically attend court proceedings but may do so from their places of incarceration. The communication during the virtual sittings is using any electronic or other means of communication by that all the parties to the proceedings at the sitting can hear and be heard at the same time without being physically present together. The second aspect of digitisation of legal processes is that it allows for electronic filing of court processes, electronic authentication of documents and electronic access to documents that are filed with the Registrars of the superior courts or the clerks of the inferior courts. While digitisation of legal processes has been welcomed for its own perks, it undoubtedly infringes on the right of access to justice in some instances. The gist of this article is to illuminate the impact that digitisation of legal processes in Zimbabwe has had on the right of access to justice. Furthermore, the paper then makes recommendations on how the challenges may be addressed to ensure an interrupted enjoyment of the right.

THE CONCEPT OF ACCESS TO JUSTICE

The Justinians defined justice as a constant and perpetual quality or disposition to render to each his or her due (Parnami, 2019). This view shows that justice has to do with how individuals treat each other and that justice is a matter of claim from another. Access to justice is a basic

principle of the rule of law. In the absence of access to justice, people are unable to have their voices heard, exercise their rights, challenge discrimination or hold decision-makers accountable (United Nations, 2019). One might regard it as the crux of human existence and hence the need for every aspect of their livelihoods to be regulated by the law.

INTERNATIONAL AND REGIONAL STANDARDS

Access to justice is enshrined in international instruments that have been signed and ratified by Zimbabwe. Such instruments include the Universal Declaration of Human Rights (UDHR) (1948), the International Covenant on Civil and Political Rights (ICCPR) (1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966) that are usually collectively referred to as the 'International Bill of Rights' (IBR). Just like the Constitution of the Republic of Zimbabwe Amendment (No.20) 2013 hereinafter referred to as "the Constitution" , there is no use of the phrase 'access to justice' in the IBR. However, the wording of the articles shows the characteristics of the concept that include equality before the law and equal protection of the law (UDHR, art 7), the right not to be subjected to arbitrary arrest, detention or exile (UDHR, art 9; ICESCR, art 9, 14 & 15), access to courts and the right to a fair trial (UDHR, art 10; ICESCR, art 2) and the right to an effective remedy (UDHR, art 8). In this section, regional instruments and guidelines that provide for access to justice are outlined.

UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR) (1948)

This instrument is very key in that it was the first international human rights document to be agreed on and adopted by nations. It provides that everyone has the right as a person before the law (UDHR, art 6). It further provides that all are equal before the law and entitled without any discrimination to equal protection of the law (*ibid.*). The UDHR goes on to guarantee access to courts by stating that everyone is entitled in full equality to a 'fair and public hearing by an independent and impartial tribunal.' All these articles are aimed at promoting the right of access to justice. It is evident in Section 69 of the Zimbabwean Constitution that these provisions of the UDHR have been adopted and incorporated therein.

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) (1966)

The ICCPR, although drawn from the UDHR, is a highly treasured instrument as it provides for the first generation of rights that are individualistic in nature and are an essential component of democracy. Furthermore, it is the main instrument that provides for all known civil and political rights as of date. It is the instrument that may be used to fill in the gaps where other instruments providing for civil and political rights may fall short. Regarding access to justice, Article 2(1) of the ICCPR stipulates that:

> All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The provisions of Article 2 (1), clearly show that equality before the law that is a component of access to justice may not be denied under any circumstance. The use of the phrase, "…or other status" points to the fact that when it comes to the issue of access to justice, the concept of 'fair discrimination' (that is sometimes used to justify a limitation of certain rights) cannot be applied. It further shows that access to justice is a first generation right and therefore perpetual in nature.

According to its Article 14(1), every person is guaranteed of equality before the law, to be presumed innocent, a fair and public hearing by a competent, independent and impartial tribunal established by law, trial without delay, time to prepare his case, to be informed of the right to legal representation, a free interpreter, and the right not to testify against one's self, or plead guilty. All these essential elements of what constitutes a fair trial promote the right of access to justice.

AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS (ACHPR) (1961)

Article 7 secures the right to be presumed innocent, the right to defence, and the right to be tried within a reasonable time. However, scholars have observed that it seems to be vague as it does not state what counts as a reasonable time, or what circumstances to take into account when

determining a reasonable time (Nkomo and Maziwisa, 2022). However, the African Charter has been criticised for failing to properly protect the right to access to justice in particular with reference to the right to a fair trial (*ibid.*). One may agree with this view, though it must be observed that this instrument is much older than the ICCPR that only came into existence in 1966. It might be possible that the African states overlooked the right to a fair trial that is an essential component of access to justice. It may be further stated that with regard to digitisation of legal processes, it fails to fully protect persons when it comes to the right to a fair trial.

DECLARATIONS AND GUIDELINES
Declarations and guidelines are not legally binding and are only reflective of the moral commitment of the state parties and provide a direction for future commitments. This is contrary to treaties that create obligations for state parties to abide by them.

DECLARATION OF THE HIGH-LEVEL MEETING OF THE GENERAL ASSEMBLY ON THE RULE OF LAW AT THE NATIONAL AND INTERNATIONAL LEVELS, 2012
The Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels hereinafter referred to as the "Declaration on the Rule of Law" was passed in 2012 through a United Nations Resolution (United Nations, 2012). Its article 14 is worded as follows:

> We emphasise the right of equal *access to justice for all*, including members of vulnerable groups, and the *importance of awareness-raising concerning legal rights*, and in this regard, we commit to *taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all*, including legal aid. (emphasis added).

One would argue that the aforementioned provision has three important dimensions regarding access to justice. These include equality, legal rights education and the obligation of Member States to take non-discriminatory measures required towards the realisation of the right. It can be noted that when discussing the concept of access to justice, the dimension of legal rights education is often overlooked. Firstly, a person

who is entitled to a right cannot enforce it unless they are aware of its existence. Secondly, the person who has an entitlement to a right ought to know how to seek enforcement against another. It is therefore important that persons within the Zimbabwean jurisdiction should be educated on how to use digital legal processes to access justice.

As highlighted in the preceding paragraph, one of the dimensions of access to justice as identified in Article 14 of the Declaration on the Rule of Law is to take non-discriminatory measures towards realising access to justice. While digitisation of legal processes might be seemingly effective, it might be discriminatory to an extent. Questions of accessibility, affordability, cooperation of prison officers and digital literacy might bring to light that digitisation of legal processes infringes on the right of access to justice and negatively impacts on the rule of law.

PRINCIPLES AND GUIDELINES ON THE RIGHT TO A FAIR TRIAL AND LEGAL ASSISTANCE IN AFRICA, 2003

These are also referred to as the "African Principles". In short, they provide for general principles and guidelines on the right to a fair trial and legal assistance under the African Charter. They cover a number of issues that affect the right to access to justice such as the rights applicable to all legal proceedings, judicial training, right to an effective remedy, court record and public access, amongst other issues (African Principles, parts a-d). These principles are important as the preamble is clear that they ought to be adopted by all State Parties and incorporated into their domestic legislation.

THE CONSTITUTIONAL FRAMEWORK IN ZIMBABWE

The right of access to justice is enshrined under Section 69 of the Constitution. Scholars have observed that the right of access to courts is constitutionally protected as part of the broad right to a fair hearing or trial that is entrenched in Section 69 of the Constitution (Moyo, 2018). It denotes that all persons should have inherent access to the courts and tribunals, including access to effective remedies and reparations (*ibid.*). Access to justice, though, not specifically stated using that phrase, is a

concept entrenched in the Zimbabwean Declaration of Rights (Chapter 4 of the Constitution). The elements that form access to justice such as the right to a fair and public trial, the right to a speedy and fair trial before and impartial court, the right of access to courts and the right to legal representation are all evident in Section 69 of the Constitution.

DIGITISATION OF LEGAL PROCESSES IN ZIMBABWE

Regardless of the recent implementation of digitisation in Zimbabwe, it was first considered in 2016 when the Judicial Laws Amendment (Ease of Settling Commercial and Other Disputes) Bill, 2016 was gazetted and subsequently passed into law in 2017 as an Act of Parliament. This Act amended Section 47 of the High Court Act, inserted a new Section in the Magistrates Court Act, and the Small Claims Courts Act. Although digitisation of legal processes had already been adopted, its utilisation was frowned upon. However, the advent of the Covid-19 pandemic has been a catalyst in the use of digital legal processes in Zimbabwe. Covid-19 has undeniably brought about numerous changes in that human beings interact. It is well known that one of the precautions against the spread of Covid-19 is the minimisation of face-to-face interactions. One may argue that had it not been for the Covid-19 pandemic the digitisation of legal processes would have been used at a much later stage. It was during the peak of the Covid-19 pandemic that the Zimbabwean government made regulations that restricted the public from physically attending court proceedings and limited court attendance to the litigants only. Subsequently, as the Covid-19 regulations remained in place, the Zimbabwean government then saw the need to digitise both criminal and civil legal processes.

DIGITISATION OF LEGAL PROCESSES IN SELECTED JURISDICTIONS

This part examines the effect of digitisation of legal processes in Kenya, South Africa, China and Russia. The use of technology is pervasive and knows no borders. Thus, these selected countries have been considered on the basis that they embraced technology in their justice delivery systems ahead of Zimbabwe. Experiences in these jurisdictions can help in shaping the use of technology in the justice delivery system in Zimbabwe.

CHINA

According to Tashea (2021), no country has done more to digitalize its justice system than China. Through its Smart Courts Initiative (SPC) and the creation of fully virtual "internet courts", China's Supreme People's Court has overseen the development of a central data centre that powers the justice system. It collects extensive court data to track consistency in sentencing and judgment outcomes and stores recordings of hearings. The SPC also brought to the courts a chatbot to assist judges, facial recognition and verification of litigants' identity and a blockchain-based system to authenticate evidence. The "judge e-assistant" platform is defined as an "intelligent auxiliary case handling platform based on the actual conditions of courts in Jiangxi Province" (*ibid.*). Its primary purpose is to help judges to prepare and adjudicate cases. It has been indicated that this system helps to reduce the workload of judges, empowers them and improves the quality and efficiency of trials (Papagianneas, 2021**).** The "judge e-assistant" platform uses text recognition, image recognition and analysis to automatically index and organize scanned litigation materials. The system can also cross-reference and analyse the plaintiffs and defendants' key information with other databases to check for overlapping or serial litigation (Tashea, 2021).

Furthermore, it can generate relevant legal documents through text recognition, semantic analysis, and summary of other materials, such as trial hearing transcripts, first-instance judgments, and allows judges to generate procedural documents with one click, that are then automatically generated and stamped (Papagianneas, 2021). The platform also has a similar-case push system. It can analyse case information in-depth and actively suggest laws, regulations, guiding cases, similar cases, and books and periodicals to judges to provide in-depth guidance (*ibid.*). Finally, it records all decisions made at each procedural step of the case proceedings. This can then be used for management and supervision purposes (*ibid.*).

Seemingly, the most successful and promising part of China's recent move towards e-justice are internet courts, that conduct their

proceedings online and focus on online civil disputes. They ensure justice and efficiency by improving judicial credibility through the use of the internet, cloud computing, big data and artificial intelligence (Guo, 2021). Internet courts are designed to handle online contractual disputes over sale of goods, services, and financial loans; online copyright disputes; disputes over internet domain names; disputes over the use of the internet to infringe on others' personal or property rights; disputes over product liability as a result of online shopping; internet-related public interest lawsuits brought by prosecutors; and administrative litigations arising out of internet management by the government (Tashea, 2021).

As a rule, the entire litigation process in internet courts is conducted online, including the service of legal documents, the presentation of evidence and the actual trial (Guo, 2021). Most of the evidence in these cases is electronic data and stored on the internet (Papagianneas, 2021). Notably, people may be less inclined to truthfulness in the online environment, where a cross-examination feels more like an online quarrel with 'netizens'. The online format also hinders the judge's ability to prove the authenticity of certain evidence (Wang, 2021). Trial judges behind a screen naturally have much less control over their proceedings (Papagianneas, 2021).

The Supreme People's Court in China established a multifunctional, inter-court, online platform that connects every courtroom in China. A total of 3,520 courts and 9,238 courtrooms are connected (Wang, 2021). This inter-court network allows all judges in China to handle cases, work, study, and communicate on the same online platform in real time and it facilitates supervision of lower courts by higher courts (*ibid.*). With a simple click of a mouse, courts can live stream their proceedings and more than two million trials have been live streamed (Xinuanet, 2018). In addition to the inter-court network, the SPC has also launched several gateway websites for the public. The websites offer the parties and their lawyers online access to information on the trial process (for example, transcripts, recordings, case files, and legal documents); broadcasts live trials from across the country for viewing by the public; and "publishes

enforcement procedures and a list of individuals who have defaulted on their obligations (Tashea, 2021). These websites are viewed by the SPC as an important means for judicial transparency and as vital for the general public's access to the judiciary (*ibid.*).

The automatic notification system for similar cases was launched in January 2018 in response to what the Supreme People's Court regarded as a longstanding problem, that is, lawsuits with similar case facts being judged in different ways (Wang, 2021). Although previous cases lack a binding effect on future judicial rulings because China is not a case law-based country, the Supreme People's Court recognized a need for standardization (*ibid.*). In a 2017 opinion, the court called for a mechanism that could ensure more consistency across judgments "on the basis of improving the mechanism of referring to similar cases and judging guidance, the People's Courts at all levels shall establish a mandatory search mechanism for similar and related cases, to make sure similar cases are judged by the same standard and the law applied uniformly" (Papagianneas, 2021). This notification system allows for both manual searches and auto-notifications of similar cases (*ibid.*). The Supreme People's Court anticipates that it will help Chinese judges make judgments, standardize their rulings, foster the uniform application of the law and further improve the quality of trials (*ibid.*).

Thus, the Chinese ECMS is quite advanced as indicated above. Digitisation of courts provides technical support for judicial justice and credibility. It also improves judicial efficiency (Peng and Xiang, 2019). On the other hand, discrimination regarding people who can actually file cases has raised challenges with the e-filing system in China. There is also a need to harmonise different Chinese laws to make the ECMS smoother (*ibid.*).

RUSSIA

The Russian e-justice system includes two key units. The first one is a secured videoconference net, connecting all courts of the Russian Federation with direct access to the internet through overt streaming video broadcasting channels, such as popular video hosting. The second one is a group of portals of *GAS "Pravosudie"* on the internet providing

access for any person anywhere in the world with up-to-date information of the work of federal courts (Muravyeva and Gurkov, 2021). The key principle of this portal's functioning is to ensure transparency of justice, both in respect to procedures and access to the judicial courts in controversial cases. The system of commercial arbitration courts also has its own videoconference net and portal—*Moi Arbitr* (My Arbitrator). Both systems have changed ways and practices of administering justice and access to justice in the Russian Federation (*ibid.*).

In terms of administering justice, the e-justice system in Russia allows for effective and cost-efficient notification of the date, time, and place of court hearings to all parties of particular proceedings (Kharitonova, 2021). There is a mailing system through e-mail on the portals of the *GAS "Pravosudie," Moi Arbitr*, and *Gosuslugi* (*ibid.*). One can download mobile applications supporting push notifications for new events and documents (*ibid.*). Experts note that the wide-scale adoption of these information technologies into work practices of the justice system has another advantage, that is, it offers wide opportunities for court statistics to be automated. Hence, there is early detection of court red tape and other procedural violations (Muravyeva and Gurkov, 2021). When every judge in Russia is under restrictions to provide procedural documents in due time and up-to-date information on cases available on servers of the system, the court procedure and administration becomes more responsible and performance discipline sustainable on the proper level (Kharitonova, 2021). With electronic access to courtrooms both in civil and criminal justice, Russian citizens could easily launch an e-complaint via already-existing systems *Gosuslugi* and *GAS "Pravosudie"* (*ibid.*).

 The most crucial improvement associated with the introduction of e-justice in the eyes of legal professionals is that an automated process of assigning cases increases judicial independence and transparency (Muravyeva and Gurkov, 2021). However, the consensus is that while artificial intelligence (AI)-based technologies are a positive improvement, they cannot substitute a human legal professional. At the same time, digital economies and legal provisions for online transactions have

demonstrated that in the processes that could be automated using algorithms, the usage of AI-based legal technologies is warranted (Kharitonova, 2021). The Russian government has been quite apt to push for legislation that supports commercial and business digital environments by introducing such notions as "digital rights" into its civil legislation and allowing "smart contracts," that is essentially an automated service for the execution of a legal contract (Muravyeva and Gurkov, 2021).

Kenya

The Constitution of Kenya, 2010 enshrines the right of access to justice and mandates the State to ensure that this right is enjoyed by all persons (Constitution of Kenya, art 48). The use of information technology can enhance the right of access to justice by ensuring that citizens have increased access to information necessary for effective and efficient decision-making on legal issues. The Judicial Service Act requires the Judiciary Service Commission to apply modern technology in their operations (Section 3(1)). The Act further requires the Judiciary in the exercise of the powers, or the performance of the functions conferred by the Act to have the technical competence to ensure that the requirements of the judicial process are fulfilled (*ibid.*). The Magistrates' Courts Act allows the Chief Justice to make rules for the effective organization and administration of the Magistrates' Court (Section 20(1)). Such rules may provide for the automation of court records, case management, protection and sharing of court information and the use of Information Communication Technology (ICT) (*ibid.*). There are also various pieces of legislation that govern the ICT sector in Kenya such as the Kenya Information and Communication Act (1998) that provides for the current framework for regulating the communication sector in Kenya. For a long time, the Kenyan judiciary system faced various challenges that impeded access to justice, and it included poor case and record management, underdeveloped and insufficient ICT capacity and inadequate research material (Kagucia, 2015). To counter these challenges, the judiciary saw the need to incorporate ICT and the digitisation of court processes to improve access to justice.

CASE MANAGEMENT SYSTEM IN KENYA

The Judiciary adopted an Electronic Case Management System (ECMS) that can be traced back to the Final Report on the Task Force on Judicial Reforms that was released in 2010 (Kagucia, 2015). The introduction of the ECMS was motivated by delays in finalizing cases, corruption and missing court files (*ibid.)*. The ECMS is tailored and built specifically for the Judiciary and is available for use in all the divisions of the court including the Supreme Court, Court of Appeal, High Court and Subordinate Courts (Kenya Law, 2020). The ECMS is an interaction system that allows for any party in litigation to have access to e-filing of documents, digital display devices, real time transcript services, video and audio conferencing, digital import devices and computers in court (*ibid.*).

As a first step, a case-flow management system was introduced with the purpose of maintaining information of cases such as dates, court proceedings and case law. The system provides a powerful search engine that is available on the internet. The public have access to the website and it is able to track cases (Kagucia, 2015). The system was developed for all law enforcement agencies and appellate courts. CMS allows courts to accept filings and provide access to file documents over the Internet CMS is designed to better use, manage, consolidate, share, and protect case-related information with the facility to immediately update dockets and make them available to users, file pleadings electronically with the court, and download documents and print them directly from the court system. The first telepresence link was established between the Court of Appeal in Nairobi and its sub-registry in Mombasa. Video cameras and screens were installed in specially refurbished sound-proofed rooms in Mombasa and Nairobi law courts (*ibid.*). This facility enables parties who are in Mombasa to have their cases heard by the Court of Appeal judges sitting in Nairobi through telepresence (*ibid.*). This reduces the cost of litigation and also facilitates speedy access to justice as parties will not have to travel to Nairobi when the Court of Appeal is not in session in Mombasa. This also reduces the costs incurred in transporting remandees to court daily (Njuguna, 2021).

Another novel introduction was that the text creation, storage and retrieval are done electronically through the use of computers while hard copies of the files are scanned and saved electronically (*ibid.*). The recording of the proceedings is done electronically. This is done through voice recognition technology that would free the judges from the tedious and time-consuming task of manually recording verbatim the evidence and arguments during trial (*ibid.*). In addition, this addresses the perennial problem of disorganized archival and storage paper records.

The ECMS system that was introduced in Kenya has presented a new dimension of challenges. Firstly, there are serious challenges with regard to access to computers, adequate training and internet access (Juma, 2020). In addition, public awareness of the existence and use of the ECMS is still lacking (Maseh and Mutula, 2016). Despite such misgivings, the ECMS has enhanced service delivery in Kenya by eliminating travelling and other costs associated with physical service of documents (Juma, 2020). It has also promoted accountability thereby reducing fraud and corruption. In addition, it has expedited the transmission of judgments from courts to the parties thereby serving the court's time (*ibid.*).

SOUTH AFRICA

The application of the ECMS in South Africa can be derived from the Electronic Communications and Transactions Act 25 of 2002 (ECT Act). South African courts have recognised the application of e-technology in matters. For instance, in the case of *CMC Woodworking Machinery (Pty) Ltd v Odendaal Kitchens* 2012 (5) SA 604 (KZD), the court allowed the service of divorce summons through Facebook. Furthermore, there are ongoing plans by the Department of Justice and Correctional Services to implement an integrated justice system that seeks to augment the efficiency and effectiveness of the criminal justice system by increasing the probability of successful investigation, prosecution, punishment for priority crimes and, ultimately, rehabilitation of offenders (Businesstech, 2022). The integrated justice system focuses on four key digital initiatives that include the Criminal Justice System e-Documents and Forms; Court Audio Visual Solution for case participants (phase two); e-Scheduling and Messaging for Courts; and Integrated Bail Payment

Processing and Release Management. The Criminal Justice System e-Documents and Forms is an initiative that focuses on reviewing processes to eliminate forms that are made redundant by the electronic exchange of information among Criminal Justice System departments and the digitisation of all documents and certificates that remain necessary. The Court Audio Visual Solution for case participants is a videoconferencing and video-ID verification facility that is used for witness/victim interviews and testimony in cases where direct contact is not feasible or very expensive, and in cases where expert witnesses are required in court. In cases where the public cannot afford the cost of data or does not have the smart devices needed to connect to the Court Dial-in facility, these services are made available at local government offices for use based on the arrangement. The E-Scheduling and Messaging for Courts is an information management and sharing system that allows the tracking of court dates, court process start times, and the arrival and checking-in of witnesses, victims, the accused, defence lawyers and prosecutors. This system facilitates the scheduling and communication of court decisions (e.g., postponements and new dates). The Integrated Bail Payment Processing and Release Management enable incarcerated populations through automated pre-trial release services including electronic bail, fine and fees payment. The system assists the incarcerated individual to access his or her own cash accounts and credit, or the cash and credit of friends, family and associates to effectuate a bail payment anywhere (*ibid.*).

As part of the implementation plan, the Judge President of the Gauteng Division of the High Court issued the Practice Directive 1 of 2020 that effectively introduced an electronic case management and litigation system known as the CaseLines (Sedutla, 2020). The system allows for the electronic uploading of documents that include pleadings and the presentation of cases. The Practice Directive bans the filing of physical documents in all cases that require them to be uploaded on the CaseLines. Prior to the introduction of the electronic case management system, the Judge President had noted the disappearance of files and other instances of fraud (*ibid.*).

However, the Gauteng High Court Practice Directive 1 of 2020 has been criticised on the basis that the CaseLines system does not provide for the protection of litigants' personal data that is included in pleadings (Mabeka, 2021). Such a gap has the potential to violate key provisions of the Protection of Personal Information Act 4 of 2013 (*ibid.*). One of the technical issues that have been raised relates to internet accessibility by small law firms and unrepresented litigants. It is difficult for some to access justice under situations where the court insists that proceedings should be conducted online (Africa Judges and Jurists Forum, 2021).

What is clear from the above analysis is that South Africa is still in the process of implementing the electronic case management system. However, the introduction of the system has ensured that court documents are accessible to the general populace. This is because South Africa has a comprehensive website that provides relevant and current information on court processes and products (*ibid.*).

CONCLUSION AND RECOMMENDATIONS
In summation it can be noted that although digitisation of legal processes is a welcome and important development of the Zimbabwe's ECMS, it may limit the right of access to justice if not properly implemented. Zimbabwe may draw some lessons from the strides that have been made in other jurisdictions that have been discussed above. If Zimbabwe implements ideas from other jurisdictions, it would improve the right of access to justice as protected in Section 69 of the Constitution and perhaps the ultimate realisation of the right.

In the light of the above discussion and conclusion, the following recommendations for Zimbabwean judiciary's ECMS are proffered. It is hoped that their adoption will improve its effectiveness in promoting access to justice in Zimbabwe. The recommendations take into account experiences in the other jurisdictions that have been discussed above.
   a. There is need for continuous consultations with stakeholders on their wider experiences with regards to the implementation of the ECMS.

b. Zimbabwe should provide adequate training to all court officials and relevant stakeholders so that they have sufficient digital skills to enable them to meaningfully interact with digital assets and to be comfortable with the digital transformation of court processes.

c. There is need to conduct security and privacy audits of current digital assets and digitised court records to ensure that information already in digital format is secure.

d. To avail privacy policies for users of court data, to be applied in the case of virtual courts, case management systems and e-filing systems to ensure that individual persons' right to privacy is always protected.

e. The legislature must continue to update and harmonise laws that regularise the use of digital technologies such as virtual courts and electronic filing of court documents.

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A Comparative Analysis of Reproductive Health Knowledge among HIV-positive and HIV-negative Youths in Zimbabwe

Amos Milanzi, Marvellous Mhloyi and Stanzia Moyo[1]

Abstract

The study contributes to the understanding of how youths in Zimbabwe continue to face numerous barriers that hinder their ability to take protective actions against HIV. Previous research has shown that while comprehensive knowledge is improving among both HIV-positive and HIV-negative youths in Zimbabwe, the proportions are low. A cross-sectional mixed-method research design was employed in the study. This study used a simple random sampling approach to select respondents. The general youth population was sampled from the general population, while Youths Living with HIV (YLHIV) were sampled from clinic records. This study was conducted in three provinces of Matabeleland South, Harare and Manicaland in Zimbabwe. The study demonstrated low levels of comprehensive knowledge of HIV (14%), with YLHIV more likely to have comprehensive knowledge of HIV (19%), compared to HIV-negative youths (4%). The study findings show low levels of comprehensive knowledge of contraception (19%) among the youth, with YLHIV more likely to have comprehensive knowledge of contraception (22%), compared to HIV-negative youths (15%). A logistic regression shows that marital status was a significant factor in comprehensive knowledge of HIV. Divorced youths were 10 times more likely to have comprehensive knowledge of HIV as compared to those who were never married (OR=9.8; 95% CI [(1.93-49.63)]). Logistic regression analysis by geographic location demonstrated that YLHIV from urban areas were six times more likely to have comprehensive knowledge of HIV compared to youths from rural areas (OR=6.43; 95% CI [(2.71-15.28)]. The study recommends that information and services should be made available to youths to help them understand their sexuality.

Keywords: Youths living with HIV, HIV & AIDS, comprehensive knowledge, Reproductive health

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INTRODUCTION

The 1994 International Conference on Population and Development (ICPD) became the landmark of the reproductive health discourse because its explicit focus on reproduction. The ICPD Programme for Action noted the glaring neglect of youths' reproductive health needs from the existing reproductive health services (ICPD, 1994). In tandem with the ICPD Programme for Action, Zimbabwe has developed policies and strategic frameworks that aim at facilitating the provisioning of sexual and reproductive health (SRH) services to the youth. While substantial milestones have been reached regarding youths' reproductive health problems, significant gaps remain. As Zimbabwe is nearing four decades experiencing the HIV&AIDS pandemic, it is expected that youths receive adequate HIV and sex education. However, the lack of comprehensive knowledge of HIV is one of the major causes of the increase in the number of new infections the world over. Within this background, this article seeks to investigate reproductive health knowledge among HIV-positive and HIV-negative youths in Zimbabwe.

CONCEPTUAL FRAMEWORK

The Health Belief Model and the Social Ecological Model were adopted to explore various factors influencing the sexual and reproductive health of HIV-positive and HIV-negative youths (Figure 1). The framework explores the interrelationship between background characteristics (demographic and socio-economic, community and societal**)** and proximate variables (knowledge of SRH, perceived benefits of SRH, perceived risks of not utilising SRH services, attitudes towards SRH, beliefs on SRH, self-efficacy on SRH services, participation in support group, aspirations, treatment adherence, retention to care, stigma and discrimination and psychosocial status), contraceptive use and SRH issues (sexually transmitted infections [STIs], HIV). The background characteristics have a great bearing on SRH. Youth born with HIV may not value SRH as they are victims of parent-to-child transmission. This group may not use contraception or condoms to protect themselves against STIs and HIV reinfection. The youth who acquired HIV sexually may realise their mistakes and take corrective measures with their SRH. They may use contraception or condoms to protect themselves against STIs. Sex could affect one's SRH knowledge, attitude, beliefs and practices. Female youths are expected to have better sexual and reproductive health-seeking behaviours as compared to male youths. Thus, female youths may use contraception or condoms to protect themselves against STIs and HIV reinfection. Youth aged 15-19 years may have less knowledge, negative

attitudes and beliefs and poor SRH practices compared to older youths aged 20-24 years. Religion has a significant relationship with SRH attitudes beliefs and practices. It is assumed that religious and cultural beliefs influence knowledge and attitudes towards SRH. Some religious groups may influence the use of contraception or condoms to protect themselves against STIs Youths living in rural areas are more likely to have less knowledge, negative attitudes and beliefs and poor SRH practices compared to those in urban areas. This could be influenced by societal norms and values and the unavailability of SRH services.
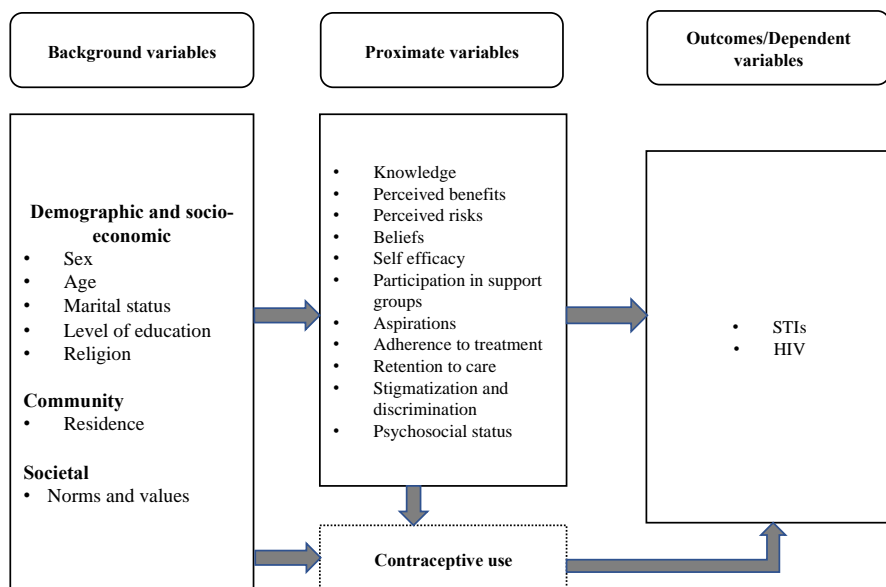
Figure 1: Conceptual framework (Adapted from the Health Belief Model (Becker, 1974) and The Social Ecological Model (Baral *et al*., 2013)

LITERATURE REVIEW

There is a general decline in HIV & AIDS incidence and prevalence, albeit with variability across countries and continents. Globally, 38 million people were living with HIV in 2019, with 1.7 million new infections (UNAIDS, 2020). This shows a 23%decline in new HIV infections worldwide from 2.1 million in 2010 (*ibid.*). East and Southern Africa have been, and continue to be, the most affected, with 20.7 million people living with

HIV. While global levels of HIV infections were declining, age differentials remain among the youth population, and females bear the brunt of infection. At a global level, 13% of new HIV infections were among the youth aged 15-24 years, and in Sub-Saharan Africa (SSA) the youth accounted for 17% of new HIV infections (*ibid.*). While there is a general decline in HIV & AIDS incidence and prevalence in Zimbabwe, females continue to bear the brunt of infection as sex differentials in both incidence and prevalence continue in Zimbabwe. HIV prevalence by sex was most pronounced among youths aged 15-24 years, in that, HIV prevalence of female youths was twice (6.0%) that of male youths (3.0%) with an overall HIV prevalence among youth at around 4% (ZIMSTATS and ICF, 2016). Furthermore, more than a third (35%) of new infections in Zimbabwe were among the youth aged 15-24 years (*ibid.*). Young people are the most affected and thus need the most attention, both in research and interventions.

Comprehensive sex education plays a central role in preparing young people for a safe, productive and fulfilling life (UNAIDS, 2020). It provides opportunities to learn and acquire complete, accurate, evidence-informed and age-appropriate knowledge on sexuality and reproductive health issues (*ibid.*). Comprehensive sex education has been shown to contribute to delayed initiation of sexual intercourse, decreased number of sexual partners, reduced sexual risk-taking, increased use of condoms and increased use of contraception among young people (*ibid.*).

About four decades after the HIV & AIDS pandemic has passed, it is expected that the youth could be enjoying or benefitting from well-developed programmes on reproductive health with adequate HIV and sex education. On the contrary, there has been a stagnation in knowledge. Lack of accurate and complete knowledge of HIV is one of the major causes of the increase in the number of new infections the world over. Globally, it is estimated that around 34% of youths have comprehensive knowledge of HIV (*ibid*). In population-based surveys conducted across East and Southern Africa, between 2011 and 2016, just 36% of young women and 30% of young men had comprehensive knowledge about HIV

(*ibid.*). In Zimbabwe, less than half (47% of males and 46% of females) of the youth population have comprehensive knowledge of HIV&AIDS (ZIMSTAT and ICF International, 2016). However, other population-based studies in Zimbabwe reported higher levels of comprehensive knowledge of HIV averaging 78%, with females recording higher knowledge levels (81%) as compared to males (71%) (Mzingwane *et al.*, 2020). There is a substantial divergence of levels of knowledge between national statistics and small survey statistics where national surveys report lower levels of comprehensive knowledge than small surveys.

KNOWLEDGE AND USE OF CONTRACEPTION

Contraceptive use can prevent early pregnancy and childbearing and their consequences. In developed countries, contraception among sexually active young people ranges from a high of 90% in the United Kingdom to a low of 31% in Serbia and Montenegro (Avery and Lazdane, 2018). Modern contraceptive use is higher in high-income countries (58%) than in low-income countries (33%) (Woog *et al.*, 2015). Latin America has the highest modern contraceptive prevalence rate among young women, at 57%, while use in SSA has increased fast, from 4% to 15% in the last two decades (Darroch *et al.*, 2016). In more than two-thirds of African countries, modern contraceptive use is below 20% (Woog *et al.*, 2015). Zimbabwe had one of the highest contraceptive prevalence rates (67%) in SSA compared to countries in West Africa (9%), Central Africa (7%), Eastern Africa (22%), and North Africa (45) (UNFPA, 2013). In the Southern African Development Community (SADC) region, contraceptive prevalence rates (CPR) vary from a low of 13%in Angola, to a high of 54.6%in South Africa and 66.5% in Zimbabwe (UNAIDS, 2020).

Studies have shown that high levels of adolescent pregnancy and childbearing in Africa are largely because of a lack of adequate information and barriers to accessing and using contraception (Bankole and Malarcher, 2010). In SSA, an estimated 35% of pregnancies among adolescents are unwanted (WHO, 2018). For instance, a study in Swaziland reported that due to lack of knowledge, adolescents practised unsafe sex and were not aware that they could be pregnant or at risk of contracting HIV & AIDS (Dlamini, 2003). A study conducted in Uganda

showed that the use of contraceptives by YLHIV followed the same trend in knowledge and actual practice as their peers not living with the virus (Birungi *et al.,* 2008). The study reported that a significant proportion (63%), recognised the necessity of using condoms to avoid re-infection. However, a smaller proportion (30%) stated using condoms to avoid infecting partners with HIV or other STIs. The study further reported that the use of contraceptives by YLHIV was relatively higher compared to the wider population, suggesting careful sexual behaviour among YLHIV (*ibid.*). Birungi *et al.* (2007) showed that YLHIV had erroneous concerns about hormonal contraceptives that might impact its uptake and use.

Studies have revealed that YLHIV are engaging in risky sexual behaviours that result in teenage pregnancies (Zgambo *et al.*, 2018). Research indicates high incidents of pregnancy that are not intended among YLHIV, increasing the risk of morbidity and mortality for both mothers and their new born babies (*ibid.*). Arikawa *et al.* (2016) found 17 incidents of pregnancies in their 266 female YLHIV sample in Côte d'Ivoire. Similarly, Birungi *et al.* (2011) found that 74% of pregnancies among YLHIV in their longitudinal study occurred unintentionally in Uganda.

METHODOLOGY
The study was conducted in three provinces with the highest, medium and lowest numbers of YLHIV in Zimbabwe. The three selected provinces are Matabeleland South with an HIV prevalence of 21.7%, Harare with an HIV prevalence of 13.7% and Manicaland with an HIV prevalence of 11.0%. The research employed a cross-sectional research design, involving triangulation of both survey and focus group discussion (FGD) methods of data collection. A survey was used to collect quantitative data using the questionnaire.   A data entry template was developed for the questionnaire using the Census and Survey Processing System (CSPro) 7.0.1 for Windows. Quality assurance mechanisms were developed, including skip patterns and logical checks and pre-coding allowable response values. Frequency tables, cross-tabulations and logistic regression were used for data analysis.

RESULTS

The study sought to investigate Reproductive Health knowledge among HIV-positive and HIV-negative youths in Zimbabwe. Findings from 600 youths were presented with 400 YLHIV and 200 HIV-negative. In this presentation, an effort is made to identify issues that pertain to young people as a group, and to YLHIV as a specific group. This comparative approach is necessitated by the appreciation that YLHIV are not necessarily a diametrically different group of youth from other young people. However, their HIV status may exacerbate particular issues common to young people.

DEMOGRAPHIC SOCIO-CHARACTERISTICS OF RESPONDENTS

The sample comprises 67% YLHIV and 33% youth perceived to be HIV-negative (to be subsequently referred to as HIV-negative). In this sample, the 15-19-year olds were slightly more (52%), than the 20-24-year olds (48%). Youth living with HIV were slightly younger than HIV-negative youths (53%) and 47% were aged 15-19 and 20-24 years respectively, compared to 50% for both age groups for HIV-negative youths. Females dominated the sample accounting for 52%, compared to males (48%). However, this female dominance is more pronounced among HIV-negative youths (57%), compared to YLHIV at 47% (p=0.02). Most youths (81%) reported that they were not married, while 16% reported that they were married or cohabiting. The proportion that has never married is comparable between YLHIV and HIV-negative youths, albeit with a bias towards the HIV-negative youths (80%), compared to 83%. The largest proportion of youths (62%) reported that they completed tertiary education. This is comparable between YLHIV (59%) and HIV-negative youths (68%). A sizeable proportion of youths (38%) reported that they completed secondary education, comparable between YLHIV (40%), and HIV-negative youths (32%). However, worth noting is the fact that HIV-negative youths were more likely to complete college (68%), compared to YLHIV (59%, p=0.001). The dominant religion is Christianity (63%). This is comparable between the two groups with a slight bias towards HIV-negative youths (64%) compared to YLHIV (62%). A sizeable proportion of youths (14%) reported having a disability. However, YLHIV are four times more likely to be living with a disability (19%), compared to HIV-negative

youths (4%, p<0.0001). The largest proportion of youths (64%) were living in urban areas, while 36% were in rural areas. This is comparable between YLHIV (65%), compared to 62% among HIV-negative youths.

Table 1: Percentage distribution of demographic socio-characteristics of the respondents by HIV status

Variable	Youths living with HIV	HIV-negative Youths	P-value	Total
Age				
15-19	52.6	49.8	0.505	51.7
20-24	47.4	50.2		48.3
Sex				
Female	46.6	56.7	0.020*	50
Male	53.4	43.3		50
Highest Level of Education				
Primary	0.8	0.0	0.060	0.5
Secondary	40.3	31.7		37.5
College	58.9	68.3		61.9
Marital Status				
Never married	79.9	83.1	0.041*	81.0
Married/Co-habit	15.0	16.4		15.5
Divorced	2.0	0.0		1.3
Separated	3.0	0.5		2.2
Religion				
Islam	4.0	5.5	0.737	4.5
Christianity	61.7	64.2		62.5
Apostolic Sect	31.6	28.9		30.7
African Traditional	1.5	0.5		1.2
None	1.0	1.0		1.0
Non-Response	0.2	0.0		0.2
Living with Disability				
Yes	18.8	3.5	<0.0001*	13.7
No	81.2	96.5		86.3
Geographical Location				
Rural	35.1	62.2	0.512	36.0
Urban	64.9	37.8		64.0
Total	**66.5**	**33.5**		**100**

*P<0.05

Comprehensive knowledge of HIV transmission by socio-demographic characteristics

YLHIV were more likely to have comprehensive knowledge of HIV (19%), compared to HIV-negative youths (4%). As expected, there is a positive relationship between age and comprehensive knowledge of HIV. Older youths aged 20-24 years were more likely to demonstrate comprehensive knowledge of HIV (17%), compared to those aged 15-19 years (11%). It is interesting to note that YLHIV were more likely to demonstrate comprehensive knowledge of HIV. For instance, while 15% and 24% of YLHIV aged 15-19 and 20-24 years, respectively, demonstrated comprehensive knowledge of HIV, this compares to 2% and 5% of their HIV-negative counterparts. Females dominated the sample on comprehensive knowledge of HIV (14%), compared to males (13%). Comprehensive knowledge of HIV is positively related to education, while 12% and 14% of the youths with secondary education and college education respectively demonstrated comprehensive knowledge of HIV with none of the youths with primary education demonstrating the same. However, this relationship is more marked among YLHIV. For instance, while 16% of YLHIV who completed secondary education, demonstrated comprehensive knowledge of HIV, 20% of those with a college education reported the same. On the other hand, 2% and 3% of HIV-negative youths with the same levels of education reported the same. Comprehensive knowledge of HIV is positively related to marital status. For instance, while 13% of the never-married youths demonstrated comprehensive knowledge of HIV, 63% and 39% of the divorced and separated youths, respectively, demonstrated comprehensive knowledge of HIV. It is interesting to note that never-married YLHIV (17%), were more likely to have comprehensive knowledge of HIV compared to their HIV-negative counterparts (4%). A sizeable proportion (20%) of persons with disabilities demonstrated comprehensive knowledge of HIV. Consistently, youths in urban areas demonstrated comprehensive knowledge of HIV (19%), compared to rural youth (4%). This dominance was more pronounced among YLHIV (27%) compared to 4% of HIV-negative youths.

Table 2: Percentage distribution of comprehensive knowledge of HIV, by HIV status

Variable	Youths living with HIV		HIV-negative Youths		Total	P-value
	Percent	P-value	Percent	P-value		
Age						
15-19	14.8	0.022*	2.0	0.254	10.6	0.019*
20-24	23.8		5.0		17.2	
Sex						
Female	19.4	0.884	6.1	0.019*	14.3	0.723
Male	18.8		0		13.3	
Highest Level of Education						
Primary	0.0	0.506	0.0	0.570	0.0	0.702
Secondary	16.4		1.8		12.4	
College	19.8		3.3		13.9	
Marital Status						
Never married	17.2	0.002*	3.6	0.969	12.6	
Married/Co-habit	18.3		3.0		12.9	<0.0001*
Divorced	62.5		0.0		62.5	
Separated	41.7		0.0		38.5	
Religion						
Islam	0.0	0.210	9.1	0.879	3.7	0.471
Christianity	22.4		3.1		15.7	
Apostolic Sect	15.1		3.4		11.4	
African Traditional	16.7		0		14.3	
None	25		0		16.7	
Living with Disability						
Yes	20.0	0.816	0.0	0.609	18.3	0.208
No	18.8		3.6		13.1	
Geographical Location						
Rural	5.0	<0.0001*	2.6	0.608	4.2	<0.0001*
Urban	26.6		4		19.3	
Total	**19.0**		**3.5**		**13.8**	

*P<0.05

Female and male FGD participants highlighted the following preventive knowledge gaps:

Sex education seems to be a no-go area for discussion between us and adults in this community. It does not matter who you are talking to, as long as it is an adult you are talking to, discussing sexual issues is taboo. This was supported by one boy, with the clapping of hands by others retorted, "Sir, sexual issues cannot be discussed, full stop!" However, the boy hastened to add: "But sexual issues are the real juicy topics among us as boys.

LOGISTIC REGRESSION COMPREHENSIVE KNOWLEDGE OF HIV

A logistic regression was performed to ascertain the effects of age, sex, marital status, level of education, geographical location and disability status on comprehensive knowledge of HIV. For youths living with HIV, marital status was a significant factor in knowledge of ways of contracting HIV. Those who were divorced were 10 times more likely to have comprehensive knowledge of HIV as compared to those who were never married (OR=9.8; 95% CI [(1.93-49.63)]). Those who were separated were also four times more likely to have comprehensive knowledge of HIV as compared to those who were never married (OR=4.3; 95% CI [(1.11-17.24)]). Analysis by geographic location demonstrated that youths living with HIV from urban areas were six times more likely to have comprehensive knowledge of HIV, compared to youths from rural areas (OR=6.43; 95% CI [(2.71-15.28)]. However, age, sex, highest level of education and disability status had no significant effect.

Table 3: Logistic Regression Comprehensive Knowledge of HIV

Variable	Youths living with HIV		95% CI for Exp(B)		HIV-negative Youths		95% CI for Exp(B)	
	RC	Exp (B)	Lower	Upper	RC	Exp (B)	Lower	Upper
Age								
15-19	1				1			
20-24		1.96	0.98	3.92		1.43	0.13	15.74
Sex								
Female	1							

Male		1.063	0.6	1.88		0	0	
Marital status								
Married/Co-habit		0.93	0.41	2.10		1.345	0.11	17.15
Never married	1				1			
Divorced		9.79*	1.932	49.63				
Separated		4.38*	1.12	17.24		0.01	0	0.32
Highest Level of Education								
Primary	1							
Secondary		199608819.6	0.05	0.21	1			
College		171055817.3	0.03	0.08		1.49	0.08	27.93
Religion								
Islam		0.4	0	0.0		4.64	0	0.0
Christianity		107189590	0	0.0		0.95	0	0.0
Apostolic Sect		98952921	0	0.0		3.17	0	0.0
African Traditional		178717656	0	0.0		5.59	0	0.0
None	1				1			
Living With Disability								
Yes		1.24	0.62	2.47	1			
No	1					0.32	0.61	0.98
Geographical Location								
Rural	1					3.09	0.3	31.49
Urban		6.44*	2.71	15.28	1			

*$P < 0.05$

COMPREHENSIVE KNOWLEDGE OF CONTRACEPTION

YLHIV were more likely to have comprehensive knowledge of contraception (22%), compared to HIV-negative youths (15%). As expected, there is a positive relationship between age and comprehensive knowledge of contraception. Older youths aged 20-24 years, were more likely to demonstrate comprehensive knowledge of contraception (27%), compared to those aged 15-19 years (14%). YLHIV were more likely to demonstrate comprehensive knowledge of contraception. For instance, while 19% and 24% of YLHIV aged 15-19 and 20-24 years, respectively, demonstrated comprehensive knowledge of contraception, this compares to 5% and 25% of their HIV-negative counterparts. Comprehensive knowledge of contraception is related to education, with 12% and 20% of the youths with secondary education and college education demonstrating comprehensive knowledge of contraception, respectively, 100% of the youths with primary education demonstrating the same. However, this relationship is more marked among YLHIV. For instance, while 17% of YLHIV who completed secondary education demonstrated comprehensive knowledge of contraception, 22% of those with a college education reported the same. On the other hand, none and 17% of HIV-negative youths with the same levels of education reported the same. Comprehensive knowledge of contraception is positively related to marital status. For instance, while 17% of the never-married youths demonstrated comprehensive knowledge of contraception, 29% and 50% of the divorced and separated youths, respectively, showed complete and accurate knowledge of contraception. The never-married YLHIV, (19%) are more likely to have comprehensive knowledge of contraception compared to their HIV-negative counterparts (14%). A sizeable proportion (13%) of persons with disabilities demonstrated comprehensive knowledge of contraception. This dominance was more pronounced among YLHIV (26% vs 19%) compared to 17% vs 14% among HIV-negative youths.

Table 4: Percentage distribution of comprehensive knowledge of contraception by HIV status

Variable	Youths living with HIV		HIV-negative Youths		Total	P-value
	Percent	P-value	Percent	P-value		
Age						
15-19	19.2	0.395	5.2	0.003*	14.2	0.022*
20-24	24.4		25.0		24.6	
Highest Level of Education						
Primary	100	0.099	0	0.015*	100	0.022*
Secondary	17.1		0		12.3	
College	22.4		17.4		20.4	
Marital Status						
Never married	18.8	0.061	13.5	0.612	16.7	0.041*
Married/Co-habit	34.4		20.8		28.6	
Divorced	50		0		50.0	
Separated	0		0		0	
Religion						
Islam	12.5	0.910	14.3	0.991	13.3	0.924
Christianity	22.2		14.7		19.3	
Apostolic Sect	21.8		15.6		19.5	
African Traditional	25.0		0.0		25.0	
None	0.0		0.0		0.0	
Living with Disability						
Yes	13.9	0.216	0	0.550	13.2	0.326
No	23.3		15.2		19.8	
Geographical Location						
Rural	25.8	0.313	17.1	0.015*	22.3	0.288
Urban	19.4		13.7		17.3	
Total	**21.5**		**14.9**		**19**	

*P<0.05

The study showed that the main reason for using contraception was to avoid getting pregnant. The sentiments were shared in the focus group discussion with young women. Note the following remark from one young lady:

> The only reason we are using contraception is to avoid getting pregnant. We are not worried about HIV anymore. You know what? One can continue with school when they are infected by HIV but pregnancy will force someone to drop school and continue maybe later. We are appealing to the family planning centres to be friendly to us when we try to find some form of contraception.

The youth were quick to point out that they were more afraid of getting pregnant than HIV infection. This remark is by an 18-year-old HIV-negative girl, with the support of others in the group:

> As young people, we are mostly afraid of getting pregnant because pregnancy is quick to show while HIV is an infection you must personally struggle with.

YLHIV were rather conflicted. They maintained that they are certain of their positive status and the only issue is whether or not they are going to infect the next person. One point of view was that most HIV positive youths do not worry much about infecting the next person given that they were also infected by someone, and mostly not through their choice or negligence. To that extent, they maintained that it is unfair to expect them to live lives which are not common at all, that is using a condom all the time when having sex. Note this remark by 23-year-old HIV-positive female which was met with ululations:

> The fact that we are HIV-positive does not mean that we also do not like to taste unprotected sex like any other youth. We also want to give birth to children you know. And condom use and childbirth are incompatible.

HIV-positive boys were more vindictive than their female counterparts. There was a general feeling that infecting another person is no issue because they themselves were infected by someone too. So, they maintained, as a 24-year-old HIV positive male said:

> We are youth and please do not expect me to behave like a priest for the sake of the next person. I am largely concerned about impregnating a girl before I am ready to be a father. And of course, I will tell a girl when she is pregnant that we should go for HIV testing. If the test is positive, which I am sure it will be, then I will ask for what we can do to prevent mother-to-child transmission. The objective here will be to protect my child. Definitely, I will not necessarily concede that I infected my girlfriend unless she was a virgin when I had sex with her. But there are virgins who were also born positive, so no big deal.

DISCUSSION

The findings demonstrated lower levels of comprehensive knowledge of HIV (14%) among the youth. Worth noting is the fact that YLHIV were more likely to have comprehensive knowledge of HIV (19%), compared to HIV-negative youths (4%). As expected, there is a positive relationship between age and comprehensive knowledge of HIV. Older youths, aged 20-24 years, were more likely to demonstrate comprehensive knowledge of HIV (17%), compared to those aged 15-19 years (11%). This can be explained by the fact that sexual information is widely shared with young people who are older and have higher chances of engaging in sexual activities. A logistic regression showed that divorced youths were 10 times more likely to have comprehensive knowledge of HIV as compared to those who were never married (OR=9.8; 95% CI [(1.93-49.63)]). Logistic regression analysis by geographic location demonstrated that YLHIV from urban areas were six times more likely to have comprehensive knowledge compared to youths from rural areas (OR=6.43; 95% CI [(2.71-15.28)].

These reported levels are slightly below the global average of comprehensive knowledge of HIV among youths that ranges around 34% (UNAIDS, 2020). The reported levels are also lower than the national average of comprehensive knowledge of HIV among the youth in Zimbabwe which stands at 47% for males and 46% for females (ZIMSTAT and ICF International, 2016). The reported levels show a divergence from other small-scale survey statistics in Zimbabwe that reported higher levels of comprehensive knowledge of HIV averaging 78%, with females recording higher knowledge levels (81%) as compared to males (71%) (Mzingwane *et al*., 2020). The absence of correct and accurate information on HIV transmission routes and associated misconstructions increases the probability of indulging in unsafe sex practices that expose them to HIV infection and reinfection, treatment failure and subsequently, general futility of treatment investment.

The study findings show lower levels of comprehensive knowledge of contraception (19%) among the youth. YLHIV were more likely to have comprehensive knowledge of contraception (22%), compared to HIV-negative youths (15%). This dominance was more pronounced among

YLHIV, 26% vs 19%, compared to 17% vs 14% among HIV-negative youths. The reported levels of comprehensive knowledge of contraception are within the regional levels and support findings from a study in Uganda that reported that the use of contraceptives by YLHIV was relatively higher compared to the wider population, suggesting careful sexual behaviour among YLHIV (Birungi, 2008).

The youth maintained that their pre-occupation when using contraception is to avoid getting pregnant, HIV infection and re-infection are secondary concerns. The reviewed literature showed that in Zimbabwe, the use of modern contraceptive methods among adolescent women is slowly increasing from 35% in 1999 to 38% in 2011 (Remez, Woog and Mhloyi, 2014). Globally, the rate of contraceptive use is much higher among unmarried sexually active adolescent girls (51%) than among married or in union adolescent girls (20%), so too is the unmet need for family planning at 41% and 23%, respectively (UNAIDS, 2019). In developed countries, contraception among sexually active adolescents ranges from a high of 90% in the United Kingdom to a low of 31% in Serbia and Montenegro (Avery and Lazdane, 2018). Modern contraceptive use is higher in high-income countries (58%) than in low-income countries (33%) (Woog *et al.*, 2015). It can be concluded that contraceptive use among youths in Zimbabwe is generally much lower than in other countries. It is rather disturbing to note that YLHIV are concerned only about avoiding getting pregnant. This finding tends to suggest that Zimbabwe is failing to raise a new generation of youths that is knowledgeable about contraception.

CONCLUSION
In general, YLHIV exhibit greater knowledge about sexual and reproductive health issues. They possess comprehensive knowledge about HIV when compared to HIV-negative youths. Additionally, YLHIV demonstrate understanding of contraception compared to their HIV-negative counterparts. The generally low levels of knowledge shown in the study are largely anchored in the socio-cultural milieu within which behaviour is developed and nurtured. Thus, intervention models must aim at changing norms and values about young peoples' sex and

sexuality. The community should be empowered to acknowledge and support the education of young people about sex, sexuality and protection, indeed reproductive health diseases - their etiology, prevention and treatment.

RECOMMENDATIONS

Comprehensive sex education that targets the youths regardless of their HIV serostatus. The need for Ministry of Health and Child Care (MoHCC) and shareholders to mobilise coherent reproductive health resources with particular emphasis on youth reproductive health problems. The incessant need for the implementation of multi-sectorial awareness programmes for youths, sensitising them about comprehensive sex education.

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The Housing Markets in Zimbabwe: Considering What Policy Measures to Implement

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Abstract

The study explores housing markets in Zimbabwe. There is need for cheap housing in urban areas because of Sub-Saharan Africa's (SSA) increasing urban population. There is also need to create futures that are more inclusive cities in which everyone has a right to live in a nice place. Descriptive analysis, content analysis and case study method were the three methods used in this study. Results from this research argue that most of the urban poor are the most affected people in housing markets in Zimbabwe as evidenced by the sprouting of a huge number of informal housing in peri-urban areas of most cities in Zimbabwe. Although measures, including the introduction of the Ministry of Local Government and Housing, after independence, slum upgrading, decentralisation and various policies, the demand for housing has increased and the government has failed to reduce it due to different socio-economic factors that include rapid urbanisation, population growth and rural-urban migration, to mention a few. Various key factors affect housing markets in Zimbabwe, and it might be challenging to renovate slums and poorly designed regions and create infrastructure at a rate quicker than the expansion of the urban population. There is need for a holistic approach by different stakeholders such as investors, housing and population gurus, and government and private sector organisations to bring new innovative and African context ideas to the housing crisis in Zimbabwe.

Keywords: population growth, urbanisation, informality, cheap housing, affordability, urban poverty

INTRODUCTION

The need for shelter includes having a place to call home, a place to raise a family and a place to work (Padgett, 2007; Power, 2008; Madden and Marcuse, 2016). If individuals have appropriate shelter, it essentially

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means that society will be more stable. Nonetheless, more than a billion people, or one in five of the world's population, live in substandard housing or are homeless (Madden and Marcuse, 2016). Housing has been a top priority for the Zimbabwean government's development programmes since the country gained independence from Britain in 1980.

To accomplish this goal, the Ministry of Housing was founded in 1982. It is responsible for overseeing housing development in both urban and rural areas. The major focus has been on fair distribution of houses for everyone. To enable people with money to own homes in urban areas, programmes for home ownership were made available to everyone. A housing fund was established to offer loans for house construction in urban areas. Rural residents were also given access to public financing to help them upgrade their houses.

Africa has an urban population growth rate roughly 11 times that of Europe (Bekele, 2005). Building from these foundations, the increasing birth rate, rural-urban migration, acquisition of new land for urban settlements, reclassification of rural regions and, in certain nations, unfavourable occurrences like war and natural catastrophes, are some of the factors that are driving this trend. African cities are among the poorest in the world, hence the need to construct and maintain suitable infrastructure and public services for their expanding populations will be particularly difficult given the continent's rapid urbanisation (Dyson, 2003). Innovative and targeted approaches to affordable housing are needed if governments want to take advantage of the demographic shift to foster economic growth and expand job possibilities.

CONCEPTUAL FRAMEWORK
The conceptual framework for this study is based on two concepts, housing finance and rapid urbanisation. Strong housing performance is linked to the growth of housing finance since buying a home requires huge expenditure. Housing financing and the expansion of the financial industry are closely related (Wolswijk 2009). Home loans often secured by collateral and are less risky than other forms of loans, help to maintain the financial sector's resilience. They also enable the distribution of other financial goods by giving financial intermediaries a connection to customers (Buckley *et al.*, 2009). In addition, a secondary market that expands the flow of money into the financial industry and offers new securities is sometimes linked to the primary mortgage

market. This attracts institutional investors, such as insurance companies and pension funds and promotes risk hedging (Dubel, 2007).

African cities are currently urbanising at a rate similar to that of the Western cities at the end of the 19th century, and similar problems like high child mortality, short life expectancies and low literacy are connected to this trend. (Bekele, 2005). The rise of African cities, however, does not benefit equitable economic expansion or successful attempts to reduce poverty. The formal urban economy receives too little support from weak national performance. Infrastructure services and systems are failing. Almost 72% of the urban population in sub-Saharan Africa lives in horrible environments in slums and squatter communities without appropriate shelter or basic amenities since individuals and families are forced to fend for themselves (Madden and Marcuse, 2016). What is worse is that those who are left out, especially young people, are resorting to wealth redistribution strategies like crime and other anti-social behaviour in many metropolitan regions.

Corruption affects all facets of city life, including the police and judicial systems, which are supposed to uphold the law. As a result, official institutions of administration at all levels become steadily less credible in the eyes of an expanding metropolitan populace. The destruction of African cities is the inevitable result of the current course.

THEORIES UNDERPINNING THE STUDY
This study uses the economic theory (Brim, 2017). This is so because economics is frequently utilised to determine most issues linked to national development. =This technique may have been the most widely adopted. It may have been the most regularly used method because economics is frequently used to determine the bulk of concerns related to national development. This theory of housing provision is in terms of supply and demand on the market. There is a strong conviction that the market can produce the kind of homes that people require. Although this is generally true, it mostly serves those who can compete in the market. This theory is applicable because the urban poor are unable to engage on the market, as most low-income groups are marginalised in most cases.

Economic determinism cannot be discounted because the theory is applicable, and housing has numerous economic benefits. The overall economy benefits tremendously from housing as an economic good. Its importance is shown in the construction industry, where it has the

potential to have a multiplier effect on other industries like manufacturing and transportation and creating more and better job possibilities. The two categories McCallum and Benjamin (1985) used to categorise economic gains are mainstream economic and broader economic perspectives. Housing falls under the first category, which also encompasses housing as a consumption, macroeconomic sector, stimulant of saving and investment, and indirect contributor to income and output. The second group, in contrast, consists of housing as a factory, business, source of rental income, financial asset and entryway to the urban economy.

LITERATURE REVIEW

In Afghanistan, housing facilities are in disrepair and most of the units are dispersed (Long *et al*., 2015). The capital, Kabul, is said to have a sizable population of low- and middle-income workers who are unable to buy properties in the current real estate market. To create room for additional initiatives in the name of urbanisation, the devastation brought by war and strife in Kabul, as well as those structures that still existed had to be demolished (Wood, 1989).

In India, the unorganised sector is primarily served by its extremely fragmented housing market (De Neve, 2005). It is emphasised that due to issues like low floor space consumption, the disparity in living standards between those who rent and those who own homes, etc., rental housing must be under the scrutiny of policy-makers. If we were to focus] specifically on city-level issues, Kolkata would provide a good illustration. The poor still live in poverty and lack access to homes, despite receiving attention from private investors. Other cities have demonstrated to have lingering issues, such as resettlement following eviction in Bengaluru, which was alleged to have had an impact on the evicted population socially, economically, and even psychologically. The Slum Rehabilitation Authority (SRA) initiatives in Mumbai, intended to clear slum settlements, were instead keener to assist private developers and marginalising the poor (Hohmann, 2010; Hirsh *et al*., 2020).

Even in the Vietnamese capitals of Ho Chi Minh and Hanoi, the issue of costly housing and the exclusion of the poor persists (Nguyen, 2021). It is frequently observed that most investment in home construction is geared directly towards the wealthier class because of rising land costs and discrepancies in income statistics due to a larger workforce in the informal sector (Dollar *et al*., 1998). To put things in perspective, real

estate represented 32.4% of the capital for economic operations in 2015, which was the greatest percentage of investments in the city's investment structure. It is much higher than the 4.5%national average. After policy changes more geared towards rapid urbanisation, people in the lower income group in Hanoi, which has seen a major transformation, appear to have felt the pinch and have been forced to co-live in condensed spaces.

Since it creates jobs and promotes economic growth and sustainability, housing is a key factor in the development of both national and regional economies. At the macro level, these advantages are realised as direct and indirect impacts as well as short-, medium- and long-term plans. In a contemporary capitalist economy, the home is frequently the most significant asset that households pass down from one generation to the next and the greatest investment that households make over the course of their lives (Litheko *et al*., 2019, citing Piketty, 2014). As argued by Wolff (2004), owner-occupied housing serves its owner directly. As a wealth asset, it can be converted directly into cash and thereby meet immediate consumption needs; as a financial asset, it can provide liquidity to a family in times of economic stress, such as that brought on by unemployment, illness, or family dissolution; and in a representative democracy, the distribution of wealth, including the ownership of homes, is frequently related to the distribution of power.

Instead of seeing homeownership as a primarily way of lessening the load on the state's welfare system, the government of South Africa has supported homeownership through measures targeting the social and mortgage housing market segments (Parkinson *et al*., 2009; Forrest and Yip, 2011). Asset-based theorisation stipulates that the government has promoted homeownership by introducing various housing typologies, particularly market-based housing. A home is viewed as an asset or piece of property that enables the government to raise owner-occupied housing-related wealth as well as the overall standard of living for households. Long-term housing-related wealth can, theoretically, be tapped into or used to supplement consumption and welfare needs when income is reduced, such as in retirement; provide liquidity to a family in times of economic stress, such as occasioned by unemployment, illness, or family breakup; and acquire other forms of investment, such as educational credentials (Wolff, 2004; Doling and Ford, 2007).

Affordability, housing standards and social and neighbourhood decay are the key issues that affect the housing market. Affordability is a key housing issue to consider on the housing market. This study notes that even while salaries increased, affordability issues persisted and even became worse. Low-income households were burdened by the high cost of living concerning their incomes, housing, food, education and transportation. These groups tend to be discouraged from choosing low-cost homeownership due to borrower affordability restrictions brought by extravagant property prices, mortgage expenses and property purchase fees such as conveyancing charges, including stamp duties.

In South Africa, as government and local authorities, which are the main housing providers for low- and middle-income people, began issuing loans on a full costs recovery basis by the public sector reforms programmes of the time in the 1990s, the problem of housing affordability was further worsened (Jaglin, 2002; Bekker *et al.*, 2008). As a result, there were no longer any subsidies for housing projects funded by the public sector. Housing industry stakeholders requested the government to reconsider current housing rules, particularly for low-income people. Moreover, because the gap between standards and cost was getting wider every year, it became vital to determine the strategies and means by which that might be closed. Enforcing minimum criteria was a laudable intention to guarantee high-quality housing and settlements, but the objective was disconnected from the situation on the ground where people were in dire need of shelter but unable to afford it.

Neighbourhood and social decay also affect housing markets. While housing quality has typically improved, low-income neighbourhoods have generally experienced an increase in crime, rising hunger, sickness and a decline in infrastructure, amenities and social institutions compared 27 years ago. Low-density, high-income neighbourhoods have not been as severely impacted by these issues, and the general population accepts them as a price of living in poverty. The well-being of renters living in such degraded homes is directly correlated with the state of the housing itself. This is based on the idea that slums not only produced human deprivation, but also the crowded, hazardous conditions that allowed them to grow.

Shopping centres and uncontrolled small informal developers are accessing and constructing properties on-site that have not been set

aside for residential use, which is in contradiction with urban land management plans and regulations in Zimbabwe. Apart from a few towns in countries like Kenya, South Africa, Namibia, Zimbabwe and Botswana, most SSA has only a small percentage of its land under fully recorded land tenure regimes. Many official or statutory tenure systems, as well as informal extra-legal tenure arrangements, are found in significant portions of SSA cities. Yet, the official and informal tenure systems are typically a continuum and connected. In this sense, urban planning must build upon and enhance the performance of the informal key sector now reshaping urban land development in most SSA cities if they are to provide the desired results.

The government's urban housing requirements have proved to be another obstacle in the way of providing cheap housing. For instance, in South Africa, the proportion of mortgage loans authorised for affordable housing fell dramatically by 20.4%, between 2013 and 2014, with an estimated nine out of every 10 mortgage loan applications being turned down. Like Angola, where banks reject 82%of home loan applications, less than 2%of loans are made in the official banking system (Bah *et al.*, 2018). As of October 2014, there were just 8 960 mortgage accounts nationwide. With 12 million people living in urban areas, Cameroon's top mortgage institution, which is undergoing reform, authorised only a pitiful 262 home loans in 2014. In Kenya, a country with a population of 45 million, just 60 479 mortgage loans remained unpaid between December 2012 and December 2014.

Comparable figures show that less than 2% of people in Botswana, Malawi, Tanzania and Zambia utilise mortgages to buy homes (Kalabamu, 2000; Kihato, 2014). The housing financing market in Nigeria has not fared any better. Less than 1% of the loans in commercial banks' lending portfolios are mortgage loans. Due to Nigeria's Federal Mortgage Bank (FMBN) failure to live up to expectations, only about 13 000 mortgages had been provided as of August 2012 for a total of 3.8 million eligible contributors to the National Housing Fund managed by FMBN, or about 5%, or 685 000 of the 13.7 million housing units in Nigeria (Bah *et al*, 2018). According to the Mortgage Bankers 'Association of Nigeria (2022), the current mortgage deficit in Nigeria is expected to be N20-30 trillion (US$100-151 billion).

RESEARCH METHODOLOGY

The study employed a descriptive analysis, content analysis and case study approach. It used a thorough review of the literature and discussions with key players in the housing industry. The other information comes from previous household surveys and housing censuses. Furthermore, government reports, newspapers and government gazettes were used.

RESULTS

The pre-independence and post-independence periods of Zimbabwe's housing developments are two separate eras. The background examination is based on Harare's experiences. Other towns and cities, including Bulawayo, Gweru, Mutare, Kwekwe, Kadoma, and Masvingo, also saw similar growth. In all the main metropolitan regions, housing construction trends were consistent.

CASE STUDIES

In Zimbabwe, formal home development has a long history back back to centuries before independence (Garlake, 1982; Muzondidya, 2007; Potts, 2008). Due to early separatist policies of the British colonial authority, there has always been a contrast between high-density and low-density residential neighbourhoods in metropolitan centres. The Land Apportionment Act No. 30 of 1930 and the Land Tenure Act of 1969 both provided explanations for these practices. Africans (Blacks) were not recognised as permanent residents of urban areas under these Acts. They were seen only as temporary workers. So, the type of housing offered to these migratory workers was transient and unsuitable for family occupancy. Housing for Africans in metropolitan areas was to be provided by the government, while parastatals like the former Rhodesia Railways (now the National Railways of Zimbabwe, NRZ) and other statutory agencies were to create and maintain townships, like Rugare in Harare, for its African labour force. Although town and city governments were given the go-ahead to build houses for the African community, only a small number of single-occupancy apartments, primarily two-bedroom multi-family homes like the hostels in Mbare, Harare, were available for Africans.

The new black majority administration encountered a variety of difficulties throughout the first two decades of independence, mostly coping with great expectations (Potts, 2008). The nationalist socialist goals of the regime also consumed or blinded it. The new administration

did not have a defined housing strategy, so it sent some of its top officials from the previous Ministry of Local Government and Housing to communist nations like Cuba to get inspiration. Due to the absence of policies in such nations, this initiative had little success. It quickly became apparent that the new administration would need to study colonial housing programmes and regulations to identify its strengths and shortcomings (Chirisa, 2010).

Because of conversations with public and private organisations involved in housing development, the assessment included studies of the many forms and standards of housing, land tenure systems and housing financing. Based on this analysis, the government developed a framework for policy in 1982 that gave rise to a home ownership policy. By addressing homelessness and encouraging homeownership among formerly marginalised Africans in metropolitan areas, these strategies attempted to maintain housing affordability (Muzondidya, 2007). Employers were discouraged from offering housing assistance in the form of mortgage loans for buying or constructing homes. The new government gave local governments the go-ahead to sell homes to occupants of rental properties and convert them to ownership.

The government supported the adoption of labour-intensive and economic house construction methods, such as self-help building brigades and cooperatives, for low-income housing programmes. The construction of homes by prospective homeowners with technical instruction, administrative support and financial aid from local and central authorities was known as assisted self-help. The recipients could construct their homes at their own pace using this method. The creation of housing cooperatives for members' homes through the sharing of financial resources was made possible by a parliamentary statute in 1990. The government did tax housing cooperative money, even though individual income was not subject to tax.

After independence, some advancement in housing for low-income families were made in the early 1980s. Local authorities participated in site and services programmes for a while when funding from the central government and donors was available, mostly from the World Bank and USAID. These programmes were managed and carried out jointly by the local administration, developers, banks, and building societies. Local government agencies either commissioned their development plans or accepted and authorised private developers' ideas.

Loan financing was supplied by commercial banks or the Ministry of Local Government, Rural and Urban Development (MoLGRUD) for the purchase of land in bulk services. Properties created under these programmes were allocated to families on housing waiting lists. On the fringes of the city, arose new communities such as Warren Park, Kuwadzana, Hatcliffe, and Budiriro. Over a period of years, a yearly output of between 15 000 and 20 000 dwelling units was maintained.

The national and local government's capacity to provide housing and infrastructure was strained because of the rate of urbanisation failing to keep up with the demand. In 2002, according to the National Housing Plan, more than one million residential plots were required, but only 5 500 serviced sites were created yearly. The expected goal for housing creation was 250 000 units. Facilities and associated programmes were discontinued when donor financing stopped. The infrastructure and services were not prepared in several circumstances.

The challenges that the poor experience today in these underserviced peri-urban neighbourhoods have less to do with lack of space and more to do with their geographical separation from urban centres, sources of economic possibilities and health and education facilities. People's ability to travel is severely limited by the distance from the city, especially given the unpredictable nature of public transportation (Musemwa, 2010). People living in poverty are now occupying more of the housing stock because they must find alternative housing on their own. As a major source of income and a means of establishing themselves in the city, the building of backyard shacks for rent became an alternative for urban residents in high-density suburbs.

Tenure patterns reveal the importance of the rental market. In the nation's capital, Harare, owner-occupiers made up 29% of households, while lodgers made up 55%, according to the 2002 National Census. In Bulawayo, the second-largest metropolis, 40% of the people were lodgers. There is an unsettling amount of crowdedness in backyard shacks. Records show that up to 12 individuals can live in each unit and, in some circumstances as many as 27, depending on the situation (Brown, 2001). The urban poor are concentrated in a small area. Local authorities began to partially legalise these backyard homes by giving lodger cards to register as occupants and assessing a fee for each unit.

In May 2005, a government crackdown on unauthorised buildings, known as (Clean-Up/Restore Order) suddenly changed the urban environment throughout Zimbabwe's main cities and urban centres (Potts, 2006). Forced evictions have been frequent throughout Africa, including in Zimbabwe. *Operation Murambatsvina* stood out due to the magnitude of homes, informal market booths and small- to medium-sized production facilities that were demolished (Musoni, 2010).

Several writers have extensively chronicled the repercussions of the forcible eviction, including a comprehensive Special Envoy Report by the UN Secretary-General and studies by other non-governmental organisations that addressed the effects of the expulsion on certain populations. A further estimated two million individuals were indirectly impacted by the loss of assets and livelihoods, while it was estimated that over 700 000 people lost their homes (*ibid.*). There will be significant long-term effects on Zimbabwe's housing and living standards because of this drastic decrease in the housing stock, which exacerbates already precarious housing storage.

The severity of this loss is further highlighted by the fact that rates were being paid and that the backyard properties building quality was usually regarded as being on par with that of the original homes. These buildings suffered damage. Officially, the housing strategy of the government was to serve as an enabler. Yet, the *Murambatsvina* events and subsequent land acquisition and housing provision interventions, point to a change in the government's position from one of facilitation to one of direct control over the provision of housing.

During *Operation Murambatsvina*, the government launched a rehabilitation initiative called *Garikai/Hlalani Kuhle* to promote the widespread provision of affordable housing, vending spaces and small- and medium-sized company sites (Takuva, 2017). The lack of resources is one reason for the slow growth in this area. Although 3 500 apartments have been constructed, occupancy rates are poor, mostly because not enough basic amenities are available. Because many homes do not adhere to the required construction norms and standards, there is friction between local authorities and central government.

Donor responses to housing have, until now, been restricted to the supply of temporary shelter and the reinstallation of fundamental amenities, such as water and latrines, within the context of humanitarian aid

supervised by the United Nation's Consolidated Appeals Procedure. The UN, relief organisations and non-governmental organisations (NGOs) all worked together to produce the Consolidated Appeals Procedure, a unified planning, programming, advocacy and fundraising document. It aims to coordinate the response.

Financing goals for housing and services are significantly short. According to the Consolidated Appeals Process Country Review for 2006, 18% and 15%, respectively, of the initial amount sought for these areas were promised. Initially, US$20 million was requested, eventually reduced to US$10 million, of which US$2 million was availed (Mid-Year Assessment of the Integrated Appeals Process, 2006: 9).

Humanitarian organisations built over 1 000 temporary shelters and over 300 permanent ones despite financial limitations and a volatile political atmosphere. Preliminary estimates for a few areas revealed that 5 500 families required emergency shelter by the middle of 2006, even though the specific number of persons in need of shelter throughout the nation was unclear. Housing, both permanent and temporary, is desperately needed. Evaluations of post-*Murambatsvina* shelters are required to demonstrate the homelessness of several vulnerable populations, including former agricultural workers. According to the Consolidated Appeals Process Midyear Assessment (2006:12), around 7 000 former agricultural labourers lack access to land, and additional people in need of housing and services include deportees from nearby nations and people with HIV&AIDS. In addition to the requirement for new units to accommodate annual expansion, there are several unique demands.

Along with funding, the Unified Appeals Process contributors have also helped non-profit and religious groups to provide services like housing and food. An example of a coordinated multi-agency is the Joint Initiative Group for Urban Zimbabwe, established by seven NGOs to address the immediate and long-term humanitarian needs of at-risk urban areas. With the help of their networks with local NGOs and church-based organisations (CBOs), they have worked to provide livelihood support, food security, social and child protection, HIV&AIDS support, education and shelter in six major urban centres of Harare, Bulawayo, Mutare, Gweru, Kwekwe, and Masvingo. The 18-month effort, funded by numerous donor organisations, will help 12 000 urban households.

Five hundred (500) households in three areas (Harare, Chitungwiza, and Mutare) received shelter because of the JIG Initiative, spearheaded by Practical Action Southern Africa (Mutekede, 2009). Tasks include determining who owns the existing buildings and land, creating and utilising low-cost technologies, generating money via the manufacturing of building materials and teaching 30 groups by Zimbabwean Women in Construction. The company, Practical Action, uses participatory techniques, training and community capacity development, and it has expertise in implementing housing projects across Southern Africa (Practical Action, 2008).

Most of the housing made available to Africans was rented space. Initially, white residential districts contained private rental houses. Due to most African men working in the colonial labour force, single accommodation was offered. In the then-designated Native Reserves, where men were supposed to retire, wives and kids were expected to live. In the reserves, there was no government-provided housing; instead, people lived in conventional pole and dagga buildings.

When a 1969 census revealed that "blacks" were outnumbering whites in some "white" districts like Harare's (formerly Salisbury) Highlands, European households were permitted to house their domestic staff (Makoni *et al.*, 2006; Zembe and Zembe, 2018). The British colonial authorities claimed that this endangered the safety of white people. The same year that the Land Tenure Act was adopted, black domestic workers were transferred to the then-newly established African townships of Tafara and Dzivarasekwa (Gillingham). The housing in these townships was built as rental housing using revenue from the municipality's traditional beer enterprise. Rents did not pay the full costs of construction.

Housing was subsidised via fees that local governments charged companies for certain services. People fled to towns as the liberation war intensified in the 1970s, causing a significant pace of rural-to-urban migration. Squatter camps like Epworth in Harare, Chirambahuyo in Chitungwiza, Umguza in Bulawayo and Tangwena in Rusape, to mention a few, grew because of this. Even after independence, when the colonial administration's separatist policies were overturned by the newly independent black majority government, rural-to-urban migration persisted.

Public sector cannot provide human settlements in Zimbabwe by itself. Under the United Nations Habitat Agenda, developed and adopted in Istanbul, Turkey, in 1996, the Government of Zimbabwe promoted engagement from the commercial sector, individuals and community-based organisations in the provision of housing. To encourage deposits in building societies, the government established paid-up perpetual shares in 1988. Mortgage financing for low-income housing was anticipated to become available. Following UNHABITAT's objective, the government proposed a National Housing Conference in Victoria Falls in 1997 through the freshly-constituted Ministry of Local Government and National Housing. At that time, it had been depressingly noted that government's efforts in the housing sector were not producing many positive outcomes.

Under housing markets in Zimbabwe, housing standards also affect the urban poor. Government-imposed minimum requirements and high inflation that started in the late 1980s, increased the cost of building homes which, in turn, slowed down the rate of housing delivery. The price of building a 50m^2 four-room house, for instance, increased from ZW\$3 800 (US\$3 648) in 1983 to around ZW\$22 000 (US\$8 360) in 1990 and nearly quadrupled to ZW\$45 000 (US\$6 600) by 1993. Due to the devaluation of the Zimbabwean dollar because of the Economic Structural Adjustment Programme (ESAP), the price was lower in US dollars.

DISCUSSION

The geographical aspect of economic prospects is another matter that requires study. Housing industry participants are worried about the market-driven, on-going placement of low-income households in areas far from chances for employment and a living. Low-income households are concentrated in remote "locations" in peripheral dormitories or satellite towns like Hatcliffe, Epworth and Chitungwiza in the country's capital, Harare. Poor people from these places daily commute to the city for work and other forms of supplementary income making it expensive them (Chirisa, 2010). Public transportation that is both reasonable and dependable, should be offered in addition to this. The NRZ now provides "freedom train" services in Harare and Bulawayo. However, they are unreliable and unable to keep up with demand.

A thorough and integrated infrastructure plan must be created as part of the urban planning process. A population growth prediction should be the first step in the infrastructure planning process to gauge housing demand,

the amount of land needed to support urban expansion and settlement density-related difficulties. This data will act as a starting point for figuring out how what infrastructure is needed and how what will need to be replaced in the future.

Also, establishing user fees and tax levies for various types of infrastructure will allow local governments to effectively plan for future displacement costs. To prevent the scenario of retrofitting infrastructure and related exorbitant expenditure, infrastructure planning must be done before settlement growth. Also, it is crucial to build physical infrastructure to fully benefit from urbanisation, enhance the standard of living for African households and expand the industrial potential of urban areas. To turn cities into industrial economies and regional centres, African governments must speed up the building of physical infrastructure, including roads, water and sanitation systems, power and other types of infrastructure.

Large and medium-sized cities in SSA are home to an increasing number of new informal settlements. More than 70% of the urban population in SSA lives in informal settlements. In inner city areas, informal settlements are becoming more densely populated and congested due to inadequate or deteriorating basic infrastructure services. Vulnerabilities are increasing because of environmental problems, population growth and expansion on floodplains, marshes, river basins, steep slopes and other hazardous locations. When housing and population concentrations rise, there are fewer or no essential infrastructural services accessible, turning informal settlements into slums. Many low-income households choose to live in slums in exchange for being near their source of income. Most people choose to reside close to their places of employment. Flooding, landslides, fragility and inequality hazards associated with climate change are also anticipated to increase, particularly in the coastal cities of SSA.

CONCLUSION AND RECOMMENDATIONS

All in all, for a more effective housing market and the growth of a secondary mortgage market, institutions must be strengthened, including the legal and regulatory framework. This could entail improving the capacity of the judicial system to handle cases of mortgage foreclosure fairly and effectively, or it could entail adopting legislative changes that allow for non-judicial foreclosures, as is the case in Ethiopia, where the central bank is charged with overseeing the foreclosure procedures and

examining mortgage contracts. Overall, African countries must take a leading role in the land market. Examples of land governance reforms in Africa and other locations, show how to effectively address concerns with access to and management of land. A good example of how to enhance security and land rights is Rwanda. It is crucial to remember that a copy-and-paste solution is not advisable. The dispute over land formalisation and the distribution of land is significantly impacted by the ambiguities in the land tenure system and the enforcement of property rights.

Although it is obvious that individual property rights are necessary for land tenure security necessary for a successful formal land market, mortgage financing and private investment in housing, it is important to remember that land formalisation should not be seen as a one-size-fits-all solution and should, instead be tailored to suit the country's context and market dynamics. One cannot overstate the value of community involvement and participation in land reforms. In some places, such as informal settlements, civil society may be extremely important in maintaining efficiency and equality in the allocation and access to the land market. Civil society is becoming increasingly influential and well-organised politically in many nations. Governments must thus include locals in significant property deals and educate the populace about the law and the value of shared interests.

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Enhancing Private-sector Participation in Climate Adaptation Finance

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Abstract

This article examines how participation of the private sector can be intensified in climate change adaptation finance in Zimbabwe. It argues that although measures can be implemented in any rural-urban set-up to adapt to climate change, there is need for financial assistance for effective climate change adaptation. This calls for the role of the private sector to close the financial gap in climate change adaptation and what can be done to stimulate these private sectors to participate in climate change adaptation finance. This study is premised on the background that the national government has a role to stimulate and enhance private sector involvement in adaption because the impacts of climate change are devastating the lives of many across the world, especially in developing countries and the adaptation costs will continue to increase with time. Therefore, such countries are facing difficulties in adaptation to climate change hazards, and need the help of human, technical and financial doses from the private sector. The study was mainly a desktop study involving examining literature and documents fetched from Google Scholar, Ebsco and websites with news and related material with case studies involving key informant interviews. For data analysis, the study engaged mainly in textual analysis. From the study, it is revealed that developing countries are financially challenged in their adaptation projects against the ever-increasing climate change hazards and there are barriers to private-sector participation that the national government should be aware of to attract private-sector investment in their countries.

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INTRODUCTION

Climate change can be natural or human-induced, leading to climate change hazards such as droughts, floods, heatwaves, tropical cyclones, heavy winds, typhoons and many others. Its impact has led to the loss of life, destruction of infrastructure and properties, poverty, food insecurity and threats to the physical environment and ecosystems. Although measures have been put in place in disaster-prone areas, the impacts are still felt. Many countries are battling climate change and its ever-increasing impacts. System thinking and suggested measures have been applied to respond to climate change hazards, but are facing challenges in developing countries. These challenges call for intervention from the private sector (UNFCCC, 2007). Private-sector participation is important in climate change adaptation as it helps with financial assistance (DCED, 2016). It has been noticed that costs associated with adapting to climate change risks are far much higher than international public finance for adaptation. UNEP (2021) argues that international public finance available for climate change adaptation in 2014 was 23 billion dollars and, by 2030, it is estimated that adaptation costs will range around 200 billion dollars. In developing countries alone, it is estimated at 70 billion dollars. On a different note, the World Bank estimates that developing countries will need about 90 billion dollars annually through 2050 to adapt to climate change and the public sector alone cannot meet this financial goal but with the engagement of the private sector (UNEP, 2016). Although the implementation of adaptation is worldwide, little is done on climate risk reduction (UNEP, 2021). In the case of Zimbabwe, the country is still benefiting from global finance. This shows that financial investment is seriously needed to cope with climatic hazards and to cover adaptation costs.

As argued by Amoah *et al*. (2022), in 2010, a group of 190 countries established the Green Climate Fund (GCF) to provide financial support for global greenhouse gas (GHG) emissions mitigation efforts. The main objective of the fund was to promote and facilitate Green Finance initiatives and raise the concept in the world (*ibid*.). Moreover, sustainable private finance, also known as GF, has been recognised as an essential part of the United Nations' Sustainable Development Goals (SDGs) 16 and 17 (Li *et al*., 2023). Kumar *et al*. (2023) observe that financial institutions are required to promote green goods in savings,

credit, insurance, transfers of money, and modern electronic delivery channels to offer those funds essential help to people navigating an unpredictable climate. Consequently, overall investment strategy should change to be more environmentally friendly, as it will help to achieve the UN SDGs, especially SDG 1 (no poverty), SDG 7 (affordable and clean energy) and SDG 13 (climate action), all of which are designed to promote green growth. Hence, the private sector must play an active role in climate change financing to ensure sustainability (*ibid.*).

Most governments in developing countries have implemented various policies and legislation to ensure environmental management to mitigate climate change effects. Climate change has resulted in poverty across continents resulting in energy challenges, food insecurity, environmental degradation and desertification, just to mention a few of the effects (Jessel *et al.*, 2019). Climate change financing is, therefore, crucial in enforcing laws and policies for climate change reduction and sustainability. Despite government efforts in most developing countries, there is also need for public-private partnerships (PPPs) between the government and the private sector to make joint efforts in climate change initiatives through climate change financing. Energy sufficiency and fuel savings can reduce the operating cost of government buildings, private companies and residences. The creation of jobs by the private sector from emission reductions and climate mitigation strategies will result in significant benefits for local economies. A study by the U.S. Conference of Mayors Climate Protection Centre in 2008 indicated that adhering to federal, state and local goals promoting renewable energy, energy efficiency, and alternative fuel, can transform the economy by increasing the number of green jobs five-fold. The report further suggests that cities are especially well-placed to reap the benefits, as more than 85%of green jobs are in metropolitan areas.

Survival coping strategies and indigenous knowledge have been employed to respond to climate change hazards but found to be temporal and unreliable. Climate change adaptation measures are also being used in developing countries, but they are still in their infancy. Adaptation to climate change involves an adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects that moderate harm or exploits beneficial opportunities (UNDP, 2005; Levina and Tirpak, 2006). Therefore, there is need to strengthen climate change adaptation to the hazards through the incorporation of the private sector to ensure resilient settlements. The article seeks to study how countries

and states attract or enhance private-sector participation in climate change adaptation.

THEORIES INFORMING THE STUDY

The study used the theory of change in articulating its intention. As argued by Anderson (2005), the theory of change is "Essentially an explanation of how a group of stakeholders expect to reach a commonly understood long-term goal." In adapting to climate change, private-sector participation is important in achieving long-term minimal impacts of climate change. The theory argues that there is need for leadership and participation in dealing with the problem whereby there are different stakeholders in defining the problem and assumptions from different perspectives and the final way to use in attacking the problem (Bours *et al.*, 2014). Describing the problem is also important whereby the private sector must address the root cause of the problem and understand climate change causes and impacts (Sowden *et al.*, 2019). The next stage in the theory of change is to map a pathway for change, that is to map the assumed cause-effect relationships of climate change. Then after, there are defining interventions, whereby adaptation strategies are brainstormed and the best strategies are selected (Bours *et al.* 2014). Identifying assumptions and barriers about how change will happen and listing barriers are also addressed. Indicators and thresholds need to be identified whereby indicators are necessary to demonstrate progress and outcomes are met (Anderson, 2005). The theory of change explains the stages of private sector engagement.

The Foreign Direct Investment (FDI) theory is a process where investors acquire their assets from their mother countries to control the production, distribution and activities of other countries (Moosa, 2002). In this context, the private sector from the mother countries can come up with financial and technical assets to address climate change and ensure the development of that country. The private sector will be controlled because it can deal with the global challenge of climate change impacts that the government of that country is battling to address. For a country to experience FDI, it must have an enabling environment, such as a good policy framework and stable macroeconomic activities, just like investing in climate change adaptation.

LITERATURE REVIEW

Private sector engagement in financing climate is being practised in some countries in responding to long-term climate change hazards. Developed

and developing countries are successful in adapting to climate change, but adaptation to climate change is being practised around the globe. The private sector is involved in planning, implementation, reporting and monitoring and evaluation (Crawford and Church, 2019). The literature was reviewed through the analysis of the reasons for engaging the private sector in adaptation projects, ways or strategies implemented suitable for attracting or enhancing the private sector in financing the climate change adaptation strategies and highlighting the barriers that can block the private sector from investing in climate change adaptation.

WHY ENGAGE THE PRIVATE SECTOR IN FINANCING CLIMATE CHANGE ADAPTATION?

The private sector can intervene in financing climate change adaptation strategies and projects provided there are clear enabling environments for that area that needs their intervention (Altenburg and von Drachenfels, 2008). Therefore, their role has been seen as very important in developing countries due to multiple reasons. One of the reasons for engaging the private sector is to mobilise financial resources and technical capacity (Biagini and Miller, 2013). Financial instability has affected most developing countries such that when they are faced with climate change stress and shocks, they struggle to cope, thereby turning to indigenous knowledge and survival strategies that are not sustainable. This calls for the private sector to assist in moderating the disasters affecting people as they are capable of intervening financially and providing technical know-how and technologies for adapting to climate change. The private sector is also important as it leverages the efforts of governments (*ibid.*). Once the private sector is aware of the climatic risk information and data of the country, it can improve the decisions and perspectives of the public sector and influence them to follow what is beneficial in investment. The private sector is also important in engaging civil society, community efforts and developing innovative climate services and adaptation technologies (*ibid.*). The private sector appreciates the efforts done by civil society such as applying indigenous knowledge in coping with climate change disasters and improving adaptation.

EFFORTS TO INTENSIFY PRIVATE-SECTOR PARTICIPATION IN FINANCING CLIMATE CHANGE ADAPTATION.

The United Nations Development Programme (UNDP) implemented projects financed by Least Developed Countries Fund (LDCF) and the Special Climate Change Fund (SCCF) to deal with climate change hazards and many ways were employed to attract private sector investment in

these adaptation strategies (*ibid.*). Raising awareness of potential risks and response measures is a strategy to enhance the private sector in financing climate change adaptation (Tall *et al.*, 2021). The LDCF has implemented many projects in the Cape Verde that raised awareness of the risks, vulnerability and adaptation to climate change in the water sector (Biagini and Miller, 2013). The area has been devastated by drought that led to massive water scarcity. Through raising awareness, the policymakers and private sector had access to information and data on climate and weather variabilities in the area where the change was needed (Micale *et al.*, 2018). Through that, investments were done in water capture, and storage and distribution were altered to fit adaptation strategies (*ibid.*). This is also supported by Stenek *et al.* (2013) who explained that there is need for the availability and accessibility of data and information in attracting private-sector participation in adapting to climate change. This is important because enabling environments of free and easy access to climate observations and projections, for example, flood risk maps, water hydrographs, fire risk maps and rainfall intensity, allows the private sector to have a sense of responsibility for that place and also helps in familiarisation of climatic conditions and hazards.

Literature has also revealed the need for capacity building in training the private sector in the management of climate change risks as a strategy to attract them into investing and financing climate change adaptation strategies (OECD, 2015). This enhances an organisation's institutional capacities in understanding the modalities of climate funds and accessing and using climate finance (CAN, 2015). There is need for groups for consultation and coordination and training in the management of climate change risks. A study done in Sierra Leone revealed that the capacity of above 50 hydro engineers from the public and private sectors was attracted through designing and managing climate risks in water supply systems and maintaining climate-resilient infrastructure (Biagini and Miller, 2013). This shows that private sector training is important as they are trained on the risks associated with climate change.

Adjustment on regulations, policies and institutional infrastructure is a strategy reviewed to enhance private-sector participation in financing climate change adaptation (Stenek *et al.*, 2013). The national government should play a role in creating sound policies, plans and regulatory environment for resilience (Coopers, 2013). It is the role of the governments to improve on the policies and building codes that

incorporate climate change conditions and associated impacts, local zoning regulations that consider the changing climatic conditions and land tenure policies that define land rights of vulnerable groups (Stenek *et al.*, 2013). Legislation and impacts assessment policies and regulations are attractive to private sector financing adaptation projects (*ibid.*). The government must introduce subsidies for the acquisition of climate change adaptation technologies to enhance private-sector participation in financing. Biagini and Miller (2013) exemplified that in Zimbabwe, the SCCF project managed to finance the implementation of regulatory and fiscal incentives to stimulate climate risk reduction by the private sector. In Liberia, regulations were put in place on coastal development in consideration of climate change.

National governments should implement long-term plausible strategic plans directed at climate change adaptation (ATCP, 2010). Bangladesh is one of the countries that successfully attracted the private sector in adapting to climate change due to the creation of an action plan called the Bangladesh Climate Change Action Plan"= (BCCAP) that consisted of six pillars comprising food security, social protection and health, comprehensive disaster management, infrastructure management, research and knowledge management, mitigation and low-carbon development and capacity building and institutional strengthening (*ibid.*). The plan's main objective was to address the impact of floods, targeting the vulnerable but, surprisingly, the plan received support and assistance from the private sector because it was primed.

Studies have proven that PPPs can enhance private-sector participation in financing climate change adaptation strategies. Terpstra and Ofstedahl (2013) argue that it is not always the situation where private sector investment is likely, such as investing in a public good that is not profitable to them, especially in water infrastructure, flood protection, safety nets and disaster management. The public sector or the national government should be the leading sector in financing, with the assistance of the private sector by implementing government-funded projects through a partnership between the public and private sector such as transporting food to drought-devastated areas, while the public sector purchases food. This relationship can benefit the public sector, private sector and beneficiaries. Through engaging in PPPs, the private sector was involved in the adaptation projects in Sierra Leone. Biagin and Miller (2013:8) purport that:

In Sierra Leone, the LDCF financed a Public-Private Sector Forum focused on policies and the promotion of investment and entrepreneurship for managing climate change risks to water distribution and usage. Affordable climate-resilient community-based water harvesting, storage and distribution systems were designed, built and rehabilitated in Freetown with private-sector participation to withstand projected changes in rainfall patterns and intensity.

Such partnerships are important as they attract private investors through the risk-sharing of responsibilities.

Kenya developed several strategies through Multi-Stakeholder Partnerships (MSPs) for Micro Small and Medium Enterprises (SMEs) to be attracted to financing climate change adaptations (Crick *et al.*, 2018). Table 1 shows Kenya's experience in private sector involvement in adapting to climate change. It explains the role of MSPs in supporting the development of enabling conditions for adaptation to climate change among Micro, Small and Medium Enterprises (SMEs) through Key Informant interviews (KI) done in Kenya (*ibid.*).

Table 1: Kenya's experience in private Sector Involvement in Adapting to Climate Change (Crick *et al.*, 2018).

Strategies	How this strategy is used in Multi-Stakeholder Partnerships (MSPs)	Examples of MSP activities that employ this strategy
Value chain and market analysis	Many of the MSPs identified by participants were underpinned by value chain and market analysis, where development actors seek to identify weaknesses and opportunities within and along value chains that limit producers' resilience in the face of climate and other risks. In many cases, development actors then seek to identify opportunities for private sector actors to support horizontal and vertical transformations within the value chain and to create new products and services that support climate resilience among smallholder farmers. This is often accompanied by an analysis of the enabling conditions required to close barriers to entry that can be used to guide strategic donor	Kenya Cereal Enhancement Programme (KCEP) was structured through identifying business cases and brokering business linkages between small-scale producers and larger-scale processors, for new climate-resilient crop value chains. Through market analysis, the partnership also identified opportunities to assist other SMEs to develop businesses that would increase access of small-scale producers in these chains to improved agricultural inputs and tools and to post-harvest management services, such as storage and warehouse receipt systems.

	and public interventions. Within the MSPs identified by KIs, this approach was common to support the identification of market opportunities to develop new product lines and to target new markets for improved and climate-resilient inputs and pre- and post-production services.	
Multi-stakeholder dialogue fora and brokering of business linkages	KIs suggested MSPs include some action designed to facilitate multi-stakeholder dialogue and create opportunities for private sector actors (and other public and civil society sector actors) to share knowledge, learn about each other's needs and the needs of a given customer base, identify areas of complementarity and build trust. KIs suggested relationship and dialogue building between potential partners is often pursued with the same goals as value chain analysis: to support value chain actors to identify opportunities for shared value from market interventions and the development of new practices, rules, technologies and market linkages to enhance resilience through learning and collective action.	Netherland's development organisation, SNV, held 'partner days', under the HortIMPACT for horticulture and Smart Water for Agriculture (SWA) partnerships bring together value chain actors, including producers, aggregators, processors, input suppliers, financiers, development partners and government representatives, to identify synergies and potential future partnership opportunities.
Research and other investments in information and tools	KIs identified a range of interventions through MSPs that were intended to overcome gaps in research and information that serve as barriers to entry for the private sector in delivering adaptation goods and services. This included collaboration with research institutes, for example, to support product development and innovation and investments in data collection and provision in areas, such as market and climate information.	Planning for Resilience in East Africa through Policy Adaptation, Research and Economic Development (PREPARED) led to a quality service improvement programme with the Kenya Meteorological Department, that emerged in response to the identification of climate data quality as a core challenge for insurance companies who struggle to access a robust index through that to determine commercially viable premiums for crop insurance for small-scale producers in remote regions.

Marketing	KIs suggested MSPs often supported private sector actors to overcome barriers to accessing new markets, for example, for climate-smart inputs and technologies, by supporting the advertising of their products and services through activities such as training and technology demonstration and through partnering with local extension services.	The Conservation Agriculture 4 For Security (CA4FS) partnership supported agricultural machinery suppliers who produce tools for conservation agriculture, to create awareness about their products to engage new markets through demonstration plots and training
Access to finance, financial incentives and financial de-risking strategies	KIs identified a range of financial mechanisms where public actors within MSPs sought to enable and incentivise private sector actors to provide goods and services that support producer adaptation. These include subsidies, loans, tax incentives, grants, co-investment models and other de-risking strategies.	The Innovation Fund established within HortIMPACT provided start-up financing for SMEs to develop new products and services that support value chain upgrading and other adaptation and production constraints within value chains.
Incubation services	Business incubation services, such as mentoring support, support to set up contracts (e.g. for out-grower schemes) and other forms of business and climate information training were also offered through MSPs, to support private sector actors to deliver adaptation goods and services.	KMT worked in partnership with actors, including Farmers Pride, to deliver business incubation services for young entrepreneurs to set up agri-business franchises, to increase producer's access to improved inputs
Empowering the consumer base	In most of the MSPs highlighted by KIs, in addition to undertaking interventions to support implementing private sector actors to mobilise for adaptation, public sector actors also took action designed to address gaps within enabling environments for adaptation and business development at the level of beneficiary producers. This includes activities, such as delivering producer training on adaptation strategies, providing loans and financial incentives to invest in new inputs, services and	The SNV-led Smart Water for Agriculture programme engaged financial institutions to launch a Smart Water Loan facility to provide loans to smallholder farmers through saving and credit cooperatives to allow them to adopt smart water solutions.

Meanwhile, KMT partnered with Tosha Women's Group to support the aggregation of sheep and goats among female animal traders in Marsabit, to enable them to get into contractual agreements with established |

	technologies and supporting producer organisations in sustainable common-pool resource management. It also includes activities such as helping to mobilise producer aggregation, improving the bargaining power of small-scale producers and supporting end-market private sector actors to access more reliable suppliers. KIs highlighted that such action has the potential to be mutually reinforcing in terms of unlocking the private sector for adaptation; providing a consumer base that is empowered and incentivised to respond to investments from the wider private sector that can participate more consistently as suppliers of quality products within value chains.	end market players and transport providers.

From Table 1, KI done in Kenya helped in the provision of types of partnerships with enabling environments to produce a business framework that allows the private sector to deliver adaptation goods and services. These can help overcome barriers to adaptation for producers while compensating these implementing private sector actors for the additional risk associated with developing these new products, services and markets for less privileged groups, with higher barriers to access (Crick *et al.*, 2018).

METHODOLOGY
The study was conducted in Zimbabwe, in the southern part of Africa. Zimbabwe is wholly landlocked country (Parsons, 1993). It is bordered by Zambia to the north-west, Botswana to the south, South Africa to the south and Mozambique to the east (Parsons, 1993). The research used a qualitative approach. The main instruments for data collection were interviews with key informants done in Shona and English languages understood by the respondents. Ten interviews were done with private sector players in Zimbabwe, respondents that comprised private company officers, charity organisations and NGO representatives who were purposively selected. Data collected through key informant interviews included challenges and barriers in private sector participation in the

climate adaptation financing. Data were also collected through examining literature and documents, a total of 30 journal articles were analysed obtained from several Google Scholar, Ebsco and other websites.

RESULTS

BARRIERS TO PRIVATE SECTOR ENGAGEMENT IN ADAPTATION

The private sector's participation can be impassable in climate change adaptation if the aforementioned efforts or strategies to intensify their participation in financing climate change adaptation are not in their favour or if they are not improved to lure them into participation (LDCPF/SCCF Council, 2012). These barriers include poor policies and regulations, no awareness campaigns on climate information, no incentives and fewer profits for them, little or no partnerships for risk sharing, zero training for the private sector due to lack of capacity building, reports for unclear channelling of resources for climate change adaptation strategies and economic instability with high inflation rates in countries (Dougherty-Choux, 2015; Micale *et al.*, 2018). These can discourage the private sector from investing in climate change adaptation. Such barriers need to be corrected by the national government before calling for investment and this can be successful if they could recognise such barriers and hindrances to the private sector in financing the climate change adaptation projects.

Table 2: Summary of the barriers to investing in climate change adaptation (Micale *et al.*, 2018)

Barrier Type	Barrier Name	Definition
Context Barriers	Poor policy environment	The policy environment lacks conditions supportive of sector-specific investment (e.g., no requirements for businesses to implement disaster risk management strategies).
	Poor Institutional Environment Poor market environment	Legal and regulatory institutions and infrastructure that support investment is lacking (e.g., property rights, contract enforcement, permitting, rule of law, etc.).
	Poor value chains and human capital	The market environment is unsupportive of sector-

		specific and general investment (e.g., a weak economy, unsophisticated financial institutions, weak historical track record of sector-specific investment, etc.). Environment lacks the organisation and people with competent capabilities for implementation and success of the investment (e.g., no sector-specific value chain or local sectoral expertise).
Business model barriers	Uncertain or unknown value-addition High cost Lack of technical capacity	The value or benefit of the technology is not known to users or is uncertain; users do not consider their climate risk in decision-making The upfront and/or operational cost of technology is too high Prospective users of the technology do not have the technical capacity that is needed to implement or use the technology
Internal capacity barriers	Lack of internal capacity	Internal management and operational capabilities of the adaptation product or service provider are insufficient to scale.

To enhance the private sector in financing climate change, countries should create "enabling environments" that can attract these investors (CAN, 2015). Enabling environments are adjustments or ways that can be implemented to the already existing way of conducting development or investment in any country to attract investors (private sector) for that particular project. Enabling environments can be created through understanding and an analysis of ways that can enhance private-sector participation. The literature review highlighted such efforts that can attract investors. The Philippines created an enabling environment for private-sector participation in climate change adaptation finance to the extent that adaptation and climate resilience measures were done

without losses, rather than projecting future revenue and minimising costs.

Case Study 1: Energy Development Corporation (EDC) Philippines: Investing in climate adaptation measures with the support of the first-peso dominated green bond issued by International Finance Corporation (IFC)

The Energy Development Corporation (EDC) is the largest energy company in the Philippines. The country is highly vulnerable to climate change, as it is one of the world's cyclone-prone regions, with about 20 cyclones each year and is highly susceptible to floods, droughts and landslides. When Tropical Storm Urduja brought one meter of rain to the region in three days in December 2017, it caused significant damage to the generation facilities of EDC Philippines, reducing capacity by 50% at the Malitbog Geothermal Power Plant.

EDC Philippines, with the support of a Macquarie Infrastructure and Real Assets-led consortium as a major shareholder, realised that existing infrastructure was not resilient enough to evolving climate-related disasters including record typhoon wind speeds and increasing amounts of rainfall per event. The company took the following steps:

Embedded climate risk into decision-making: EDC's management team updated its modelling and risk analysis to include intensifying climate-related natural events and concluded that EDC would require additional resilience measures and infrastructure investments (EDC, 2020).

Invested in critical points of infrastructure: EDC spent 313.8 million PHP (about US$6.2 million) in 2018 on climate adaptation measures, seeking to improve the company's resilience, minimise risk exposure and ensure a continuous energy supply to consumers and the local community. EDC made targeted investments in the most critical points of the infrastructure that would result in the greatest reduction of value at risk, based on cutting-edge, high-resolution LIDAR mapping and deluge modelling.

The 2017 disaster provided the impetus for EDC Philippines management to invest in resilience building, which enabled the company to ensure continued service to its customers while protecting future revenues, minimising costs and reducing losses.

An enabling environment and financial innovation, along with direct investments from EDC Philippines and its shareholders, the IFC, also supported the issuance of the first internationally rated triple-A Philippine peso-denominated green bond issued by a multilateral development institution to support adaptation and resilience-related measures at EDC Philippines' plant. It had a value of about US$90 million with a 15-year maturity. IFC issued the bond in direct response to the 2017 events and intends for the issuance to help spur domestic capital markets to play a larger role in mobilising savings for climate finance (IFC, 2018).

EDC Philippines had a supportive enabling environment and did not seem to face any regulatory barriers. It worked with the IFC and a host of local actors to ensure adequate resilience measures were undertaken. In addition, EDC Philippines collaborated with municipal agencies and the local community to understand climate risk factors and best practices to ensure sustainable adaptive measures.

EDC's Disaster Prevention and Recovery Unit, a team made up of top rescue, medic first aid and water rescue personnel, conducted training around all of EDC's host communities to boost community resiliency. The unit also created the first-ever network of first responders across the country to exchange best practices and experiences, to the benefit of the host communities. Coordination with municipal and local stakeholders reinforced the long-term impact of resilience measures that would be beneficial to both the company and nearby communities (Tall *et al.*, 2021).

Understanding barriers that can disturb the private sector in investing is key for every country. Developing countries should understand what can hinder the progress of financing climate change adaptation and try by all means to avoid and correct them. However, in most developing countries, due to high levels of economic instability, corruption and political influence, barriers always exist. Therefore, financing the climate change adaptation process should be done in a bureaucratic manner.

The private sector is not always available when needed for financing the climate change adaptation process. Therefore, national governments should not completely rely on them for financing climate change adaptation projects. These climate change hazards are not predictable,

therefore, educating the mass on alternatively relying on natural resource-based adaptation processes and using their indigenous knowledge should be heavily encouraged for adapting to climate change. When the private sector intervenes with their financial and technical assistance, it will be an added advantage for developing countries. Accountability and transparency should be the guidelines for adaptation finance, especially in developing countries. The financial flows and technical assistance should be outlined and accounted for. The channelling of resources should be clear and understandable to both the public and private sectors. Developing countries lack accountability and transparency and this can affect the implementation of their adaptation projects. The national budget for most developing countries is facing challenges due to corruption, inflation and deficit due to excessive paying for borrowing. Governments end up in a budget deficit and bankruptcy such that they need full investment from the private sector. However, in the private sector, if the adaptation projects are not directly benefiting them, they do not invest. Therefore, the public sector should have a budget from where they could take finances for adapting to extreme weather events and climate change hazards because risk-sharing with the private sector allows them to get involved in financing adaptation projects.

Private-sector participation in Zimbabwe is still at its infant stage. Due to macroeconomic problems and the fall of the Gross Domestic Product (GDP) in Zimbabwe, the costs of adaptation will consequently be higher and the agriculture sector is getting affected. Therefore, great adjustments should be done to the micro economy of Zimbabwe to attract investment in dealing with climate change. It is believed that an unstable economy discourages investors.

Although financing climate change adaptation strategies are not yet dominant in Zimbabwe, the country is trying some adjustments through behavioural changes and community-based adaptation strategies, especially in the Chiredzi District and Makuwere area in the Mberengwa District, in coping with climate variabilities and their implication on the agriculture sector. Livelihood-centred approaches are used in adapting to climate change and disaster risk reduction in areas such as Bulima, Mangwe and Gwanda Districts. These behavioural change approaches,

however, lack funding and technical assistance. This calls for the national government and its ministries to brainstorm on enhancing or attracting the private sector in financing climate change adaptation projects without relying on the private sector and improving these community-based strategies and livelihood-centred approaches financially and technically. This will require adjusting and working on their poor economy, climate governance (national policies) and regulations, financial policy framework and channelling of resources for climate change adaptation.

Despite being in Natural Farming Region 4 characterised by low rainfalls, Masvingo's climate has

- changed to receive high rainfall with floods to the extent that low bridges get flooded. In adapting to
- floods, the city storm drains have been unblocked. Sand and rubbish were removed from the drains to
- allow easy passage of water during flood times. The storm drains were unblocked in winter as after winter, rains are unpredictable. In an **interview,** one of the Supervisors at the construction site interviewed explained that:

> We are preparing for the rainy season, and we have started early because the rains of this region are unpredictable. For the past years we have been struggling with flooding of the streets that have affected pedestrians and traffic movement and the roads, therefore, the authorities have found out that storm drains are blocked and are not allowing the passage of water, and that's why you are seeing us here embarking on these projects early before the rain season to unblock them.

The authorities employed civil contractors to execute the project, and it is funded by ZINARA to make sure that there is resilience and sustainability in Masvingo CBD. Therefore, the government is trying to use national revenues in combatting climate change impacts through unblocking of storm drains.

Zimbabwe is failing to copy or learn from what other countries are practising to attract investment. Developing countries are different and each country has its way of development, relating to other countries, beliefs and in growth and expansion. Countries should learn how other countries are enhancing the participation of the private sector in financing climate change. Zimbabwe must comprehensively check on its barriers to climate adaptation finance so as to address them at grassroots level and adjust to copy what other countries are doing to successfully

lure private sector climate change adaptation finance. Due to excessive borrowing and macroeconomic problems, Zimbabwe has a budget deficit. Regardless of these national challenges, Zimbabwe must work on its national budget so that it can aid in the investment of the private sector. In the context of climate change adaption, the private sector is unlikely to benefit from it, therefore, there is need for division of labour or risk and responsibility-sharing through PPPs.

DISCUSSION
The study identified a number of challenges that affected and hindered private sector participation in climate adaptation financing, that included, among others, poor policies and regulations, no awareness campaigns on climate information, no incentives and fewer profits for them, little or no partnerships for risk sharing, zero training for the private sector due to lack of capacity building, unclear channelling of resources for climate change adaptation strategies and economic instability with high inflation rates in country (Dougherty-Choux, 2015; Micale *et al*., 2018). These findings are further supported by **a** *Newsday* DATES???? article that indicated that Zimbabwe is characterised by a high inflation and volatile economic situation. The increased high inflation and unstable economy lead to poor profits in private sector business and, therefore, impacting negatively on what the private sector does, limiting their participation in climate adaptation finance. Their non-participation substantiates CAN (2015)'s assertion that to enhance the private sector in financing climate adaptation, countries should create "enabling environments" that can attract these investors. Studies conducted reveal that a macroeconomic situation hinders the investment of some necessary infrastructure such as highly climate resilient infrastructure, awareness campaigns and private sector participation in decision-making.

CONCLUSION AND RECOMMENDATIONS
This article sought to examine how the participation of private sector can be intensified in climate change adaptation finance, particularly in Zimbabwe. A qualitative analysis of results pointed out that developing countries are financially constrained in the mitigation of climate change effects. As presented in the results and discussion above, there are multiple stumbling blocks to private sector participation which the Zimbabwe government really needs to address to lure private sector participation in climate change adoption financing. The findings, therefore, again suggest that Zimbabwe government must first work on its major problems, including poor macroeconomic environment and

policy framework, because other barriers are underpinned by these two main barriers. Recommendations suggested are:

- Defining barriers to private sector involvement in climate change adaptation helps in looking for the best option to enhance private-sector participation in climate change adaptation finance.
- National governments should have a set-aside budget for such extreme events and climate change hazards.
- Countries should have a clear and understandable financial policy framework and climate governance because no investor wants to invest in nations that have poor financial and legislative frameworks.
- Learning from other countries' experiences with climate change adaptation finance is crucial for every country.
- Creation of Action Plans (Nation Adaptation Plans) that define their purposes and specifically target to address climate change impacts.
- Accelerating Circular Economy initiatives by the private sector.
- Government can introduce a climate change tax/carbon tax to create a fund that assists smaller private companies to cope with climate change challenges.

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Critical Elements in Defining an Intelligent Supply Chain Model for Warehouse Infrastructure

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Abstract

Smart supply chains and warehouses aim to increase quality, productivity and efficiency with the notion of environmental justice in mind. Since the year 2015, the use of smart and intelligent supply chains gained traction with the use of the Internet of Things (IoT) taking centre stage in the discussion of the development of smart supply chains. The study evaluates the defining elements of an intelligent supply chain and their usefulness in the implementation of smart warehouse infrastructure. The study used the qualitative methodology and in-depth interviews. The study found that the use of digitalised warehouse infrastructures can position the manufacturing industry in Zimbabwe as the breadbasket globally and jewel crown of Africa. The study found that a smart supply chain can be defined by a tracking and tracing system that uses technology and the use of the IoT. There is need to move away from manufacturing that relies on fossil fuels and move towards sustainable manufacturing based on smart warehousing and inventory management. The study used qualitative methodology and in-depth interviews.

Keywords: efficiency, environment, traction, sustainability, fossil, intervention

INTRODUCTION

Supply chains play a crucial role in manufacturing and services operations (Zhang, Yang and Yang, 2022). The supply chain consists of all the processes, transformations and flows involved in the making of a product from raw material to the finished product (Hamdy, Mostafa and Alawady, 2020). The supply chain consists of all the parties involved directly and

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indirectly in the fulfilment of a customer request. It includes not only manufacturers and suppliers but also warehouses, retailers and even the customers (*ibid.*). Warehousing is an integral part of supply chain management. Traditionally, it is a place to store and hold inventory before being shipped to customers or distributed to retailers for sale (Affia and Aamer, 2020). However, nowadays they do not function as storage facilities only, but also as critical places where supply and demand are matched through inventory management to meet the demands of the customer (*ibid.*). Automation and digitalisation are the driving forces of Industrial Revolution 4.0 (4IR) as the revolution led to the mass production of goods, which increased the need for modern warehouses (Jarasuniene, Ciziuniene and Cereska, 2023). The extensive production of goods launched by the 4IR intensifies the necessity for modern warehouses (*ibid.*). In recent years, that is at the turn of the year 2010, the functioning of warehousing has gotten unpredictable with the increasing number of goods handled in a warehouse, thus customary and manual strategies for warehouse management can no longer deal with such volumes of activities (*ibid.*). This intensity of production has prompted the use of modern innovation to manage these challenges (*ibid.*).

The article explores the integral elements in defining an intelligent supply chain model for warehouse infrastructure. An intelligent supply chain has become an important part of manufacturing across the world and with this globalisation, there is need for the adoption of intelligent supply chains in African manufacturing industries if they are to survive the global markets and put a mark on modern supply chains. There is great need for intelligent supply chains in the Zimbabwean manufacturing industry as these can help reduce climate change by reducing the emission of greenhouse gases that are released by the old model of buildings, the industrial model before the 4IR. Environmental justice is the missing link in the creation of intelligent supply chains if Zimbabwe is to create a supply chain that does not harm the environment.

CONCEPTUAL FRAMEWORK

The conceptual framework that guides the article is the public goods standpoint propounded by Samuelson (1954) (). The public goods standpoint postulates that efforts of private businesses are likely to lead to inadequate standard infrastructures for at least two reasons (*ibid.*).

The first reason for the failure arises from the public goods nature of the standards inevitably leads to a free rider problem and the result is under-investment in the provision of infrastructures (*ibid.*). This problem of free-riders is what the African manufacturing sector is facing currently with special reference to Zimbabwe the market and the players within the market are operating based on a neo-liberal standpoint without any investment into smart and sustainable infrastructure jeopardising the future due to the need to have a free market.

Old models of warehouses are said to produce 30% of the greenhouse gas emissions (Raza and Malik, 2019). Under-investment in smart infrastructure can lead to the failure of public goods and this is what Zimbabwe is currently experiencing due to the lack of investment in smart infrastructure. The manufacturing industry is lagging behind and failing to produce goods for public consumption. Zimbabwe is one of the countries that import much of what is consumed in the country due to the failure of the industry to produce public goods. Zimbabwe produces what it does not consume and consumes what it does not produce, meaning there is a failure in the manufacturing industry to produce public goods on a mass scale.

The second reason is coordination failure through wrong investments that are suboptimal (Samuelson 1954). There is need for the digitalisation of the supply chain so that it can track and monitor the investments that are pursued by manufacturing companies so that they do not go off track and pursue wrong investments.

Resolving these public goods and coordination failures requires intervention from another industry, which is the merging of the information and communications technology (ICT) and the manufacturing industries. The merging of the two industries leads to the creation of smart manufacturing and warehousing infrastructure development that allows African manufacturing industries to reposition themselves on the global map as major players, not as mere spectators and extractors of raw materials and buyers of value-added products. The creation of intelligent supply chains can solve the shortage of public goods in

Zimbabwe as these bring with them warehousing infrastructures that allow for the smart tracking and movement of goods. Zimbabwe has gone through phases whereby the manufacturing industry has been revived and protected by the government without reaching full production potential in the manufacturing sector. Intelligent supply chains can help through the creation of warehouse infrastructures that are also smart using the IoT. The creation of smart warehouses helps because nowadays warehouses do not function as storage facilities only, but also as a critical place where supply and demand are matched through inventory management to meet the demands of the customer (Affia and Aamer, 2020).

LITERATURE REVIEW
The literature to be reviewed focuses on the supply chain, an intelligent supply chain and the warehouse infrastructure.

SUPPLY CHAIN
Supply chains encompass companies and business activities needed to design, make, deliver and use a product or service (Khan *et al.*, 2010). Businesses depend on their supply chain to provide them with what they need to survive and thrive (Ganeshan and Harrison, 1995). The supply chain involves many flows, that is, information flow, financial flow and material flow (*ibid.*). Third-party logistics is also involved in the supply chain, and this is a situation whereby a company uses its logistics resources on behalf of another company in handling the inbound and outbound logistics of the company that owns the commodities (*ibid.*). The term "supply chain management" arose in the late 1980s and came into widespread use in the 1990s (Chopra and Meindl, 2001). Before that time, businesses used terms such as logistics and operations management (Khan *et al.*, 2016). A supply chain can, therefore, be described as the alignment of firms that bring products or services to the market (Lambert, Stock and Ellram 1998).

Thus, supply chain management is a set of approaches used to efficiently integrate suppliers, manufacturers, warehouses and customers so that merchandise is produced and distributed in right quantities, to the right

locations and at the right time to minimise system-wise cost while satisfying service level requirements (*ibid.*). Supply chain management is the task that moves in a process from supplier to manufacturer, to wholesaler, to retailer to consumer (Khan *et al*., 2016). The supply chain formerly involved production of goods, storage and transportation of goods to the final user. However, now with the involvement of technology, the supply chain has evolved to become smart. The smart supply chain now involves the internet and other technologies.

INTELLIGENT SUPPLY CHAIN

The wide disruptions due to the COVID-19 pandemic demonstrated the importance of supply chain flexibility and resilience (Zhang *et al*., 2022). An intelligent or smart supply chain is a supply chain that integrates the partners to self-organise and automatically adapt to environmental changes and makes intelligent decisions to best achieve business goals (*ibid.*). The main features of a smart or intelligent supply chain include being integrated, intelligent, adaptive, and self-optimising (*bid.*).

The supply chain is a dynamic evolving process that extends vertically and horizontally in terms of integration, along with technology development and business innovation. With the development and integration of ICT and artificial intelligence (AI), supply chains evolve from single partner/flow intelligence to multi-partner or whole supply network intelligence and, ultimately, to promote and realise the digitalisation and intelligentisation of different businesses/systems (Liu *et al*., 2018). Thus, developing a resilient and smart supply chain is an indispensable yet challenging task for manufacturers and other stakeholders (Zhang *et al*., 2022). The emergence of new (ICT) technologies, such as big data analysis, the Internet of IoT and blockchain, makes it possible to develop a smart supply chain (Saucedo-Martinez *et al*., 2018).

Driven by new technologies and the need for adapting to constantly changing markets, the 4IR provides a new platform for smart manufacturing, bringing manufacturers close to customers (Lasi *et al*., 2014). Industry 4.0 can provide cyber-physical systems to integrate

customer needs into the different stages of manufacturing (Zhang *et al.*, 2022). The implication of the 4IR technology has transformed the manufacturing industry and created economies of value creation during the past four years (Ching *et al.*, 2022). This entire value-creation network is typically coincident with the supply chain (Zhang *et al.*, 2022). Thus, supply chain management is an important factor that impacts the performance of smart manufacturing under the 4IR. Supply chains should keep pace with the revolution (Zhang *et al.*, 2022). Zhang (2015) has indicated that smart manufacturing needs smart or even smarter supply chains for support since the supply chains affect the availability of the input for manufacturing, the interaction of multiple functions of production, the efficiency of the delivery of the finished goods to customers and responsiveness of the network.

The smart supply chain is to use advanced technologies, especially ICT, to link the processes in different partners of a supply chain to form an intelligent connected system (Wu *et al.*, 2016). Industry 4.0 has a more positive impact on manufacturing industries in German companies (Sarbu *et al.*, 2021). Duman and Akdemir (2021) opined that the benefits of smart supply chains in business yield profitability, improvement in sales and production speed, and increase in productivity, quality and efficiency in firms. New emerging technologies from the 4IR, such as ICT, show promise in improving the supply chain in various ways (Colin *et al.*, 2015). Supply chain management aims to meet customer demands on time with the highest quality and lowest cost that can be obtained by improving the process and achieving the linkage between them, removing the non-value-added activities across the supply chain and making it more agile (Kovacs and Kot, 2016). The IoT has a significant role to play in improving and enhancing the performance of all the functions of supply chain management which are production, location and marketing (Mostafa and Eltawil, 2016). All the functions can benefit supply chain management by saving time and cutting costs, while bringing customer satisfaction.

INTELLIGENT WAREHOUSE INFRASTRUCTURE

Intelligent supply chain management can have an impact on the modelling of a smart warehouse management system. Industrial buildings produce nearly 30% of all greenhouse gas (GHG) emissions (Malik *et al.*, 2019). This includes indirect emissions from increasing energy consumption and packaging waste production (Rupp *et al.*, 2022). In the

United States of America (USA), Environmental Protection Agency (EPA) data showed that nearly 23% of GHG comes directly from industrial sources like warehousing, logistics processes, manufacturing and construction (Stolaroff *et al*., 2018). The direct emission created during various warehousing processes such as storage, goods consolidation, distribution and transporting cargo has been on the increase in recent times (Chuah *et al*., 2022).

Seaborne cargo, which is 90% of globally traded commodities, is processed in warehouses and transported via existing road infrastructure to and from various ports (Oloruntobi *et al*., 2023). This made warehouses and logistics inevitable and now need to be intelligent and sustainable for the safety of the environment. The implications to the environment continue to be of utmost concern, necessitating several global calls to embrace environmental, social and governance standards (*ibid.*). This means leaser energy usage for heating and energising operations in warehouses and logistics centres will minimise the dependence on fossil fuels (*ibid.*). Shemi *et al*. (2018) observe that one industry that mounted the utmost pressure on the centrally generated electricity is the storage and warehouse sector, prompting the release of indirect emissions. Adopting a warehouse management system can have a positive impact on the supply chain performance. That is because using Management Information System and wireless barcodes can achieve cost reduction, flexibility, inventory reduction and delivery in time reduction, thus achieving customer satisfaction (Hamdy and Mostafa, 2020). The introduction of barcode-enabled real-time warehouse management systems and automation with the addition of technologies like near-field communication (NFC), radio-frequency identification, global positioning systems (GPSs), wireless sensor network, WiFi and robotics, has changed the warehousing system by reducing manpower costs (van Geest *et al*., 2022).

Intelligent supply chain management must have an IoT that allows one to track work-in-progress, and inventory, and improve the picking and receiving of goods in the wool yarn industry (Hamdy and Mostafa 2020). Wei *et al*. (2015) found the use of barcodes by supply chains to be

helping in the warehouse management system by helping in the management of inventory, supporting decision making and decreasing the workforce costs, thus it achieves improved overall performance. The use of intelligent supply chains is critical in achieving inventory control, increasing efficiency of the operations, enhancing warehouse utilisation, reducing manpower, reducing loading time and increasing inventory accuracy (Hamdy and Mostafa, 2020). With the help of the adoption of new technologies such as the IoT, block chain, big data analytics, artificial intelligence, machine learning, deep learning and robotics, the operations of warehouses may be radically transformed (van Geest *et al.*, 2022).

The main advantages of smart warehouses are that they provide real-time information which is not possible in traditional warehouse systems, manual tasks are minimised, and automation of tasks is maximised so that high-value tasks are performed by the employees (*ibid.*). Smart warehousing allows for improved operational scalability because updating infrastructure is easier than the update of human capital within the organisation. In smart warehouses, automated decisions are made using different prediction models and the use of sensors to monitor expensive equipment and, therefore, downtime is minimised (*ibid.*). Warehouses are no longer a storage places only, but rather a place where value-added services take place in that some warehouses are starting to assemble and pack (De Koster *et al.*, 2017). The manual warehouse operations involved errors during the inventory control and picking process and to ensure quality and safety in the smart supply chain, warehousing has technical systems that reduce the margin for human error (Skerlic, 2017).

Warehouse inventory management plays a crucial role in supply chain management, leveraging 4IR technologies, the smart automated warehouse becoming popular, especially for e-commerce companies (Liu *et al.*, 2018). The warehouse and distribution centre with 4IR technologies become a supporting part of smart manufacturing processes (Mohammed, 2017). Smart warehouse management uses the IoT and Big Data to make the monitoring, tracking and location of various materials

and products in the warehouse environment (Aviles-Sacoto *et al*., 2019). Therefore, technological advancement through automation of the warehousing system in the intelligent supply chain defines the smart supply chain and can be used for the modelling of smart warehousing, a model that involves less human handling of goods using machines.

METHODOLOGY

The study used a qualitative methodology, leaning towards case study research design. To craft the discourse forming this article, the study engaged purposive sampling to sample eight respondents that have worked in the manufacturing sector in Zimbabwe with experience on the supply chain. The study also engaged literature and document review to understand the state of the supply chain and warehouse infrastructure in Zimbabwe. Snyder (2019) states that a literature review-based study can direct the researcher on the gaps within the study area and how others have addressed the pitfalls within a certain research area. The data was analysed using narrative data analysis. The study focused on TechFarm, a Zimbabwean telecommunication company that supplies electronic gadgets.

THE USE OF THE INTERNET

The study showed that there is use of smart technology at the TechFarm warehouses to track and trace inventory and reduce the time spent in the supply chain and make deliveries of products to the consumers in time. The findings indicated that there is the use of the Internet of Things in the warehousing system at TechFarm. One participant said:

> What we do here is we use the internet to track and trace our inventory so that the time spent tracing and searching for inventory boxes is less, as everything is computerised, making the smart supply chain time effective in Zimbabwe.

The study also revealed that the use of the IoT in the supply chain is critical in defining a smart supply as it indicates that a supply has to self-optimise. One participant indicated that:

> The Internet of Things defines a smart supply chain as it gives the supply chain the ability to self-optimise and self-organise as it can help cut human interference and reduce delays.

The IoT has been shown in the findings to define a smart supply chain that can operate with minimum human intervention. One participant said:

> One aspect that defines an intelligent smart supply chain is the ability to use the Internet of Things and reduce human interference so that the machines can operate and locate inventory. The basis of smart supply chain is to reduce human work as the population is ageing.

The IoT can define a smart supply chain as it can reduce the human interference as the population is ageing in most of the countries, including Zimbabwe.

MODEL OF AUTOMATION

The study showed that a smart supply chain can be defined by a model of automation that can reduce the loss of goods. The findings revealed that the traditional model of supply chain lost goods through breaking as the picking and handing of goods by humans led to errors. One participant indicated that:

> What defines a smart supply chain is a model of automation that can work to reduce the loss of goods in the warehouse so that the company makes profits rather than losses. This is because the traditional supply chain involved packing and picking by humans and this led to loses due to the breaking of inventory.

The study revealed that the automation model is what defines a smart supply chain as it can use better ways to track and transport the goods to the pick-up counter. One participant stated that:

> One thing that can define a smart supply chain is the creation of an automation model for the supply chain that can reduce breakages and loss of goods in the picking and packing due to human error. A smart supply chain can be defined by automation through the use of RFID (radio frequency identification) to track and trace the inventory.

These findings showed that for a smart supply chain to be defined there is need for an automation model that allows for the automation of services such as the packing and picking of orders, as well as the tracking and tracing.

TRACKING SYSTEM

The findings revealed that for a supply chain to be defined as a smart supply chain, there is need for tracking and tracing system of goods and services to avoid the loss of inventory in transit or the loss of time in tracing for a box in the warehouse. One participant indicated that:

> For a supply chain to be defined as a smart supply chain, there need for a tracking and tracing system that can help in the tracking of inventory in transit through the use of GPS and TechFarm has the best tracking system for goods in transit.

The findings revealed that there a need for a good tracing and tracking system in the supply chain to reduce the issue of time lost during the tracing of boxes. One participant said:

> Much of the time in the traditional supply chain was lost in the tracing and tracking of goods in the warehouse as there was no system to track the loads of boxes stacked in the warehouse. Now with the use of smart supply chains tracing and tracking of boxes in the warehouse is now easy as there is now the use of barcode tracking in the supply chain and the bar code tracing can define a smart supply chain.

The study showed that for the supply chain to be defined as a smart supply chain, there is a need for the automation of tracking system using robots that are computerised to trace and track the inventory. One participant said:

> For a supply chain to be intelligent, it needs to include automation of the tracking and tracing system and this is done through the use of robots that are computerised to know where to find the goods and services. This also helps the supply chain against industrial action induced delays. As TechFarm we are striving to create a robot-based supply chain tracking and tracing system in the near future.

The study revealed that for a supply chain to be defined as a smart supply chain, there is need for an intelligent tracking system that can track inventory and minimise time lost in the process of tracing for the goods.

DISCUSSION

The use of smart supply chain management comes with the use of IoT and this can be used to define intelligent supply chain management as

everything within this supply chain is connected to the Internet. This model of supply chain is intelligent and can be implemented in the manufacturing sector in Zimbabwe as it is time effective in locating and picking the inventory. In support of these findings are Oner *et al*. (2017), who observed that a warehouse framework based on RFID can track work-in-progress and inventory, and improve picking and receiving goods. The findings indicated that an intelligent supply chain is defined by the automation of processes using robotics and other machines to minimise loss of products through human error in the handling of goods in the warehouse.

This model of automation can be adopted for the modelling of warehouse infrastructure in the Zimbabwean manufacturing industry to avoid the loss of products due to human error in the inventory handling process. In agreement with these findings, Skerlic (2017) observed that manual warehouse operations involved errors during the inventory control and picking process and there was need to ensure that quality and safety in the smart supply chain warehousing has technical systems that reduce the margin of human error. There is need to avoid these errors in the manufacturing sector in Zimbabwe if the manufacturing industry is to be revitalised and take centre stage again in the region and the continent of Africa. The findings indicated that a smart supply chain can be defined by mechanisation and automation of the processes which can also be said of the model of warehouse systems that develop based on automation to reduce the cost of labour.

The manufacturing sector in Zimbabwe can adopt a warehouse infrastructure that is intelligent. With automated machines like robots to reduce the cost of labour, this can also reduce downtime due to industrial strikes and breaks. These findings are in line with Hamdy and Mostafa (2020), who observed that the use of intelligent supply chains is critical in achieving inventory control, increasing efficiency of the operations, enhancing warehouse utilisation, reducing manpower, reducing loading time and increasing inventory accuracy. These intelligent supply chains and warehousing can also be dangerous for developing countries with high unemployment rates as the adoption of these smart machines signifies loss of jobs for individuals within the manufacturing industry due to the reduction of dependence on manpower.

The development of an intelligent warehouse can be a step in the right direction for the manufacturing industry in Zimbabwe as it reduces the loading time and increases inventory accuracy. The findings indicated that the adoption of a smart supply chain can lead to the use of warehouse infrastructure as areas of value-added services. This can be a step in the right direction for the manufacturing industry in Zimbabwe as beneficiation has remained the missing piece on Zimbabwean products.

There is need for smart warehouse infrastructures that are allow value addition processes. These findings are again supported by Hamdy and Mostafa (*bid.*) who observed that the use of intelligent supply chains is critical in achieving, increasing efficiency of operations, enhancing warehouse utilisation in value-added services allowing firms to produce customised and finished goods. The findings indicated that the traditional warehouse infrastructure is responsible for 30% of GHG emissions Malik *et al*. (2019). Therefore, the development of smart sustainable warehouse infrastructure becomes important in Zimbabwe as the country is part of the global effort to reduce climate change. The direct emission created during various warehousing processes such as storage, goods consolidation, distribution and transporting cargo, has been ion the increase in recent times (Chuah *et al*., 2022).

There is need to reduce the rise in the emission of GHGs hence the development of smart and sustainable warehouse infrastructure models. The findings indicated that the smart warehouse models must have barcode tracking systems and technologies that allow for the location of goods with ease. This can be useful in the manufacturing industry in Zimbabwe as it allows the location of inventory in no time, especially for those dealing in e-commerce. Consistent with the findings are van Geest *et al*. (2022), who postulated that the introduction of the barcode enables real-time warehouse management systems and automation, with the addition of technologies like near-field communication (NFC), radio-frequency identification, global positioning systems (GPS), wireless sensor network, WiFi and robotics, has changed the warehousing system in reducing manpower costs. These technology-based models of warehouse infrastructure are cost-effective as they reduce manpower due to the use of automated machines.

CONCLUSION AND RECOMMENDATIONS

In conclusion, Industrial Revolution 4.0 has become an eminent revolution sweeping across the world, spurred on by the need to reduce climate change and practise sustainable development. There is need for the development of intelligent and sustainable warehouse infrastructure models. This article summarises the definition of an intelligent supply chain as a supply chain that is based on the Internet of Things and the automation of services to reduce waste and the impacts of manufacturing on the environment.

RECOMMENDATIONS

- There is need for the development of smart models of warehousing to achieve environmental justice using sustainable infrastructures.
- There is need for the government to lead the development of the models of smart warehouse infrastructures in Zimbabwe.
- There is need for models of smart technologies that will be compatible with the current employment indices and protects people's jobs as unemployment is already high.
- There is need to prioritise environmental justice by creating smart models of warehouses that do not emit greenhouse gases.
- There is need for the creation of a smart supply chain first to see the feasibility of smart warehousing.

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The Culture of Transport and Logistics Clusters for the Revitalisation of the Manufacturing Sector

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Abstract

This article explores and discusses the culture of transport and logistics to revive the manufacturing industry. It advances the argument that supply chains are ecological environments and these can be forced to change by digital disruptions and business competitions, hence, manufacturing firms must invest in an organisational culture that encompasses innovation, collaboration and manpower development to respond to these changes. Missing in the literature is the perspective that a great culture in transport and logistics can help create high performance in the supply chain by motivating and cultivating the organisational culture in employees such that individual performances become measurable. Data were gathered using a qualitative approach with a case study design reading through case studies from secondary data and interviews were held with players in the logistics industries in Zimbabwe. Evidence from the sources shows three critical aspects, innovative learning, increased tolerance and high performance, come with the culture of logistics. The article concludes that the culture of transport and logistics can revitalise the manufacturing industry as it improves learning, tolerance and smooth integration of innovation.

Keywords: revive, invest, performance, motivating, cultivating, tolerance

INTRODUCTION

The term "organisational culture" gained momentum in the 1980s through Pettigrew's article. Before that, culture was a domain of anthropology (Cucek and Kac, 2020). Culture is the key component that organisations must separate them from their competitors (Zhang and Li, 2013). Organisational culture is defined as the collective programming of the mind that differentiates employees in different organisations (Cucek and Kac, 2020). Modern-day firms are faced with a myriad of substantial changes in the business environment due to globalism, radical change, development of information technology processing, communication and

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the logistics industry tries to gain a competitive advantage in such an environment (Acar, 2012). The high performance and delivery of firms are dependent mostly on the strong commitment of their employees towards the organisation (*ibid.*). Acar (*ibid.*) observes that leadership is crucial for the development of organisational culture. This article explores and discusses the culture of transport and logistics to revive the manufacturing industry. It advances the argument that supply chains are ecological environments that can be forced to change by digital disruptions and business competitions, hence, manufacturing firms must invest in an organisational culture that encompasses innovation, collaboration and manpower development to respond to these changes.

CONCEPTUAL FRAMEWORK

The conceptual framework guiding this study is the competing values framework (Cameron and Quinn, 2011). It is a tool used to explain the characteristics of different types of organisational culture. Organisational culture consists of different opposing elements, including external versus internal focus, and an orientation towards being either more stable or flexible (Soare *et al.*, 2019). These differences in organisational culture types mean that flexibility-oriented and control-oriented cultures have different effects on an organisation's interpretations of external events and thus differentially affect their responses to the expectations and requirements of the environment (Liu *et al.*, 2010). Adhocratic and clan cultures are seen as more flexible than hierarchical and market cultures (Guo *et al.*, 2014). Organisations can emerge as dominated by an adhocracy culture, but change as the organisation develops towards clan dominant culture then hierarchical and, finally market-dominant (Cao *et al.*, 2015). Cao *et al.* (*ibid.*) found that clan, adhocracy and market cultures are positive with logistics integration. Yunus and Tadisina (2016) explain that more externally-oriented organisations such as in market and adhocracy cultures, are well positioned for logistics integration.

LITERATURE REVIEW

This article focuses on the types of organisational culture, and transport and logistics clusters.

ORGANISATIONAL CULTURE

Cameron and Quin (2011) observe that culture encompasses the core values, assumptions, interpretations and approaches that characterise an organisation. They created two dimensions of culture, stability versus flexibility and internal versus external focus. Culture has been classified

into four groups of organisational culture. Clan type of culture, as noted by Cameron and Quin (*ibid.*) is a type of culture that focuses on collaboration managers as mentors, team creators and moderators. Cameron and Quin (*ibid.*) argue that managers care about employees and work together as an extended family with focus on teamwork and consensus. Tantegel and Kralj (2011) argue that values in an organisation using clan culture mean dedication, communication and development, and such organisations view human resources development and high commitment as effective. This type of culture is referred to as clan culture because it represents the family type of an organisation (Cameron and Quin, 2011). This culture places great importance on customer sensitivity (Soares, 2018). This is the culture that is more concerned with commitment towards employees and relations established in the workplace.

The second type of culture is adhocracy, a culture oriented more towards creativity (*ibid.*). The company leadership involves innovators, visionaries, risk-takers, and entrepreneurs (Cameron and Quin, 2011). This type of culture follows the belief that innovation, vision and constant change ensure efficiency, the most important values being innovative results, changes and agility (*ibid.*). The adhocracy culture is characterised by a dynamic entrepreneurial and creative workplace (Soares, 2018). Organisations that operate under this culture tend to experiment most of the time as they wish to be the first to launch new products (Cameron and Quin, 2011). Such organisations are open to change and new challenges to respond to environmental trends and their long-term goal is rapid growth and company acquisition of new capabilities (Soares, 2018). The organisations in this culture promote individualism and personal freedom (Armstrong-Persily, 2013: 98).

The market type of culture is oriented towards competition. Its leadership are hard managers, rivals and producers (Soares, 2018). The company management is oriented towards an aggressive, demanding and unyielding approach (*ibid.*). The integral values are market share, goal attainment and profitability (*ibid.*). Organisations with a market culture believe that aggressive competitiveness and customer focus bring efficiency (Cameron and Quin, 2011). The focus is on the business performance of the company that wishes to be the market leader as far as market penetration is concerned (Cucek and Kac, 2020). Their long-

term goal is to emphasise competitive action and achievement of measurable goals (OCAI, 2019). This organisational culture can be implemented in transport and logistics for manufacturing firms in Zimbabwe as it is informed by market share dominance that has been the lacking or missing link in the Zimbabwean manufacturing sector that has depended on government for protection against foreign players due to lack of aggressiveness. It should be noted that all these cultures aim at the same goal, which is employee satisfaction and company market share dominance. They differ only in aggressiveness.

TRANSPORT AND LOGISTICS AND CULTURE

Murray (2018) defines logistics as the network of organisations that are involved through upstream and downstream linkages in different processes and activities that produce value in the form of products and services delivered to the ultimate user. ChenXi *et al*. (2019) observe that logistics involves a supplier and a customer in the upstream or downstream flow of products, services, finances or information. The performance of logistics firms can be measured through time, cost and quality (Murray, 2018). These variables can be understood in the time taken for service delivery and the cost it takes to deliver (*ibid.*). Ozigbo (2012) argues that when faced with opportunities and threats, organisational culture affects decisions in logistics. If the culture allows for risk-taking, the threats will be perceived as opportunities.

Karagoz and Akgun (2015) have argued that logistics firms with a strong culture share general characteristics, shaped and strengthened through a set of rules, systems and norms created by the culture. Studies have shown that innovative firms develop certain capabilities and knowledge to become embedded in their organisational culture and logistics services innovation is necessary due to the constant changes in capabilities (*ibid.*). Daugherty *et al*. (2011) noted that logistics capability, developing a logistics service innovation, is necessary as capability can differentiate a firm and improve its performance and a proper culture with structure may enhance its innovation capabilities. Innovative firms develop particular types of capabilities that become their footprint within their organisational culture (Karagoz and Akgun, 2015). Porter (2019) postulates that the integration of organisational culture into logistics is a bit difficult, but the adhocracy culture type is flexible and can have a greater degree of positive correlation on logistics than hierarchy and market cultures as the two are less flexible.

Porter (*ibid.*) further posits that adhocracy culture types with an external focus, will have a greater degree of positive correlation on logistics than clan and hierarchy culture types because these two have an internal focus. A logistics firm's cultural characteristics determine the integration of partners and the rules (*ibid.*). Huo *et al*. (2014) suggested that firms that pursued a culture with a transactional cost strategy that emphasises process efficiency, formalised rules, structured workplaces and organisational stability, were oriented towards hierarchical culture, and they succeeded due to this culture. Hierarchical culture is more suitable and functional in stable and unchanging markets where specialisation and efficiency are more important than innovation and competence (Cao *et al*. 2015). Firms with a hierarchical culture have difficulties adapting to change and volatile market conditions (Porter, 2019). Brunscheidel *et al*. (2010) have noted that firms with hierarchical culture negatively influenced both internal and external integration of their firms as much focus is on discipline and rules. It is against the backdrop of culture of transport and logistics to revive the manufacturing industry that this article explores the strengths of the culture of transport on the revitalisation of the manufacturing industry in Zimbabwe.

RESEARCH METHODOLOGY
The study used qualitative research with a bias towards the case study design. The study sought to explore the impact of the culture of transport and logistics on the revitalisation of the manufacturing industry in Zimbabwe. The study population consisted of 36 drivers from Nyandoro Transport, a logistics company based in Mt Hampden, operating at the Willdale Bricks store. The study used a sample of 18 drivers and the sample was purposively selected based on the drivers' experience. The study used in-depth interviews with open-ended questions that gave participants room to give their views. The study used narrative data analysis and the data emerged from the study participants.

RESULTS

NYANDORO TRANSPORT
Nyandoro Transport is a leading transport and logistics company in the moving and transportation of building materials. It is a logistics company based in Mt Hampden, operating at the Willdale Bricks store. The company can transport 30 metric tonnes of building materials, from cement to bricks. The company has been in the transport and logistics business since 1987 and it has grown exponentially to support the

distribution of locally manufactured building materials. The longevity of the service provision and survival of the company has been attributed to the organisational culture that has translated into the culture of transport over the years.

ORGANISATIONAL LEADERSHIP
From the perspective of organisational leadership, the findings showed that the company favoured clan type of culture in operating the firm. The firm favoured such leadership as it allowed management to delegate work to the workers, rather than giving orders. Study participants indicated that the clan type of culture allowed them to get guidance on how to do their jobs and whenever they were lost, they would seek the guidance of the leadership on how to move forward. Study participants claimed that the clan type of culture gave them confidence and room to improve as it gave them a sense of belonging.

The findings indicated that the clan type of culture allowed for mentoring of the workers and guidance, creating an extended family relationship between workers and leadership. Study participants specified that the clan type of culture afforded them mentoring, assistance and counselling, indicating that this created a support system that made the company competitive as there was no aggressiveness internally but harmony through all company systems. Participants showed that they did not desire leadership that was aggressive and results-oriented as this type of leadership would destroy the firm unity and group work towards goal attainment tradition that has worked for the firm since its establishment. They revealed that clan culture-type leadership is oriented towards team-building, consensus and collaboration for the attainment of the company goals and vision. Study participants did not show enthusiasm towards the market culture as they saw it as a cause for individualism and sabotage. Some participants indicated that they did not desire the market culture type because this culture promoted competition and disrupted the attainment of collected organisational goals as everyone would want to be innovative at the expense of others. The findings indicated that the culture of transport is more concerned with consensus and collaboration for the survival of the group and its goal attainment is more important than individual excellence. With the above information, it is understood that the culture of transport and logistics can be used with the view to revitalise the manufacturing industry in Zimbabwe.

ORGANISATIONAL CEMENT

There is need for unity for every organisation to work, and this unity must have trust embedded within it, for the vision and goals of the firm to be attained (Cucek and Kac, 2020). The findings indicated that this form of unity exists in the culture used at Nyandoro Transport. The study participants indicated that employee involvement in the company affairs and the projects that the company embarks on, inspires unity and group solidarity among the workers. The clan culture type allows for the unity of the group as everyone feels like they are in an extended family set up, inspiring group solidarity towards the attainment of company goals. Participants indicated that their culture was the best as everything was done in solidarity and the company goals could be aligned with personal goals as the success of the organisation was personal. The culture of transport can be used in the revitalisation of manufacturing as there is solidarity and goal attainment. This is what has been lacking in the manufacturing firms in Zimbabwe. They have established competitively yet they have failed to break the market and dominate the local scene, let alone the regional markets.

STRATEGIC POINT OF VIEW

For a firm in transport and logistics to achieve success and remain successful, there is need for a strategic point of view. Cucek and Kac (*ibid.*) argue that a strategic point of view gives the company an overview of its culture and how that culture contributes towards the success of the organisation. The findings indicated that the company dwelt much on the external focus, which is to dominate the market share without destabilising the internal focus mainly on solidarity and harmony with the firm which is more like an extended family. The study participants indicated that the strategic overview of the company makes up for the internal focus that sacrifices much for employee satisfaction. They also indicated that the strategic overview focuses on recruiting, employee development and creating new challenges within the market for the group to solve them and keep the company ahead. The market culture type used for the external focus that has a hunger for success and innovation is applied in recruiting and developing manpower. The strategic overview is used in the company for the success of the firm and staff who are successful in bringing about change are rewarded for their performance. The strategic overview of the firm leads to employee satisfaction as they benefit on the job through manpower development. For the revitalisation of the manufacturing industry, there is need for the transport culture to have a strategic overview that focuses on the

external environment (market share) and be aggressive towards that, while maintaining equilibrium through internal harmony using clan culture type.

DISCUSSION

The study sought to explore how the culture of transport and logistics can be of importance in the revitalisation of the manufacturing industry in Zimbabwe. The findings were interested in understanding the main features of organisational cultures present at the firm under study. It found that the culture at Nyandoro Transport had two main features: an internal focus and external. In line with these findings, Cameron and Quin (2011) have created two dimensions of culture, stability versus flexibility, internal versus external focus. The findings indicated that the internal focus of the culture of transport was in harmony with internal affairs in the company through clan culture that emphasises solidarity and collaboration. In line with these findings are Cucek, and Kac (2020), who noted that culture encompasses core values and assumptions and that it is clan culture that can create internal harmony, favouring employee satisfaction and high productivity. Having noted that organisational culture correlates with employee satisfaction, it is imperative to note that the culture of transport and logistics can be implemented with a view towards the revitalisation of the manufacturing industry as employee satisfaction can lead to high productivity.

The workers needed to be mentored, guided and counselled. In agreement with these findings, Cameron and Quin (2011), note that clan-type culture is a type of culture that focuses on collaboration managers and mentors, team creators and moderators, leading to the high performance of the group. The workers felt like they were in an extended family. This type of culture is referred to as clan culture because it represents the family type of an organisation (*ibid.*). In support of these findings are Lazar *et al*. (2022), who argue that managers care about the employees and work together as an extended family focusing on teamwork and consensus. The workers resented market culture as they were more committed to the organisation than to winning. Likewise, Tantegel and Kralj (2011) argue that values in an organisation using clan culture mean dedication, communication and development and such organisations view human resources development and high commitment as effective. This kind of culture places great importance on customer sensitivity (Soares, 2018). This is the culture

more concerned with commitment towards employees and the relations established in the workplace.

On the external scene, the company preferred staying ahead of the market share and aggressiveness externally was emphasised. The market type of culture was towards a huge market used in the external spheres of the firm. Market type of culture is oriented towards competition, leadership are managers, rivals and producers (*ibid.*). The firm focused on growing more market share by allowing innovativeness and risk-taking among employees. In support of these findings, Soares (*ibid.*) postulates that the company management is oriented towards an aggressive, demanding and unyielding approach. The external focus of the firm is share. Soares (*bid.*) also postulates that the integral values are market share, goal attainment and profitability. Organisations with a market culture believe that aggressive competitiveness and customer focus bring efficiency (Cameron and Quin, 2011). Nyandoro Transport is externally focused on dominating the market share. Consistent with these findings are Cucek and Kac (2020) noting that the focus is on the business performance of the company that is desirous of being the market leader as far as market penetration is concerned. OCAI online (2019) argues that their long-term goal is to emphasise competitive action and the achievement of measurable goals. The culture of transport and logistics features discussed in the study can play a significant role in the revitalisation of the manufacturing industry in Zimbabwe as these can be integrated into the manufacturing industry without any disruption as they encompass internal harmony and external competition, ensuring a foothold in the market share.

From the perspective of organisational leadership, the company favoured clan type of culture in terms of how to operate the firm. The firm favoured such leadership as it allowed the management to delegate work to the workers, rather than giving orders. The clan culture allowed the employees to create solidarity and collaboration. In line with these findings are Araujo *et al*. (2019), who postulate that the clan culture type is associated with the creation of solidarity among employees and, in turn, this leads to employee commitment with an added advantage of reaching firm goals and visions. The clan culture was preferred as it was flexible in maintaining internal harmony.

The workers resented market culture as they were more committed to the organisation than to winning. In line with these findings Tantegel and

Kralj (2011), argue that values in an organisation using clan culture mean dedication, communication and development and such organisations view human resources development and high commitment as effective. It can be said for the revitalisation of the manufacturing industry in Zimbabwe there is a need to create a hybrid culture that merges market culture type and clan culture type as both have their strengths, the former being aggressive on the market share and the latter strong in terms of creating internal harmony.

There is need for unity for every organisation to work and this unity must have trust embedded within it for the vision and goals of the firm to be attained (Cucek and Kac, 2020). Daugherty (2011) notes that company unity in logistics, as at Nyandoro Transport, can be influenced by internal harmony and that lack of internal squabbles means collaboration and teamwork adding to logistics capabilities. The clan culture encompassed employee involvement, and this united the employees. In support of these findings, Sople (2012) states that for organisational unity to be achieved, there is need for a culture that emphasises equality, not internal competitiveness, as competitiveness is needed in the market, not at creative stages.   The culture of transport can be used in the revitalisation of manufacturing because there is solidarity and goal attainment. This is what has been lacking in manufacturing firms in Zimbabwe. They have established competitively, yet they have failed to break the market and dominate the local scene, let alone regional markets. There is need for a change of culture in the manufacturing sector if it is to be revitalised by the culture of transport that is predominantly clan-type and less aggressive.

For a firm in transport and logistics to achieve success and remain successful there is a need for a strategic point of view. Cucek and Kac (2020) argue that a strategic point of view gives the company an overview of its culture and how that culture is contributing towards the success of the organisation. The firm uses its external focus to make up for the lack of aggressiveness lost in the process of maintaining harmony and unity internally by using a market type of culture on the external focus. In support of these findings are Cucek and Kac (*ibid*.), who argue that there is need for a strategic point of view that prioritises a leading position in the market and a competitive performance.   For the revitalisation of the manufacturing industry, there is need for the transport culture to have a strategic overview that focuses on the external environment (market share) and be aggressive towards that,

while maintaining equilibrium through internal harmony using clan culture type.

CONCLUSION AND RECOMMENDATIONS
The culture of transport and logistics can revitalise the manufacturing industry as it improves learning, tolerance and smooth integration of innovation.

RECOMMENDATIONS
- There must be an incorporation of logistics culture, proper planning and connecting employees to an organisational purpose.
- The implementation of employee-favoured cultures across the manufacturing industry reduces industrial action like strikes and go-slows as this hampers production.
- The implementation of organisational cultures that foster collaboration, not competition internally.

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Implementation of Corporate Social Responsibility and Productivity of Platinum Mines in Hurungwe, Zimbabwe

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Abstract

This article is based on research whose purpose was to evaluate how corporate social responsibility (CSR) practices in platinum mines in the Hurungwe District of Karoi affected their output. Ten mines in the district were chosen for this qualitative research. To collect this information, an interview guide was used. The interviews were administered to 10 owner-managers in Hurungwe. However, nine interviews were successfully administered, constituting 90%of the response rate. Results were processed and presented thematically. The study found that CSR was associated with increased output at district gold mines. As argued by the study's findings, gold miners can boost their relationships with customers, the community and the environment by adopting a CSR strategy. The research found that gold miners in the Hurungwe District regard CSR as primarily charitable, rather than a strategic direction that benefits both communities and enterprises. CSR's impact on mining sustainability in Mashonaland West Province requires longitudinal research. This research recommends that the government, through the Mines and Minerals Act (Chapter 21:05) of 1961 number 38)] or the Indigenisation and Economic Empowerment Act (Chapter 14:3) of 2008 number 14, should include a provision requiring any mining firm operating in Zimbabwe to support local communities through CSR.

Keywords: platinum mining, environmental degradation, socially responsible, platinum mine sustainability, beneficiation

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INTRODUCTION

For miners to become good corporate citizens for their stakeholders, communities and societies, they need to adopt the concept of corporate social responsibility (CSR), which has become an increasingly relevant term globally and a vital component of the discussion on sustainability. CSR is predicated on the concept that businesses have the backing of the public. Society legitimises commercial behaviour by allowing enterprises to exist and utilise scarce resources (Kavu *et al.,* 2022). CSR is defined as "a business process adopted by a company beyond its legal obligations to create added economic, social and environmental value to society and to minimise potential adverse effects from business activities", and it encompasses a company's interactions with its suppliers, employees, customers and communities (*ibid.*; Mashavira *et al.,* 2023). This is a commitment to doing what is right for the company and the world at large by improving the quality of life for workers, their families, the neighbourhood and all of society. Businesses face increased scrutiny from the public when they are shown to be engaging in practices that are damaging to society, such as discrimination, pollution or endangering the safety of local people.

Businesses may thrive only if society provides a supportive environment (Makanyeza *et al.,* 2022). CSR must contribute to sustainable development, while higher product and service quality remains crucial in Africa (Matunhu, 2012). The mining and extractive sector presents enormous opportunities for countries in the Global South in terms of financing rapid economic development and poverty reduction (Besada, Lisk and Martin, 2015). Since the year 2000, researchers have examined CSR programmes and their influence on corporate size and profitability. Most of these studies have focused on the extractive industry. The Global North has produced significantly more literature on CSR than any other region (Weber, 2001:251). Numerous studies in both the West and the East have examined the variety, frequency, patterns and trends of CSR disclosures about firm size and profitability during the past few decades.

Zimbabwe's rural communities have benefited greatly from the country's mining industry. Many cities in Zimbabwe have developed due to the

mining industry, including Hwange, Kadoma, Shurugwi, Zvishavane, Bindura. These nodes were set up because responsible organisations were willing to collaborate and respond to a call to action. Zimbabwe has a wide variety and abundance of mineral resources. There are 66 different types of base and industrial minerals in Zimbabwe, as argued by the 1990 Zimbabwe Geological Survey. Zimbabwe is now mining around 40 different types of minerals. Examples of such materials are gold, coal, iron ore, black granite, emeralds and lithium. As argued by the Zimplats newsletter's 2010 issue, Zimbabwe has the second largest platinum deposits in the world (behind South Africa). Zimbabwe has a comparative advantage due to its abundant and diverse mineral resource base. However, this advantage is not necessarily competitive. Despite its importance to sustainable development, CSR data has been left out of MDG Status Reports.

Zimbabwe does not have a CSR index. Since there are no standard indicators of CSR, gauging its immediate effect on sustainable development is problematic (Mandina Maravire, and Masere, 2014). In 2011, South Africa's Benchmarks Foundation, home to the Regional Centre for CSR, became the first organisation to specialise in this topic. Mandina, Maravire, and Masere (*ibid.*) studied the effect of corporate social responsibility on a company's reputation using the Unki Mine (UM) in the Midlands Province, Zimbabwe. Their findings show that corporate donating is crucial to fostering relationships between local firms and their communities. As argued by a 2014 survey conducted by Mandina, Maravire, and Masere (*ibid.)*, 83% of participants believe that UM's corporate philanthropic efforts have led to stronger ties between the Midlands State University and the Chironde and Tongogara communities. By focusing on Zimbabwe's mining sector, this study intended to address a significant knowledge vacuum in the existing literature. However, the purpose of this study was to assess the effect of CSR on the productivity of platinum mines in Hurungwe District.

CONCEPTUAL FRAMEWORK
The conceptual framework (Figure 1) depicting dependent and independent variables, serves as the direction for this inquiry.
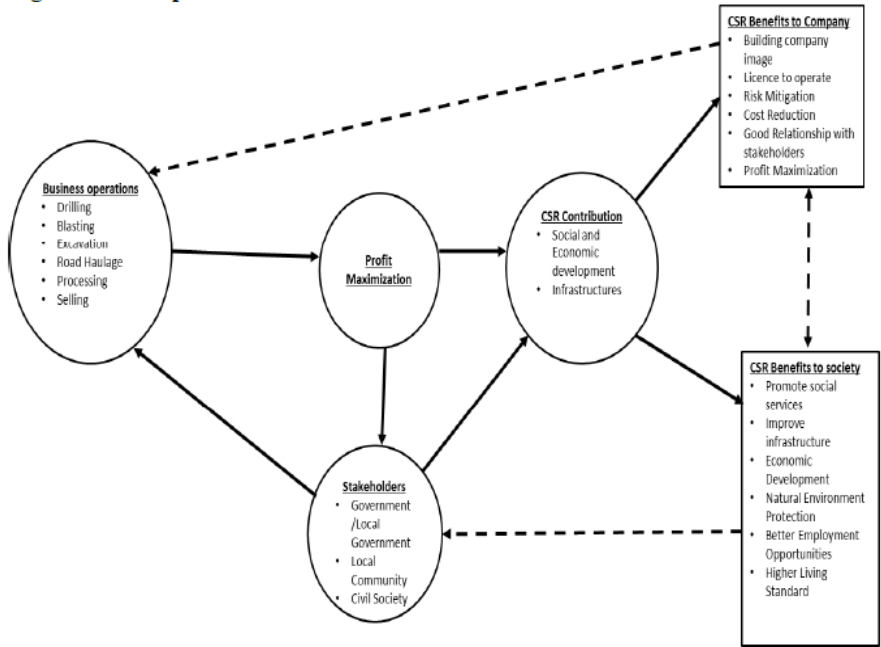
Figure 1: *Conceptual Framework: Benefits of undertaking CSR activities by platinum mines* (Researcher, 2023)

The above conceptual framework depicts that mines engage in business operations that may include drilling, blasting, excavation, road haulage, processing and selling. All these activities are undertaken by the company to maximise profits. The activities are governed by different stakeholders that include the government, local community and civil society. Mines improve social economic development by undertaking CSR.

The corporate social responsibility by mines includes, but is not limited to, building offering employment, advocating environmental protection and promotion of social services such as building clinics. In undertaking these CSR activities, the company benefits from building up a favourable image, risk mitigation, good relationship with stakeholders and sometimes government renewal of licenses. All these benefits are accompanied by increased productivity by platinum mines.

THEORIES UNDERPINNING THE STUDY

Heikkurinen and Mäkinen (2018) argue that stakeholders emphasise the fact that corporations are responsible not only to their shareholders, but also to anyone else whose interests may conflict with or be affected by the company's success. They then suggest that the stakeholder theory is a viable framework for directing a company's CSR initiatives. Martin (2017) argues that the stakeholder theory promotes the view that organisations should consider the interests of shareholders and employees, customers, partners, suppliers, creditors, government and the general public in making decisions. Both the idea of corporate rights and the notion of corporate impacts are supported by the stakeholder perspective of the firm. To paraphrase what Martin (*ibid.*) calls the "corporate rights principle", the corporation and its managers are not allowed to interfere with the firm's constituents' legal right to make decisions about the company's future. Management has the onus of producing CSR-oriented strategies, that has ramifications for corporate social responsibility. Keeping this in mind, the study's overarching goal is to determine whether or not this kind of governance applies to the mining industry in Zimbabwe.

The stakeholder perspective also defends the stakeholder fiduciary principle and the notion of corporate legitimacy, goals, expectations and obligations. Therefore, the theory is integral to the present study as it seeks to explain that the activities of platinum mines are affected by different stakeholders such as the government and legislators or lawmakers. Society is, in turn, affected by the activities of the platinum mines that also affect mines productivity. This will be further elaborated by the societal view approach that follows.

SOCIETAL VIEW APPROACH

The societal view approach shares fundamental similarities with the stakeholder theory, but adds the worldwide community as a new stakeholder. This method expands beyond the stakeholder perspective of CSR by including the international community. Companies have a broader social and economic duty than just to maximise profits for their owners, as outlined by Kalender and Vayvay (2016). Regardless of whether they are mandated explicitly by legislation (Bergman, Bergman and Berger, 2017), organisations are urged to adopt moral and ethical principles that

relate to the broader public on a local and global scales. The societal method, like the stakeholder approach, has a basic governance structure. However, unlike the stakeholder approach, the societal approach takes into account international societal requirements. From the societal perspective, businesses are held accountable to the community at large for positively impacting their members' lives (Ding, Ferreira and Wongchoti, 2016). The socio-economic model of the enterprise is in line with the societal approach because it recognises that businesses have obligations beyond the maximisation of short-term profits. The viewpoint emphasises the connection between economic factors and societal problems. As argued by this point of view, people should expect businesses to act morally. This societal approach underlines the strategic response to shifting conditions and emerging corporate issues that necessitate organisations to give thought to the wider community (Heikkurinen and Mäkinen, 2018). Hutchins *et al*. (2019) stress the importance of strengthening the credibility and standing of businesses.

Since businesses exist to meet a social need and enjoy a financially advantageous position in society, this perspective predicts that they would use that privilege for the greater good of society (*ibid*.). As such, the theory forms a nexus with the present study as by incorporating the global community, this approach broadens the scope of CSR beyond the perspective of its stakeholders. As argued by Kalender and Vayvay (2016), businesses have a wider social and economic responsibility than to only maximise profits for their owners.

LITERATURE REVIEW

THE CONCEPT OF CORPORATE SOCIAL RESPONSIBILITY

There are many different definitions of CSR in the literature, and they do not agree on a single description of what it truly is or what it involves. It is challenging to agree on a single precise definition of CSR because the concept has changed over time (Brin and Nehme, 2019). This subsection's goal is to identify and analyse various CSR definitions that have been provided in the literature. These definitions range from those that are business development-focused to those that include a wider variety of stakeholders and objectives. However, as will be seen, they are all related to how the company functions to maximise benefits and minimise drawbacks while considering its economic, social and/or environmental

implications. Corporate social responsibility generally implies more self-control than external coercion and should be understood as an equilibrium between corporate economic and social performances. The literature identifies three reasons compelling companies to practise CSR. Firstly, companies practise CSR for a pragmatic or rational reason because they want to do it (Wang *et al.*, 2016). Within reasoning, companies assume increased responsibilities and take an active part in social projects to enhance corporate image and induce companies a competitive advantage and reflect a win-win situation, improving profits in the long term (Wang *et al.*, 2016).

Second, businesses adopt CSR because they feel compelled to do so for deontological reasons. Businesses are thought to have moral obligations toward society and the communities in which they conduct their operations (Berliner and Prakash, 2015). Companies should behave ethically and responsibly because they exist to meet a variety of social demands. As argued, society promotes and legitimises corporations' use of limited resources and creates a climate conducive to economic success. Therefore, it makes sense for society to expect firms to operate as responsible corporate citizens by abiding by socially acceptable regulations and avoiding actions that have a detrimental influence on society, such as pollution, discrimination and subjecting employees to dangerous working conditions (*ibid.*).

A GENERAL OVERVIEW OF THE MINING SECTOR ACROSS THE WORLD
Since the Bronze and Iron Ages, when civilisation first began to evolve, mining has played a significant role in economic growth (ICMM, 2017). There is little question about the vital necessity for mining and metals in modern civilisation, and mining is also a potentially tremendous force for growth. It is critical to support sustainable development based on knowledge of mining's function and data showing what works (*ibid.*). Commercial mining is complicated and frequently divisive, though, as is the economic and social growth of host nations. Global mining firms are substantial institutions with much clout, and their investments have the potential to have both positive and disruptive effects on the economy, society and the environment (*ibid.*). The natural environment, and the

social and cultural aspects of society, are impacted by mining activities at all stages (Ghorbani and Kuan, 2017). Guidelines for reporting on sustainability in the mining industry were released by the Global Reporting Initiative (GRI) and the International Council for Minerals and Metals.

A wide range of businesses, including big multinational or vertically integrated corporations, can be found in the mining and metals sector. Players in the sector, regardless of their size or business models, have difficulties when it comes to sustainability issues. As a result, they must report on these difficulties through Sector Disclosures and enhance their methods (GRI-ICMM, 2017). The components of sustainable development that define the mining and metals sector are covered in these sector disclosures.

The control, use and management of land, the engagement of stakeholders and the community in national economic and social development, labour relations, environmental management and interactions with artisanal and small-scale mining are some of the key contextual problems. One of the most harmful human activities in the world is mining and mineral beneficiation.

This industry generates huge amounts of garbage, especially gold mining, where over 99% of the recovered ore is dumped into the environment as waste (Fashola *et al.,* 2016). An estimated 10% of the world's energy is used by the mining sector, which removes around 27 billion metric tonnes of overburden and minerals each year (Mapira, 2017). In addition, mining low-grade minerals harm the ecosystem more than mining high-grade ores (*ibid.*). As evidenced by the fact that the mining and metals sector contributes most significantly to economies in the world's poorest regions, mining is essential to all economies (ICMM, 2017). Uzbekistan and Turkey are moving up the rankings for production value to join other developing nations like Chile, Indonesia and Mexico. Figure 2 displays global mining output from 1984 to 2018 in the world
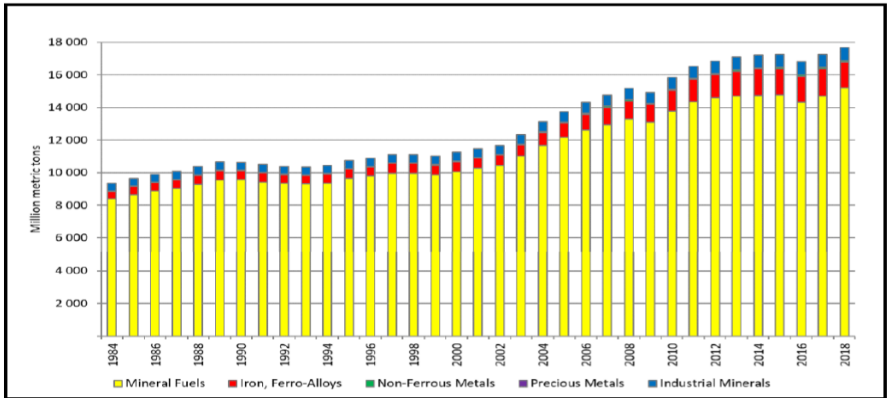
Figure 2: *World mining production 1984 – 2018* (Reichl *et al.*, 2018)

The mining sector can promote expansion and progress. Enhancing mining's contribution to economic and social development is both doable and crucial. Except for Australia and South Korea, every one of the 35 nations most reliant on mining is a developing nation. Of the top 70, 63 are low-income nations having the potential to strengthen their national economies through mining-related investment, exports, taxation and employment (ICMM, 2017). As argued by Ericsson and Löf (2017), the five BRICS countries — Brazil, Russia, India, China and South Africa — currently account for the largest portion of global output value. The following paragraph will look at corporate social responsibility and platinum mining productivity.

CORPORATE SOCIAL RESPONSIBILITY (CSR) AND PLATINUM MINING PRODUCTIVITY

Sachikonye (2005) argues that a greater share of employment and GDP contributions should come from industry rather than agriculture if the economy is to undergo a structural transition. As the locomotive of industrial development gathers speed, people will leave the countryside for the cities, reducing the demand for natural resources and freeing up more farmland for farmers seeking to expand their operations and improve their income. This calls for CSR duty bearers to take bold community action to realise CSR goals. Dziro (2014) proposes a process in which community members work together to improve the social, economic and ecological well-being of their neighbourhood. It is the way forward and the destination. Because of this, the community's economy,

social standing and overall social functioning all improve. Heikkurinen and Mäkinen (2018) argue that CSR is significant from a sociological viewpoint. Their argument presume that corporate action is accepted, encouraged and legitimised by society and that limited resources are provided to businesses as a result. Companies have an obligation to the public and the personnel who work for them not to engage in activities that harm the community, such as polluting the environment or creating unsafe working conditions. A "social contract", as the French philosopher Jean-Jacques Rousseau termed it, is beneficial to both business and society. The discourse stresses the importance of corporations' contributions to society but provides few specifics on how this might be accomplished. The interpretation is ultimately up to the board of directors and the chief executive officer.

Mining inherently carries substantial social and environmental consequences (Ranängen and Lindman, 2018). The mining industry is responsible for a wide range of negative environmental effects, including resource depletion, waste production, pollution, risk, industrial accidents and negative effects on nearby communities (Carvalho, 2017).

Therefore, it is crucial to learn how businesses balance profit maximisation with addressing locals' worries about pollution and waste. Zimbabwe's trash collection, disposal, treatment, recycling and emission of pollutants and hazardous materials are all managed with the help of the Environmental Management Agency (EMA) (Government of Zimbabwe, 2007). The agency also regulates, oversees, reviews and approves environmental impact assessments (*ibid.*). The organisation makes sure mines are safe for the environment by keeping an eye on them.

Permission to handle hazardous substances can be requested from this office by gold mining companies (*ibid.*). Due to short-term budgetary problems, CSR projects in the mining industry are sometimes executed on an ad hoc basis. Environmental CSR activities are typically managed separately from other CSR programmes and operational improvement initiatives (Laing, Taschini and Palmer, 2016). By learning to include all "triple bottom line" (TBL) parts into a unified strategy, mining businesses can increase their profits and realise all TBL goals (Laing *et al.,* 2016). Employees and community members alike are included in the TBL.

Employees are increasingly judging their firm based on its CSR practices as CSR becomes more mainstream. They respond positively to successful CSR programmes, and this is correlated with greater loyalty to the organisation (Shen and Benson, 2016). Socially responsible human resource management, or CSR focused on employees, is the bedrock for successful CSR implementation (*ibid.*). CSR practices that come from the heart are called intrinsic. Care improves a company's ability to compete and hence increases the likelihood that it will remain in business over the long term (Manroop, 2015; Story and Neves, 2015). Having a strong reputation for doing good in the community helps attract and keep talented employees. It ensures that employees will conduct themselves in an ethical manner, providing the organisation with an edge in the marketplace (Manroop, 2015). Giving to charity shows employees that the organisation cares about more than just making a profit. Believing in the corporation's 'benevolent' nature is bolstered in this way (Story and Neves, 2015). CSR projects may not always consider employees. However, they may be connected to the values and beliefs of both the workforce and the public.

Consumption of resources, development of waste, environmental stress, pollution and risk, industrial accidents and populations near mining operations are just some of the negative environmental effects of mining. Members of the host community will fall further into poverty as mining firms amass more and more wealth, unless a portion of that wealth is re-invested to support community development and ensure a secure environment for the local people and their livestock. Good corporate social responsibility can help bring together the mining industry and the disadvantaged. This function, however, is entirely optional. It is neither required by law nor even commonly anticipated of businesses from an ethical standpoint but, rather, is motivated solely by a desire on the part of businesses to participate in social duties.

It is up to individual businesses to decide what they will do in terms of CSR. Government agencies tasked with ensuring that businesses act ethically are understaffed, underfunded and lacking the necessary skills to implement a comprehensive monitoring strategy (*ibid.*). Research on

the topic of CSR is just getting started in Zimbabwe, especially in the mining industry. Most CSR research conducted in Zimbabwe has a limited scope, therefore little is known about the mining industry's reasons for and approaches to CRS. The relationship between CSR and platinum mining output in the Hurungwe, Mashonaland West Province of Zimbabwe has not been thoroughly studied, despite the country's body of knowledge on the topic of CSR). However, the objective of the article was to assess the relationship between CSR and platinum mining productivity in Hurungwe.

The vast bulk of governmental, corporate media and NGO literature on CSR, is highly subjective and often biased. Companies 'do good' to appease authorities, raise their profile and revenue and meet societal and public expectations. Smith (2011:1) defines CSR as:

> ...a business system that enables the production and distribution of wealth for the betterment of its stakeholders through the implementation and integration of ethical systems and sustainable management practices.

CSR runs into trouble since it does not adhere to any generally acknowledged norms.

The study employed the definition proposed by the United Nations Industrial Development Organisation (UNIDO, 2015:210.) Notwithstanding on-going controversies and disputes:

> A management concept by that companies integrate social and environmental concerns into their business operations and interactions with their stakeholders, a means by that a company achieves a balance between economic, environmental and social imperatives (Triple-Bottom-Line approach, TBL).

In addition, satisfying the needs of shareholders and other interested parties, is the definition of CSR.

This comprehensive definition of CSR encompasses every facet of the concept. The definition, however, lumps CSR with acts of charity, sponsorship and philanthropy. D'Amato (2009) calls this the "three angles of the TBL," and they recommend that businesses create long-term plans to balance societal needs, environmental considerations and economic realities. Mutisi (2009:37) argues that CSR entails more than just monetary donations to charitable organisations.

CSR is commonly used interchangeably with social investment, corporate citizenship, corporate conscience and responsible business. Commonly in Zimbabwe, people will confuse CSR with doing volunteer work. While CSR is planned with sustainability in mind, philanthropic contributions can have a short-lived effect. It should be kept in mind that CSR will be called different things by different people, each with its own set of values and agendas in mind.

Corporate social responsibility is predicated on the concept that businesses have the backing of the public. Organisations gain legitimacy in the eyes of the public when they are seen to be making responsible use of limited resources (Maphosa, 1997). As argued by Midttun *et al*. (2006), CSR is a social practice with deep roots in a particular economic, social, cultural, historical and institutional context. Many different explanations for CSR have been presented. McWilliams and Siegel (2001:8) define CSR as occurring when a firm ostensibly acts in the public interest by going above what is required by law. The Stakeholder Theory posits that organisations have numerous constituencies that must be satisfied for their success. Employees and stockholders are just two of these groups. Others include customers, suppliers, and members of the local community. Even if there is no direct financial benefit in doing so, corporations have a moral need to operate ethically, as argued by the Donaldson's Stewardship Theory (1991:12). Matunhu (2012) has asserted that businesses should do their part to alleviate poverty by, among other things, being more transparent with the public, investing in education reform and breaking down the barriers that have kept Africa economically isolated.

Top transnational businesses (TNCs) on the African continent were studied by Matunhu (*ibid*.) to learn more about the relationships between CSR and poverty. As argued by him, most companies in Zimbabwe see CSR/Investment as a form of social responsibility. The health of the African population would improve and government and donor spending on social welfare projects would be reduced if poverty were eradicated. This could lead to African nations feeling forced to reduce taxes for multi-national corporations (MNCs). Corporate social responsibility, on the other hand, is not governed by a standard set of rules or policies but, rather, varies from company to company. The Mines and Minerals Act (Chapter 21; 5 of 1996), the Environmental Management Act (Chapter 13) of 2002, and the Indigenisation and Economic Empowerment Act (Chapter

14) of 2007, are just a few examples of the jumble of environmental laws and policies currently in effect.

Under the Environmental Management Act, organisations implementing development plans must do Environmental Impact Assessments. To protect the environment, businesses that pollute are rendered unlawful. The Environmental Impact Assessment Policy (EIAP) was developed in 1994 in response to this statute. This policy stresses the importance of considering all of the social and economic consequences of development. This is a suggested regulation, rather than a mandatory one. The United Nations Country Team (UNCT) acknowledges Zimbabwe's abundant and diverse natural resources. Land, water and minerals are all examples of resources. The world's forests encompass over 66% of the planet, yet they are under assault from a variety of economic, political and social factors. Zimbabwe's forest cover has been decreasing at a rate of 327 000 hectares per year since 2010 (UNCT, 2014:55) when it stood at 15.6 million hectares. Law-making and law enforcement have traditionally been the state's core roles. The International Organisation for Standardisation (ISO) 26000:2010 is one of the key regulatory instruments now driving CSR in Zimbabwe, and it is administered by the Standards Association of Zimbabwe (SAZ). The government of Zimbabwe supported efforts by the Institute of Directors, the SAZ, and the Zimbabwean Leadership Forum to develop a corporate governance code in 2009 that prioritises the development and promotion of CSR as a guiding concept for business operations. In Zimbabwe, the reasons behind CSR are not well understood. Research into the existing literature has shown that there are no standard CSR methods. Mpofu (2012) claims that reliable studies on CSR are scarce in Zimbabwe. Since CSR is not mandated by legislation (ISO 26000: 2010, SAZ), no centralised reporting or records are maintained.

RESEARCH METHODOLOGY
The study sought to assess the relationship between corporate social responsibility (CSR) and the productivity of platinum mines in Hurungwe. The study adopted a qualitative approach on which to a sample of 10 mines were selected in the district. This became a sample size based on the saturation principle. Interview guides were used to solicit data that was analysed and presented thematically.

RESULTS

Most corporate social responsibility codes support self-regulation (Nyawuyanga, 2015). These guidelines, voluntary in nature, require businesses to practice CSR without being forced to by law (*ibid.*). Although there is no law requiring corporate social responsibility in Zimbabwe, in the mining sector, CSR is mandatory, whereas, in the private sector, CSR is deemed to be voluntary as there is no legislation governing it. These pieces of legislation include the Mines and Minerals Act, the Indigenisation and Economic Empowerment Act, the Companies Act, now known as the Companies and Other Business Entities Act and the National Code of Corporate Governance now with the Public Entities Corporate Governance Act Chapter 10:31 of 2018 in place. The Mines and Minerals Act regulates CSR activities in the mining sector intending to remedy unfavourable conditions of life caused by the mining companies in the communities. However, one of the shortcomings of the Act is that it has failed to turn around the sector into a socially and environmentally sustainable industry. A solid example that can be cited is the Marange case, where families are yet to receive compensation or those compensated were moved to undesirable places (Muyangwa, 2023).

In this view, the Indigenous and Economic Empowerment Act resulted in the establishment of Community Share Ownership Schemes, giving at least a 10% shareholding in mines to local communities. Also, to ensure that the environmental and socio-economic costs and benefits of economic development projects are properly accounted for, unwarranted negative impacts are avoided or mitigated, and potential benefits are realised, the Government of Zimbabwe, through the Ministry of Environment and Tourism, produced an Environmental Impact Assessment Policy (EIAP) in 1994. The EIA policy tries to outline the various social challenges that enterprises must take into account. The policy, if put into practice, would ensure that the environmental and socio-economic costs and benefits of economic development projects are appropriately accounted for, that unnecessary negative effects are avoided or minimised, and that possible advantages are considered (Chinamora, 1995). The policy's non-mandatory nature, however, is its biggest drawback. The policy is unlikely to influence its current form, as Chinamora (*ibid.*) has stated, given there is no legal requirement for developers and project proponents to abide by its mandate. The laws that are now in effect that are related to the environment are dispersed among several ministries. 'Self-enlightenment' or the urgings of their

'corporate consciences' have led corporations to engage in socially responsible activities mostly through voluntary self-regulation.

RESPONSE RATE

The interviews were administered to 10 owner-managers in Hurungwe. However, nine interviews were successfully administered< constituting 90%of the response rate. A high response rate meant that the matter was of great value to participants, since it concerned the productivity and sustainability of platinum mines for their livelihoods. The study objective sought to assess the relationship between corporate social responsibility and the productivity of platinum mines in Hurungwe. Various responses were proffered on how CSR impacts on the performance of the mines in the district. As such, a supervisor had this to comment:

> We are committed to creating economic value, but we are not indifferent to how we do it … Progressive businesses are gaining a competitive advantage by responding to societal signals ... We prosper by helping society to prosper.

The view above shows that businesses are engaging in CSR to gain a competitive advantage.

Another manager avers that:

> CSR is important for maintaining a business's image and improving its performance and reputation among its stakeholders. Further, businesses implementing CSR get a social license to operate in the community through which they build trust and achieve their goals. A company with a bad image can lead to conflict with local communities and reduce its performance and Return On Investment.

The above assertion leads to the conclusion that CSR practised by platinum companies improves the image of the community.
A supervisor asserted that:

> Through implementing CSR, we will be creating a good image of the company, influencing customers and other stakeholders by maintaining a collective responsibility, shaping relations with other stakeholders by increasing transparency in the projects, respecting human rights and environmental protection.

The statement above indicates that the practice of CSR fosters the good image of the organisation

A manager also had this to say:

> Businesses that demonstrate social responsibility through CSR often see increased profits as a result.

The study results also indicated that CSR enables platinum mines engage with stakeholders, in this case, the community, which, therefore, brings in mutual relationship and commitment towards business and reduces corruption and theft cases. Another manager had this to say:

> A CSR business's philanthropic initiatives have advantages for marginalised people, and serving the deprived promotes trust among stakeholders. Companies should develop ambidextrous approaches to sustainability management that foster incremental and radical improvements in performance and encourage broader stakeholder collaboration.

The above assertion bears testimony that through engaging in CSR, trust among communities is built.

Another participant alluded that:

> The province's platinum mining has also enhanced transportation infrastructure. The construction of a paved road and the grading of neighbourhood roads were also started by platinum mining. Due to simple access to transportation and markets for farmers, this has managed to raise people's standards of living.

The participant in the above comment has shown that as part of their CSR, mines have built roads and improved infrastructure which also improves the standards of living for the community.

Another supervisor pointed out that:

> CSR also stimulates fair competition among companies. Both companies and society benefit from CSR initiatives. Corporate involvement in social responsibility and adherence to CSR rules helps to reduce complaints and conflicts with stakeholders. In addition, implementation not only helps companies reduce their running costs, but customers also benefit from the price reduction. As a result, more products are affordable by the community.

The sentiment above indicates that by engaging in CSR, fewer conflicts arise, speeding up productivity and stakeholder content.

The supervisor also avers that:

> As companies are confronted with a range of stakeholders, each of them having specific values and interests, 'doing the right things' implies value-based decision-making and active communication with the company's stakeholders.

The above assertion points out that stakeholders have compelled platinum companies to abide by ethics, which increases company reputation and strengthens the value of decisions by companies.

The manager argues that:

> Companies that share part of their profits promote the growth of the community and the sustainability of their business. More engagement in CSR practices strengthens relations with Governments.

This demonstrates how CSR practices by corporations in the platinum sector have improved stakeholder relationships, increasing productivity at platinum mines, boosting staff enthusiasm and engaging and strengthening relationships.

Participant CVN had this to say:

> As a mining firm, we abide by the Indigenisation and Empowerment Act's standards. The mining has supported the trust fund for community share ownership, which is advantageous to the community.

One employee of the same company claimed that the mining firm had even established an employee share ownership trust, and all permanent employees, big and small, are benefiting from it through dividends. Given this reiteration by the participant, mining companies are encouraging CSR through community ownership of shares as enshrined in the Indigenisation and Empowerment Act.

DISCUSSION

Companies with a strong commitment to social responsibility often serve as models for other businesses. In addition, CSR ensures that these efforts have a positive impact on the local community (Carroll and Buchholtz, 2008). As part of their CSR initiatives, several businesses are also expanding access to jobs (Ksiak, 2016). One benefit of corporate social responsibility is that it encourages businesses to invest in the education and training of their local communities). Some businesses use CSR to advance healthcare. In this context, some businesses are investing more in environmental protection in their local communities, while others are wary of CSR programmes for fear of harming their bottom lines (Amini and Dal Bianco, 2017).

Cheng and Shan (2009) have shown that many academics have failed to appreciate that CSR is anticipated to be endogenic. However, market leaders are more likely to engage in CSR activities (Amini and Dal Bianco, 2017). The benefits of social responsibility among platinum miners in the Hurungwe District were demonstrated by the study's findings, as inferred from the existing literature. There are numerous benefits to CSR implementation (Ksiak, 2016). Numerous studies show that both the

company's bottom line and the community gain when business is conducted in a socially responsible manner. As argued by Arnold (2017), CSR initiatives are an ethical endeavour that builds trust in communities and foster communication among many stakeholders. Several studies (Gupta, 2017; Perry and Towers, 2013; Balcerowicz, 2015) detail the benefits that corporations can reap from CSR activities. They suggest that corporations implement socially responsible programmes because doing so has several benefits, including financial gains (Ksiak, 2016). Companies in industrialised nations are more likely to adhere to global best practices (Mullerat, 2010). As a result, social responsibility provides a company with a foot in the door (Ksiak, 2016). One further positive aspect of CSR is that it helps businesses avoid potential pitfalls and conflicts (Diviney and Lillywhite, 2007; Perry and Towers, 2013). Asif *et al.* (2013) and Rocha *et al.* (2007) are just two of many sources that extol the virtues of incorporating CSR. Organisations can boost their efficiency, line of communication and resource management with the use of a unified system that is less difficult to administer and control (Castka, 2004).

According to the findings, mining businesses' primary objective for implementing CSR management systems was to improve their brand image. Professional associations that were surveyed stated that businesses should manage CSR more effectively. They claimed that a lack of financial resources, particularly for small and medium-sized businesses, which make up the bulk of the sample's mining enterprises, was the primary obstacle to the implementation of CSR management operations. The study found that in the Mashonaland West Province, platinum mining corporations exercised their CSR in areas where they had a competitive advantage. This is in line with Maphosa's (2018) observations that businesses exist to make a profit. By the time the relocation programme was completed, their support for the farmers who were relocated in this research had all but ended. They put much effort into helping folks in the mining community, contributing to the building and renovation of clinics and schools. Additionally, they electrified the clinics and gave local schools supplies and furnishings. CSR designated the relationship between the corporation and the community, although this relationship developed greatly in the past few years (Muthuri and Gilbert, 2011). Such changes could be elucidated by the growing pressure of different shareholders and institutional factors (Lattemann *et al.*, 2009; Jamali and Neville, 2011; García-Sánchez and García-Meca, 2017; Moomen and Dewan, 2017). In the era of globalisation, MNCs have largely contributed to changing the relationship between them and the

community (Jamali, 2007; Jamali and Neville, 2011). Therefore, the current development of CSR across different countries is part of the worldwide increase in management ideas distinguished as the Americanisation of the management system (Bondy, Matten and Moon, 2008).

Ethical reasons (Roberts, 2003) and financial reasons (Willard, 2012) play significant roles in mining companies' shift towards sustainability. The creation of value, not just for themselves, but also for the shareholders, is especially important (Eccles, Ioannou and Serafeim, 2014). One way of increasing the value is to mitigate threats and exploit opportunities (Schulte and Hallstedt, 2018). According to Broman and Robèrt (2017), the loss of innovation opportunities and market shares due to a movement of customers to more sustainable competitors are threats for companies that fail to understand the evolution of the market towards sustainable products and solutions. França *et al*. (2017) add that companies that depend on more considerable resource- and waste-flows, and are ignorant about the current paradigm shift towards sustainability, will face economic threats such as higher costs for resources, waste management, insurance, and credits.

CSR aims to create shared value for the company's shareholders and other stakeholders (Carroll, 2015). Companies might become more sustainable by improving their operations or products and contributing to sustainable developments of both markets and society (Schaltegger and Burritt, Roger, 2018). However, Porter and Kramer (2006) state that various approaches connected to CSR are heavily divided and disconnected from practice. That makes it difficult for companies to use the benefits for themselves and society. Therefore, there is need for a systematic overview of literature about what CSR means to platinum mines in Zimbabwe concerning sustainability strategies and an analysis of sustainability strategies in practice.

CONCLUSION AND RECOMMENDATIONS
Research results showed that platinum miners in the Hurungwe District were engaging in corporate social responsibility activities in the communities in which they operated. The findings showed that CSR affects productivity and performance as assessed by ROI, ROE, ROA, and the quality of services provided. Consistent with the social impact assumption, four main issues emerge to describe the connection between CSR and company performance: increasing worker productivity through

better working conditions; enhancing managerial skills, thereby increasing corporate efficiency; boosting the company's reputation and gaining the trust of its customers; and enhancing the company's image and its ability to compete in the marketplace for its products. As such, the study's results represent a vital addition to the body of knowledge in the niche fields of CSR, community participation and growth in the mining sector.

The research's most significant contribution to methodology is the way it applies and integrates ideas about CSR, community engagement and community growth. The following recommendations, however, were made:

- The labour that mining corporations use to extract the minerals should also be taken into account As such, platinum mining companies should offer workers a fair wage that is in line with the cost of living, guarantee safe, comfortable and healthy working conditions, democratise the workplace by encouraging worker participation in ownership and decision-making at all levels of the company, and offer social services like health and education to employees and their families. If properly implemented in a transparent and accountable manner, the introduction of employee share ownership schemes would also go a long way in assisting employees get motivated, resultantly increasing productivity by platinum mining companies.

- Corporate social responsibility is an important idea in boosting productivity by mining companies and, as such, the government of Zimbabwe should create a commission to supervise CSR's practical application by platinum mining companies in Zimbabwe. Corporate Social Responsibility money and projects will be managed and implemented with greater openness and accountability upon the establishment of this commission. The commission will oversee establishing rigorous guidelines for the mining industry's pioneering CSR initiatives. This commission will serve as a go-between for the mining firms and the government.

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Illegal Settlers on Urban Land: Law and the Quest for Urban Development Sanitisation in Zimbabwe

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Abstract

Rapid urbanisation has tumbled over the past decades and has led to settlement in the urban sphere being regarded as illegal. The article contributes to the on-going debate on which should override the other, the legalisation of illegal settlements or the quest for urban sanitisation. The article understands sanitisation to mean development, especially that of attaining an upper middle-income economy. Different governments have undertaken different ways of solving urban settlement challenges. They have hinted that such settlements should comply with the law. The study focuses on how the government has responded in times of urban illegal settlement. The purpose of the research is to contribute to the stock of knowledge on how illegal settlements have increased over the past years and the solutions needed to address the issue thereafter. The article draws inferences also from the position of the law regarding illegal settlements.

Keywords: illegal structures, urbanisation, illegality, violation, enforceability

INTRODUCTION

Unemployment has been common in most African countries, including Zimbabwe. The consequences of unemployment have reached unprecedented levels. The ordinary citizens are not spared. Poverty in rural areas has forced many people to relocate in a bid to seek a better living. The quest for greener pastures has forced people to settle on land

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without following due processes of law. In most cases, there is settling on prohibited or uninspected areas such as wetlands and council land. These settlements have become hubs of crime, and the abuse of drug and substances has become common. The Zimbabwean government, in observing the challenges, takes heed to address the problems by implementing policies and measures to curb the danger through the motto of creating an upper middle-income economy by 2030 (Zim Live, 2022). Such a vision involves the demolition of illegal structures. The results posed are irreparable, loss of property becomes common, and stress and anxiety will haunt the victims. In general, the most affected are children, women and the marginalised, among others. In developing countries, many the urban poor depend on daily incomes from informal work (Avetisyan, 2020). When aggrieved, the only recourse left available is to approach the courts of law for intervention. The only remedy or shield is to respect the law. Questions exist, are the laws of our land strong and fair enough to protect the right to shelter? It is agreed that urban innovation and development are core drivers for promoting the industrial, economic and social development of cities (Zhang and Cheng 2023).

The article draws from analysis that, in early 2000, the government of Zimbabwe made strides to implement measures to curb rapid urbanisation. This followed the implementation of what was called *Operation Murambatsvina* (Zimbabwe Human Rights Report, 2005). The policy or strategy involved the destruction of properties, buildings and living houses to restore order. This plan lured human rights powerheads to question government policies. It is argued that mass destruction is essential as it restores order, creates an environment that can attract investment and reduce the crime rate in the country and ensures a clean environment by the year 2030. For others, the widespread demolitions of houses, and mass evictions without notice, are a violation of human rights.

CONCEPTUAL FRAMEWORK

Illegal settlement refers to a settlement that has developed without legal claims to the land or permission (Srinivas, 2013). The Government of

Zimbabwe has tried to implement measures to respond, and such response has resulted in evictions and demolitions. It must be borne in mind that in Zimbabwe, the state owns the land, and such ownership of land has contributed to the manipulation of land to the detriment of the ordinary citizens (Communal Lands Act Chapter 20:04 of 1984). Over the years, the Government of Zimbabwe has tried to regularise some urban areas by providing title deeds (*The Sunday Mail*, 23 April, 2023), an example being Epworth. Regularisation is important in urban settlements and such a process includes re-planning that involves re-mapping for the informal settlements. There is also a need for land surveys, adopting international standards and modern designs. When these standards are developed, it is important to engage engineering services. However, for all this to be successful, there is need for settlement that involves agreement by the State and the inhabitants.

THEORIES UNDERPINNING URBAN DEVELOPMENT AND SETTLEMENT

There are different types of theories underpinning the concept of urban settlement and development that have generally become acceptable. Some of these theories include the Central Place Theory, the Concentric Zone Theory, the Von Thunen Model and the Radial Sector Theory. Pundits who have written pieces on this subject might use different terms and methodologies, yet all mean the same thing. They have been classified as traditional and modern theories. This study draws from Von Thunen's Model, hereinafter referred to as the VT Model. Von Thunen described a model that accounts for the spatial distribution of sites across a theoretical geographical area that would have varied rent-generating capacities, dependent upon transportation costs and distance from a central site (Campbell, 1986). Von Thunen's Model was highly generalised and based on a series of simplifying assumptions (Krugman, 1996). Based on the VT Model, the space in which the model was framed was assumed to be an infinite or boundless, flat and featureless plane, over which climatic conditions and natural resources were uniformly distributed. The central attracting area was assumed to be a central market. Transportation to this central market was assumed to be by horse and cart. This kind of model, though still important in other

societies, has been referred to as primitive and not befitting modern standards.

Another kind of model behind urban settlement is the Concentric Zone Theory. This theory of urban land use assumes that a city grows by expanding outwards from a central area, radially, in concentric rings of development. The theory states that for urban settlement to be effective, there must be a central business district (CBD) which forms the centre of society. It also focuses on urban activity and the confluence of the city's transportation infrastructure. According to this model, for the city to grow, there must be a manufacturing district with some residential dwellings (Narain, 2014). In Zimbabwe, the expansion of Harare, the capital city, has been the topic for discussion. Harare, for example, has been growing, expanding outwards, resulting in the formation of other cities. An example of this result is the emergence of Mount Hampden. The emergence of this city has resulted in the construction of a new parliament building that undoubtedly is in tandem with the concentric zone model signifying that a city grows by expanding and creating a sub-city to decongest the populated areas.

Another model is the Weber's Theory of location published in 1909. This theory assumes that for the development of a new industry to take place, there must be cost location identification first (Westport, 1988). According to the theory of urban settlement, markets are fixed at certain points where transport is accessible for the transportation of goods (Michaels, 2012). Weber postulated that raw materials and markets would exert a 'pull' on the location of the industry through transport costs. Industries with a high material index would be pulled towards the raw material and those with a low material index would be pulled towards the market. Industrial location may be swayed by agglomeration economies. An example is the occurrence of Mbare in Harare and the Sakubva in Mutare. The study has shown that the marketplace at Mbare is fixed and one can easily get access to the CBD (Chara, 2023). This means that the way these towns and cities were modelled indicates post-results of Weber's Theory.

LITERATURE REVIEW

The article discusses the existing literature underpinning the understanding of informal settlements through reviewing of experiences and impact of laws which govern land development. In order to fully understand the meaning of informal settlements, Data for the study has been collected from secondary sources and data was further retrieved from existing databases and already published scientific works which include Google scholar. Moreover, local newspapers and international news media provided information and data on some of practical day to day problems experienced by land developers in a bid to curb the expansion of illegal settlements. Literature review helps to determine whether the topic is worth studying, and it provides insight into ways in which the researcher can limit the scope to a needed area of inquiry (Creswell, 2014). In a bid to answer some of the debatable topics on whether the law allows for demolition of informal structures, this research design has suited to a context-specific understanding of organizational reality and allows researchers to explore and understand the meaning individuals or groups ascribe to a social or human problem (Creswell, 2009). Different terms have been used to describe the terms informal settlements which some can call slum, shantytown, squatter camp, favela, ghetto, bidonvilles, Katchi Abadi's, and Campa Mentos" (Smit, Musango, Kovacic & Brent, 2017). In terms of the law, if something is deemed to be illegal, it simply means that which is not legal or allowed in terms of the law. Some have used the terms legitimacy or illegitimacy in reference to formal and informal settlements.

This study has laid down the pure definition and understanding of the term informal settlement which will make it easy to understand the extent and rate to which informal settlements have been in existence. Therefore, the definition of an "informal settlement" for this research is a settlement that has been formed on a piece of land without official permission or approval, is inadequately serviced, with limited physical and social infrastructure acquired through informal arrangements made by residents or with the intervention of the local government (Nkoane, 2019) .

RESEARCH METHODOLOGY

This article draws its inspiration from the prevailing situation in Zimbabwe. The study covered areas such as Crowborough, Budiriro and Kuwadzana in Harare where evictions and demolition of illegal structures was carried out. Data was collected through the courts on the position of the law on these evictions and demolitions. Insights from focus group discussions (FGDs), interviews and key informant interviews focusing on urban governance, consolidated the whole research proposal.

CASE STUDY: THE LOOK ON ZIMBABWE'S SITUATION

Urbanisation has been defined as a process prompted by an increase in the proportion of people living in towns and cities because of people's movement from rural areas to urban areas (Dociu and Dunarintu, 2012). In early 2000, the Government of Zimbabwe implemented what was called the Fast Track Land Reform Programme. The ultimate objective of the programme was to accelerate both land acquisition and land redistribution, favouring black Zimbabweans. Conflicts arose between blacks and white and the cases resulted in judicial interventions. The fast-track resettlement programme is officially viewed as a component of the overall National Land Reform Programme. The failure of a land distribution process that was fair, resulted in urbanisation reaching unprecedented levels and people occupying lands illegally, and in the eyes of the government, there was need to curb such illegality by implementing laws and policies that govern settlement.

It is reported that mass demolitions of illegal structures are common in Zimbabwe. It was reported in 2020, by the Harare Residents Trust (HRT, 2020), a local watchdog, that City of Harare, with the help of the police, armed with demolition orders, razed a record 150 houses, rendering more than 800 people homeless (Mawire, 2020). These demolitions affected communities like Budiriro, a high-density suburb in Harare. In 2022, the Harare City Council demolished 15 houses. It was reported that those affected had settled illegally on council land. It is argued that the victims were to blame for defying directives not to build.

THE LAW: A CONFLICT BETWEEN SUSTAINABLE DEVELOPMENT AND THE RIGHT TO HOUSING

The Constitution of Zimbabwe is the supreme law and any law or practice inconsistent with it is invalid (Zimbabwean 2013 Constitution). The law has never allowed demolitions without a court directive or court order. Section 74 of the Constitution states the government must respect the right to housing by not arbitrarily evicting people from their homes. In 2022, after the demolition of illegal houses in Budiriro, it was reported that a cooperative spearheaded the mass demolition claiming that the land on which the structures were built was theirs (Mbiba, 2022). The same can be said of Crowborough, a high-density suburb in the city of Harare located 20km west of Harare. There were evictions that resulted in the displacement of many households. To that effect, children, women and the marginalised are the ones in danger. Such demolitions come at a higher. The government must stop any forced evictions done without due process. What are the responsibilities of councils and local authorities? Provincial, metropolitan councils and local authorities must be guided by section 28 of the constitution which states that government and its agencies must enable every person to have access to adequate shelter. What should be done before a demolition?

WHETHER OR NOT THE RIGHT TO SHELTER IS A FUNDAMENTAL RIGHT?

The Constitution of Zimbabwe provides for the right to shelter. Some argue that no law in Zimbabwe outlines the right to shelter (Madhuku, 2010). Those in support of the existence of the right to shelter provision usually cite section 28 of the 2013 Constitution, (Tsabora, 2016). It requires the state and government agencies to ensure adequate shelter for all. There is a national housing crisis in Zimbabwe that is characterised by an acute shortage of adequate housing, mass forced evictions and unfair discrimination in the allocation of housing facilities by government. There is therefore an existing need to compel government to comply with and fulfil its international legal obligations relating to the right of every person to have access to adequate housing (Mavedzenge, 2018). The constitution of Zimbabwe, which is the supreme law does not expressly guarantee the right to adequate housing, yet the country is bedevilled with an acute national housing crisis (Mavedzenge, 2020). It therefore can be argued that the topic of the human right to property has received intertwined perceptions among activists of human rights. Despite, the constitution directly not stating out the right to shelter, an interpretation of the objectives of the constitution can

ascertain that it cannot be interpreted as a standalone right as it can also encompass in it the right to life. Thus, we would argue that, in the event of government or municipal intervention in relation to trying to regulate or control occupation of homes, however rudimentary, overcrowded and problematic in terms of health and safety considerations, that each of the occupants either as individuals or as a family in such accommodation should be protected, albeit temporarily, by section 74 of the Constitution because it is their home (Stewart, 2019).

Evictions in Zimbabwe have been justified through the inclusion of section 4 of the Communal Land Acts, which surrenders communal land to the president of the country. In Zimbabwe, there have been evictions and demolitions by the government. The government then cites the laws of the land, for example, the use of section 86 of the constitution which limits fundamental rights (Constitution of Zimbabwe 2013). This section provides for limitation of rights, but such limitation must be fair, reasonable and in the public interest. Section 72 of the Constitution of Zimbabwe empowers the government to compulsorily acquire land without compensation to the affected and further states that no person may approach the courts for an order of compensation. What it means is that, if one's land is acquired compulsorily one does not have *locus standi* in the courts of law. *Locus standi* refers to the right to be heard in a court of law. These are means of justifying the disrespect for the rights of the people. Such justification means the government can spearhead the demolition process to create order and a peaceful environment, in line with sustainable development goals.

SOUTH AFRICA

Matsuri and Myneni (2020) argue that out of desperation, poor people are forced to construct their dwellings using any materials and skills they have, but end up residing in communities and circumstances that make them susceptible to socio-ecological risks. It has been reported that the continued presence and growth of informal settlements, most of them situated in the biggest cities in the country, with little or no access to services and infrastructure is a common feature in South Africa (Chenwi, 2012). Following the State of the Cities Report, the Development Action Group noted in 2020, that 2.4 million households live in informal

settlements in the country. UN-Habitat (2013) has also observed that for every 10 urban homes, three are slum households. The Department of Human Settlements estimates stood at 1 675 000 households living in freestanding informal settlements and 525 000 households residing in backyards, farms and communal land (Tissington, 2020). From 2011 to 2020, it is reported there has been an increase in the number of informal settlements in South Africa *(ibid.)*. The government's estimates stood at 2 700 informal settlements, with approximately 3.2 million households living in them (Ramaphosa, 2020). It is, however, believed that these figures could be higher. The government of South Africa has tried to implement policies to protect the rights of the citizens in the aftermath of eviction or demolition, through providence of compensation.

Section 25 of the South African Constitution is instructive. It provides that no person can be deprived of their property and also reinforces the idea of compensation, which means the law has been crafted in a way that respects human fundamental rights (Constitution of South Africa, 1996). Therefore, citizens should not disobey the laws and complain that such deprivation or removal is unlawful and a violation of people's liberties. The state must provide a clean, sustainable environment. But in the event of such policies being implemented, there is always need to respect human shelter. It forms part of the right to live in decently.

The Zimbabwean government has made strides in addressing the challenges. A new strategy has been adopted that involves the legalisation of illegal settling. The President of Zimbabwe in 2023 gave title deeds to Epworth residents, a high-density suburb in Harare (Herald, April 22, 2023). For some, it is merely a political gimmick, not a development goal. Local authorities should strive to create a conducive environment for development. Those who settle on land illegally must face the wrath of the law.

CHINA
The paper also reflects the position of China with regards to informal settlements. Informal settlements are a product of rapid urbanization in China, in which large amount of rural land is expropriated by the

government for urban development (Yang and Weng 2022). This is because, informal settlements in China are influenced by an urban – rural dual land system in which the collective land ownership system means that villagers are ambiguous in their approach to land development. According to China's constitution, the form of land ownership in China is socialist public ownership, implementing two forms of property rights: state ownership and collective ownership. Land in urban areas is owned by the state, while rural land is collectively owned. This gives China two different bundles of property rights, with full property rights for state-owned land in the cities and incomplete property rights for collective land in the countryside. (Pan, 2021). What is common is to the effect that, the leading factor for informal or illegal settlements in developed or developing countries is influence of urban migration. Informal settlements in China are further described as mainly settlements that violate urban and rural planning laws and regulations, are located in built-up areas and peripheral areas of urban areas and are generated by a variety of subjects such as government, institutions, enterprises, urban residents, and rural areas (Zhang, 2011). In the future, government departments should focus on policies, rules and regulations that are beneficial to the advancement of the villagers' self-regeneration of informal settlements. The greatest move by China in land and urban development is by improving or development of informal settlements a move which has been celebrated by majority informal dwellers.

RESULTS
The results of the paper present a fine-grained picture on the relationship of illegal settlement in Zimbabwe and the position of the legal frameworks governing land and housing. While settlement informality is an issue in Southern Africa Development Community (SADC), it is a common phenomenon across the globe (Avis, 2016). In principle, history has brought us to a moment when the greatest part of humanity has decided to reside in conducive places open for development. For Zimbabwe, it has long been those building materials, financing models, land and housing markets, driving unaffordability Chaeruka and Munzwa,). The quest for general survival has contributed to rural – urban migration which has increased the volume of illegal

settlements by a bigger margin. The mechanisms of government monopoly over land are justified by the goal to develop through urban development. The results of the paper have shown that, the major reason for informal settlements has been rural -urban movement which has resulted in the creation of illegal settlements. Although there is no precise provision of the law which correctly spelt out the right to shelter, the law however forbids against arbitrary eviction without a court order. The question on whether informal settlements should be demolished is something which have received widespread universal attention. International instruments like the African Charter on human and people's rights, the Universal Declaration of human rights advice member states to include into its own laws the fundamental guarantee to the right to shelter. The results of the paper also suggest that, developing countries like Zimbabwe should adopt policies that are used by other developed nations who already have had a goal to develop and transform informal settlements to be world class settlements. The government of Zimbabwe should help in striking a balance between the right to shelter and existence of illegal structures.

CONCLUSION

The existence of informal settlements in Zimbabwe has not been relatively new in Zimbabwe. What has proved to be knew is the rate to which it grew after the attainment of Zimbabwe's independence in 1980. The navigation of transformative trajectory has made it difficult to separate informal settlements from formally approved ones. The article has established an interface between the development mantra and the quest to follow rules and regulations imposed to govern urban planning and development. The article has chronicled, that the major reason for illegal settlement is the prolific movement of people from rural to urban areas. Section 28 of the Constitution of Zimbabwe provides that state institutions must take appropriate measures to ensure every person access to shelter. It has been shown however that, a plain reading and interpretation of Chapter 4 of the fundamental rights can ascertain that, the constitution has been silent with regards to the right to shelter to be a fundamental right.

The article has further advocated that whilst it is unfair to demolish property without compensation, the continuous relaxation of laws in furtherance of illegal settlements has been the major stumbling block to sustainable development. The law in terms of section 74 guides against demolition of property, although an interpretation of section 86 of the constitution which limits rights and freedoms can further weaken the plain meaning of section 74. The responsible ministries of finance, government and local housing, city councils, land and development experts should all have a hand towards addressing the existence of informal settlements. Such a balance should respect the human right to shelter whilst bearing in mind on how best a conducive environment can be created which can be a tower to trade and investment.

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Laws and Policies Governing Airlines in Zimbabwe: Options for Sustainability

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Abstract

Before the advent of colonialism that brought the so-called "modern world", air transport was alien to the African continent. While studies have been conducted to assess the procedure and requirements of boarding flights, there has been little understanding on the laws and policies governing the same airlines. The article reviews the laws and policies that have existed in Zimbabwe since independence in relation to air transport and the challenges faced in the last four decades. This is a unique study in that it seeks to strike a balance between aviation and tourism. These terms can be used interchangeably in the contextual framing of this article, though strictly, they do not yield the same meaning. The aim of the study is to provide a systematic investigation on the current state of policies governing airlines. It seeks to answer the question; Who owns airlines? Further to the question, it is an inquiry on what ought to be done to improve the state of aviation. The results of the article suggest that there is need to implement new policies, amend the available laws so that the tourism sector can be the powerhouse in economy development. In addition, the results point to options for sustainability and implementations to improve aviation laws. Here, the laws and policies governing airlines are discussed. What is worthy of mention is that a growth in the tourism sector benefits the field of aviation, and the growth in aviation corresponds to the growth of tourism.

Keywords: aviation, policy, development, law, implementation, airspace, tourism, international obligation

INTRODUCTION

The introduction of air transport in Africa was concomitant to the implementation of the colonial project as Africa became the new frontier after the Berlin Conference of 1884-5. The virgin continent of Africa had poor or no or roads, railways and infrastructure. There was, therefore,

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need for air transport for the purposes of moving passengers comprising colonial government officers (Lonsdale and Berman 2015), researchers and missionaries. After colonialism, most African countries became independent, and states began negotiating agreements for the improvement of air transport. Zimbabwe was never an exception. The growth and expansion of air transport in Zimbabwe has been identified by the government as a vital element within its plans for development. Many people, tourists on long distance trips, make use of air transport to travel to and from their destinations. This study will focus on the laws and policies governing the state of airlines in Zimbabwe. Policy can be understood as a system of guidelines implemented to govern a certain entity. Put simply, a policy is a law, regulation, procedure, administrative action that has the mandate to control or govern. There is argument that a policy is not the same as a law. Subscribers to this view assert that laws are rules and regulations that govern conduct and there is always a sanction if there is a breach (Madhuku, 2010). Nevertheless, it cannot be gainsaid that these are academic debates. The terms can, however, be used interchangeably, thus the object of the article will focus on policies and laws that govern the state of airlines in Zimbabwe.

While policy can be understood to mean a normative accepted procedure, in Zimbabwe the airlines do have travel policies that include baggage policy, change of flights, returns and refund policy, marketing policies. among others. In a bid to manage the state of airlines, the legislative body responsible in the making of laws, have made it easier for many people to understand the policies through the enactment of laws. Some of the laws includes the Civil Aviation Act (chapter 13:16), Statutory Instrument 22 Civil Aviation (Security and Racilitation Regulations), Drugs and Dangerous Act, SI, 2019, Civil Aviation (Personnel Licensing) Regulations, Presidential and Temporary Measures Act, among other laws. The Government of Zimbabwe, through the goal of attaining an upper middle-income economy by 2030, has implemented what it calls the Development Policy. The policy has yielded positive results in the process, resulting in the recent expansion of the Robert Mugabe International Airport. The article will give a brief background on the state of airlines in Zimbabwe and the policies that have been available since it came into being. Along these lines, the article will proceed in highlighting the challenges air transport has been facing, rendering the policies ineffective. At the end of the discussion, emphasis will be placed on what ought to be done in addressing the status and improve the field

of aviation. The connectivity of aviation policies and governmental policies poses many interrelated questions.

RESEARCH METHODOLOGY
In relation to the mandate of the study, the research utilises an extensive literature canon already in existence in search of the policies and laws governing airlines in Zimbabwe. This investigation was made easier through conducted interviews with airline personnel and legal consultants. Only key airline personnel were interviewed to provide insightful answers to the questions asked. The offices of the Chief Executive Officers (CEOs) from the airlines were approached. A comparative analysis was made from legal consultants on their say, regarding the state of laws and policies on airlines and on whether there is need for implementations of new laws. A case study was implemented, adopting a mixture of primary and secondary data. Such a case study offered the study the ability to conduct an in-depth and focused research on the laws and policies governing airlines, making the study easier by bringing out options for sustainability, both in the immediate and in the long run. The study used qualitative philosophical thinking in the process. Such thinking has been coring by the research because it tends to focus on the meanings of the terms and employ methods to address different aspects of the issue.

MARKETING POLICIES GOVERNING AIRLINES: A LOOK IN ZIMBABWE BEFORE INDEPENDENCE
Before Independence, the field of airlines was the responsibility of the department of tourism, a governmental body or public entity. After independence, the Zimbabwe government adopted a more direct interest in tourism when the Zimbabwe Tourist Development Corporation (ZTDC) was formed and had the mandate of promoting airlines through tourism. Turton and Mutambirwa (1996) assert that such coordination to develop the status of tourism involved links with Air Zimbabwe. Between 1984 and 1990, Zimbabwe implemented many policies including marketing policies that had the goal of attracting European countries. All decisions on marketing investment, purchase of aircraft and fare structure, were made subject to ministerial approval (*ibid.*). This position has since changed. Many policies have been implemented, old policies being phased out and new policies being shaped to cater for modern standards. The tourism industry is regarded as one of the biggest industries in the world, generating an estimated 11% of the global gross domestic (GDP) (Dawson, 2006). In Zimbabwe, many significant changes have occurred in

the airlines' marketing policies. It can be safely said that the Zimbabwe Tourism Authority (ZTA) has had a hand in the management of airlines and their marketing policies. The government entity was formed from the Tourism Act, chapter 14:20 with a mandate of marketing Zimbabwe as a tourism destination (Basera, 2019). It can be argued then that, when tourism is marketed, it is not marketed as a stand-alone subject, but the field of airlines is also marketed.

THE CIVIL AVIATION ACT AND THE CIVIL AUTHORITY OF ZIMBABWE

It must be noted that there is a compendium of laws put in place to oversee the field of airlines in Zimbabwe. In 1999, he Government of Zimbabwe established the Civil Aviation Authority of Zimbabwe (CAAZ). The authority was formed subject to the Civil Aviation Act of 1998. It is the main provider of aviation services in Zimbabwe. Section 4 of the Civil Aviation Act outlines the establishment of the CAAZ being a corporate body. The functions of the body includes (a) to establish, develop, operate and own aerodromes in Zimbabwe; (b) to control and regulate the operation of aircraft in and over Zimbabwe; (c) to provide air navigation services, including air traffic control in Zimbabwean airspace and in any areas outside Zimbabwe, for that the authority, pursuant to international arrangements, is responsible for providing such services; (d) to provide aviation meteorological services in relation to Zimbabwe; (e) to provide aeronautical information services with respect to aerodromes, air traffic control and facilities, meteorological services, hazards to air navigation and such other matters relating to air traffic as may be prescribed or as the authority may consider appropriate; (f) to ensure the maintenance of safety standards prescribed by or under this Act in relation to personnel, aircraft and aerodromes; (g) to provide technical services to the government or any other person for the design, installation, maintenance and modification of electronic, radio and other equipment used in the provision of air navigation and communication services; (h) to investigate the circumstances surrounding all accidents involving aircraft among a plethora of other reasons the body is responsible for. The question is whether the established body has been in tandem with the objects of the Civil Aviation Act.

It is an accepted policy to observe and respect the Chicago Convention that aims at entrenching and respect of the safety, security, regularity and efficiency of air navigation. This policy ensures that no person shall cause an aircraft to arrive in or depart from or overfly Zimbabwe, except with the authority's permission and in accordance with any terms and

conditions specified by the authority (Civil Aviation Act, 1999). This policy guides and protects the national sovereignty of Zimbabwe and ensures safety and security of airlines. It has its roots in the broad provisions and respect of the Chicago Convention which Zimbabwe was a party to. The authority is also responsible for the safety of the aerodromes, airlines and general safety of the people. According to the Act, it can be said that the safety policy allows the authority to oversee the maintenance of aircraft, airlines and for them to meet international standards. It is worthy of mention that the Government of Zimbabwe, in trying to develop the status of airlines, refers to the Civil Aviation Act.

CIVIL AVIATION (SECURITY AND FACILITATION) REGULATIONS, 2022

Statutory Instruments, hereinafter to be cited as SIs are legally referred to as secondary laws and are constitutive of delegated legislation. The safety of airlines in Zimbabwe is also guarded by the Civil Aviation Security Regulations. The main purpose of the SI is to provide rules and regulations that govern the security and safety not only of airlines, but of international airports. The policy allows security agents or officials to oversee control of persons boarding aircraft and such a process involves special screening and searching of passengers. It outlines the procedure for authorised carriage of weapons or their prohibition. These laws are essential for the safety and security of those on board. The need to enact these laws is essential as it avoids on-board crimes. It is a criminal offence if these rules are not respected. The Civil Aviation Act also reinforces the importance of security purposes through the envisaging of section 64 of the Act. It can, therefore, be argued that these acts are important because they act as guidelines in helping officials in protection not only of airlines, but also aerodromes and other air-related issues.

The Dangerous Drug Act (Chapter 15:02) is also another piece of legislature that governs the state of airlines in Zimbabwe. This position can be supported with an argument that not all laws that govern airlines specifically are titled aviation Acts. It is important that no person is allowed by law to import or export dangerous drugs. The process of importing or exporting can also involve travel by air, thus making the use of airlines. What can be deduced is that these kinds of laws indirectly govern airlines in Zimbabwe. In terms of the Act, subject to provision of section 14, no person shall import into or export from Zimbabwe goods such as coca leaves, cannabis plant, raw opium or any drug believed to be dangerous in terms of the Act. It is also the same act that outlines that a person found in contravention of this piece of legislation shall be

guilty of a criminal offence. It simply means no person is allowed to board a flight while in possession of these dangerous drugs. These drugs have negative effects if allowed to be imported into the country. When these drugs are allowed entry, they can have a bad impact on the youths who can abuse them, that significantly becoming another problem. Such abuse of addictive psychoactive substances is usually characterised by negative health and social consequences, not only for the user, but also for non-users in the community or society (Korpi, 2015).

CHALLENGES IN POLICY IMPLEMENTATION

Sylva and Amah (2021) posit that there are challenges that the Zimbabwean aviation sector needs to attend to the challenges that evolve from poor infrastructure, inadequate power, inadequate fleets, shortage of jet fuel and poor management in general. These challenges, if not addressed, can surely hinder development. Turton (1987) asserts that the aviation sector has been overwhelmed with a myriad of challenges that need attention. The international long-distance and short domestic routes have always been constrained by inadequate facilities, small fleets of aircraft and problems dealing with arrivals still exist. He further asserts that many of the airline's problems are a result of indirect control through the ministry of transport, with its policies not conforming to development policy. Poor management can eventually correspond to a negative result, mostly arising from poor policy decisions. Duvai and Schiff (2011) underscore the idea that airport-based infrastructural challenges can have very negative impacts on the flow of air traffic and tourist management. Omeleke (2012) also observes that the lack of cooperation between the tourism authority and the ministry of transport that oversees various aspects of aviation creates another challenge that must be addressed. This shows that poor management of facilities can record negate impacts that can pose long-term challenges, requiring more resources than needed at first instance. Developed countries like China, have taken interest in a policy that aligns with development is key. The Chinese government has played a major role in shaping the aviation industry amidst a fast-transforming economy (Lei, 2011). Policymakers in a developed or developing country, must understand that policy is development and development is policy. If poor policies are implemented, they will likely result in challenges that can be detrimental to the whole system. Zhang and Cheng (2003) observed that all aspects of the industry, including market entry, route entry and frequency, fare levels, aircraft purchasing, passenger eligibility, were heavily controlled by the state. They observed that this was the responsibility of the state,

something that slowed development and there was need for transformation from state ownership of airlines to control by the organisation. They also believe that state monopoly hindered development of the aviation sector and the reform saw China's aviation from purely state-owned airlines to a mixture of state- and private-owned airlines. The emergence of private airlines can always act as checks and balances that eventually lead to strong policies that promote development. Lindbeck (2007) strongly emphasises that the private sector plays a major role in China's economic development.

The question posed is: can Zimbabwe adopt the policies countries like China have been implementing? In Zimbabwe, a private institution is seen as a barricade and threat to the interests and affairs of the state (Nyaruwata, 2017). This is seen through persecution of non-governmental organisations (NGOs) by the state. The Private Voluntary Organisation Act has been viewed by human rights defenders, the Zimbabwe Human Rights Commission, as a violation of people's liberties as it requires strict rules in registering of these organisations. The fact that these private institutions are seen as threats by the state, the state can never allow private companies to independently own airlines and control same. Obviously, there is competition, competition between the two that the state can never be happy about, but according to Zheng and Cheng (*ibid.*), that is what can lead to development.

Isah (2018) opines that poor corporate governance and bad management has led to the proliferation of unethical practices and dubious activities that stunt the growth of the airline industry. He added that transparency and accountability exist only in the theoretical realm, reflecting some of the challenges faced in implementation of policies. It is to be noted that other countries, like Nigeria, are believed to be lacking modern landing aids that include adequate airfield lighting and landing systems to safely land at night (Phillips 2015). This major challenge must be addressed to promote the field of aviation. It is the same situation in most sub-Saharan African countries where governments are unwilling or neglecting to provide reliable power. This has resulted in countries resorting to the use of generators (Adebukola and Fagbemi, 2015). The situation is never the same as of Zimbabwe. The problems that have been facing the country have recently been addressed by the government. The Government of Zimbabwe expanded. the Robert Mugabe International Airport in Harare, a celebrated developed. This expansion of the airport addressed the challenges of poor infrastructure and facilities that never

met modern international standards. Despite the managerial challenges the country has been facing, the government has made strides in improving the aviation sector. If corruption is eradicated, development can be done through efficient policies. The president of Kenya announced that Kenya had signed an international agreement with the United States of America for direct flights from Kenya to the USA. For this agreement to be implemented, Kenya needed to demonstrate that it had complied with international standards of aviation law (Muendo, 2018). Zimbabwe should adopt policies from other countries, like the establishment of aviation schools. In 1970, Kenya amended the Kenya Aviation Act. Dempsey (2008) asserts that because the aviation industry is harmonised and global in nature, a weak legal framework would bring about various problems, for example, high jacking, aircraft accidents, loss of lives, financial and managerial challenges. The amendment of the law is, therefore, key in improving the field of aviation in Zimbabwe.

The Government of Ethiopia drives growth in the domestic aviation sector by building airports throughout the country by 2024 (Daumer, 2017). This move proves how other countries are moving, through policies both locally and internationally.

DISCUSSION

A fundamental review of government policy on Air Zimbabwe's management is essential if the airline is to survive within the framework of Southern African air transport services (Mutambirwa, 2000). The laws and policies that govern airlines in Zimbabwe vary. Covid-19 drove the president to implement and make use of a piece of law, the Presidential and Temporary Measures Act. The Act can supersede other existing laws in times of. This resulted in new rules being implemented resulting in the use of protective measures to contain the spread of the virus. What it means is that, other laws and policies can be suspended, including already existing policies governing airlines. It, therefore, can be argued that the Act indirectly is a law that governs the state of airlines, especially in times of emergency, resulting in new rules being put. Poor management defeats sustainable development goals and governments should adopt measures to address issues like corruption, hiring qualified personnel and proper management of funds. No wonder why Ndlovu *et al*. (2016) warns that an overhaul of management and operations structures and systems at Air Zimbabwe is desperately needed.

Some sources attribute Air Zimbabwe's financial problems to the appointment of inefficient managers who lack aviation experience and knowledge (Bhebhe, 2016; Chibhamu (2016). This is a question of reforming the law and transformation within the government. Turton (1987) asserts that Zimbabwe can never attain the status of aviation for countries like Kenya, Ethiopia and Rwanda. There is no scientific proof to the contrary. While it is fair to appreciate that these countries have done a lot in developing aviation to being Africa leading giants in aviation, Zimbabwe needs to address internal challenges before it adopts what other countries are doing. Most of the Board members were incompetent political appointees without any aviation knowledge and experience (Bhebhe, 2016). An airline with a Board of Directors consisting of professionals has a greater chance of being managed prudently than an airline whose board directors do not have professional management competencies (Zhou, 2012). Therefore, Ndlovu (2016) warns that an overhaul of the management and operations structures and systems at Air Zimbabwe is desperately needed. A typical example in Air Zimbabwe is the appointment of an inexperienced Chief Operating Officer in October 2016 (Muzulu 2016).

There is evidence that Zimbabwe has been trying hard to make development its number one priority, but it should also address internal challenges, as they are a panel to development and sustainable growth. Hence, some research endeavours argue that there is a positive correlation between the qualifications of managers and the performance of airlines, while Swartz and Rohleder (2008) found that stability and earned value among aviation managers was of high importance. Although Zimbabwe has had a long history of ill-qualified personnel appointed based on political relationships, there is still enough time to effectively attend to and recover from the problems the airlines industry has faced. There is need for strong a desire to improve the policies already in place so as to promote development. The Zimbabwe Anti-Corruption Commission (ZAAC), a body responsible for combating corruption should carry out their mandate without fear or favour. This will certainly advance transparency at the airlines.

CONCLUSION

It is becoming increasingly evident that the field of aviation has attracted so much attention and traction over the last few decades with different countries trying to improve their state and implementing reforms thereof. The understanding of the intricate relationship between policy

and laws is essential. It has been argued that while policies are subject to laws, laws are never policies. A policy is a principle that forms part of laws but laws cannot be said to be policies. Whatever the argument, the study aimed at examining policies and laws that govern Airlines in Zimbabwe. Before Zimbabwe attained its independence in 1980, the Rhodesian Government owned Air Rhodesia. As a new branded authority, Air Zimbabwe had to implement new policies to suit the new government. The policy involved the establishment of an act of parliament to govern the state of aviation. There is a myriad of these laws that govern airlines, evolving from procedure of boarding flights, travelling, seating, prohibited goods and fares among others.

The article discussed laws that include the Civil Aviation Act Chapter 13:06, SI Statutory Instrument of 22 Civil Aviation (Security and Facilitation Regulations), Dangerous Drugs Act, SI 2019, Civil Aviation (Personnel Licensing) Regulations, Presidential and Temporary Measures Act. These laws directly and indirectly govern Airlines through the powers vested into the Civil Aviation Authority of Zimbabwe, ministry of transport and ministry of tourism. The article went further in highlighting some of the challenges aviation has been facing. These include, among others, poor management and lack of resources. Turton and Mutambirwa (1987) highlighted in the 1980s that Zimbabwe has been a ground of poor infrastructure at the international airports. Times has, however, moved, the situation has changed. In July 2023, the Government of Zimbabwe officially opened the new expanded Robert Mugabe International Airport, a move in line with creating an upper middle-income economy by the year 2030 as pronounced by the government. The research found that other countries, like Kenya, Ethiopia, China, to have succeed in the field of aviation, there is an availability of private-owned airlines. The existence of these private-owned airlines creates development competition, that improves the state of airlines. Out of concern, the article avers that there is need to amend the laws that give exclusive authority to the state in owning airlines and its affairs, just like other countries. If the laws are amended, then there can be development. Only time will tell when aviation in Zimbabwe will improve. This will need commitment, dedication, patience, hard work and togetherness, from governmental organisations, private sector and the international community.

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Strengthening Zimbabwe's Tripartite Negotiating Forum (TNF) System under Turbulent Business Times

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Abstract

The article sought to assess the mechanisms that can be adopted to address the challenges facing the social dialogue forum in a turbulent business environment in Zimbabwe's public sector organisations. The Tripartite Negotiation Forum (TNF) in Zimbabwe has been affected by the dynamic and volatile changes in the business context that can be understood as Volatile, Uncertain, Complex and Ambiguous (VUCA). Consequently, the social dialogue platform seems not fair to all the players as it weighs heavily against organised labour and organised employers. The study's main research question was: What can be done to strengthen the TNF in Zimbabwe under the turbulent business context? The article used a critical documentary review to develop contextually attuned mechanisms that can be put in place to ensure the sustainability of the TNF under turbulent business contexts through policy prescriptions. A desktop review of the reports from the Zimbabwe Congress of Trade Unions (ZCTU), the Zimbabwe Coalition on Debt and Development (ZIMCODD), the Zimbabwe Teachers Association (ZIMTA), the Ministry of Labour and Social Welfare (MoLSW), International Labour Organisation (ILO), Bertelsmann Transformation Index (BTI) Report, and the interview of the TNF social partners was done to collect data. The study found that the socio-economic and political environment has been harsh on the country's TNF. This has affected the effectiveness of the social partners in arriving at a mutually acceptable position that helps the social partners to cope in these turbulent business times. Further, the government seems to be the main factor in determining the

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outcomes of the social dialogue platforms. However, this seriously works against public service workers. Inflation has also negatively undermined the effectiveness of the TNF despite the presence of legal and institutional mechanisms to protect social dialogue. The study, therefore, recommends the creation of an independent commission to facilitate and moderate social dialogue. There is need for political will and tolerance by the political leaders to allow other actors like trade unions and employers' representatives to participate effectively in the TNF and the need for the increment of the budget for the TNF, in line with the realities of inflation in the economy.

Keywords: social dialogue, business context, tripartism, negotiation, turbulent

INTRODUCTION

The need for a social dialogue platform has attracted renewed attention in recent times due to the unrelenting turbulence in the Zimbabwean business context. Most importantly, social dialogue platforms are generally seen as a proxy to develop and maintain a healthy industrial system. Globally, the International Labour Organisation (ILO) provides that social dialogue encompasses all forms of negotiation, consultation or simply exchange of information between representatives of government, employers and workers on issues of common interest relating to economic and social policy (ILO, 1999). ILO recognises, however, that the definition of social dialogue can vary, depending on context and time. Fashoyin (2004) argues that social dialogue is a mechanism through which the,

> ...state cedes part of its authority to recognised organisations of employers and workers, the goal being to align these interest groups with the state policy-making framework

▪ The concept serves four functions of information-sharing, consultation, negotiation and joint decision-making between the parties (*ibid.*).

Often, economic shifts, inflation or depressions surprise the government as it will not be prepared to embrace those changes quickly enough (Müller, Vandaele and Waddington, 2019; Bulfone and Afonso, 2020). As a result, the Public Service Commission (PSC), the civil service employer,

responds by cutting the salaries and wages of its employees or fails to ensure that there are necessary adjustments to cushion civil servants against the high cost of living. Ideally, when such a scenario arises, the representatives of the civil servants and the government should come together for joint regulation and agreement on the terms and conditions of employment in mitigation against hardship caused by the turbulent context. The state of the business environment can reflect a VUCA setting (Volatile, Uncertain, Complex, and Ambiguous) that ceaselessly undermines the effectiveness of the social dialogue fora for a harmonious relationship amongst employers, employees and the State.

This article serves to assess the mechanisms that can be adopted to address the challenges facing the social dialogue forum in a turbulent business environment in Zimbabwe's public sector organisations. This will be used as the basis for the examination of the TNF under the turbulent business context in Zimbabwe. This article particularly defines social dialogue or tripartism as a practice created and effected by the International Labour Organisation, within which governments, employers and workers' organisations have collaborative constitutional recognition and legitimacy in the promotion of global social justice (ILO, 2002, 2020). The following research objectives capture the locus of this study:

- To assess the effects of the turbulent business context on Zimbabwe's TNF.
- To identify the challenges affecting the TNF in Zimbabwe's labour governance system during turbulent business context.
- To recommend strategies for improving the effectiveness of the TNF in Zimbabwe's labour governance system.

This article comprises a general review of literature on the TNF, case study experiences on its application, the research methodology that was applied, research findings on Zimbabwe, discussion of results and recommendations.

THEORETICAL FRAMEWORK: PLURALIST THEORY

The Pluralist Theory views society from the post-capitalist viewpoint under which the public sector is understood, as composed of individuals with divergent interests, views and interests as well as objectives. It

further asserts that conflict in labour governance is both rational and inevitable, given the composition of members of various organisations (Martineau, Johnson and Pauchant 2017; Muttakin, Mihret and Khan 2018). This implies that the composition of the public sector with the government, labour unions, public service workers and their representatives have different interests and values that inevitably creates conflict in the labour management. Pluralists acknowledge that different groups have different and, sometimes, opposing interests and goals, and that they need to be balanced through collective bargaining and state regulation (Thunnissen, 2016). The theory argues that the existence of divergent interests requires an effective and efficient resolution of labour conflicts for collaboration and effective resolution of differences for progress in the industrial system (Muttakin *et al.*, 2018).

The assumption of the Pluralist Theory provides room to agree that conflicts exist, given different interest between labour and capital, hence the need for well-organised systems to address these disparities (Thunnissen, 2016; Martineau, Johnson and Pauchant 2017). To this end, the social dialogue system at the TNF aims at ensuring that disputes in labour governance are addressed amicably. The study seeks to find out if the challenges affecting the social dialogue can be addressed to improve the functioning of the TNF in Zimbabwe. In the public sector, labour governance, collective bargaining, labour governance frameworks and constitutions promote an effective and productive labour system. To this end, the study seeks to assess the nature, systems and implications of the theory in the regulation and governance of labour in Zimbabwe's public sector under the turbulent environment in addressing the challenges faced in the social dialogue systems in the TNF in Zimbabwe's public sector organisations.

RESEARCH METHODOLOGY

The study is a qualitative documentary review of the Zimbabwe's social dialogue dynamics with the motive of plugging the literature gap on the heuristic mechanisms that can be adopted to enhance the effectiveness of Zimbabwe's social dialogue platform under the current conditions. The study utilises a qualitative research paradigm in understanding the TNF.

It adopted a descriptive research design to effectively understand the social dialogue context in Zimbabwe and devise the context-specific mechanisms under which effective bargaining can be done in the turbulent business context. A desktop review of the reports from the ZCTU, ZIMCODD, ZIMTA) MoLSW, the ILO, the BTI Report and interviews of the TNF social partners was done. Data was analysed through content analysis and presented in thematic form in relation to the main research aim.

LITERATURE REVIEW ON SOCIAL DIALOGUE SYSTEMS

This section is a critical review of literature on social dialogue systems during turbulent business times globally. The locus of the section is to understand the issues and challenges associated with social dialogue fora in the Zimbabwean context and to extrapolate lessons from the case study experiences to develop mechanisms to strengthen the country's collective bargaining systems.

CONCEPTUAL UNDERPINNINGS OF SOCIAL DIALOGUE

The ILO defines social dialogue as any type of negotiation, consultation or straightforward information-sharing by, or among, representatives of governments, employers and workers, on topics of shared interest pertaining to economic and social policy (Wilkinson, *et al*., 2022). It can be a tripartite process with the government participating formally in the conversation, or it can merely be a relationship between labour and management (or trade unions and employers' associations), with or without any direct or indirect government involvement. Processes for social discourse can be informal or institutionalised, and frequently the two combine. It can occur at the local, regional or corporate level. It may be sectorial, interprofessional or a combination of both (Novikova *et al*., 2021). Therefore, from this point of view, social dialogue has one objective of achieving agreements between social partners, where it is institutionalised. The ILO (2023) argues that social dialogue becomes a conduit for policy coordination between partners involved in the process. To this end, the study believes that by its very nature, social dialogue entrenches and strengthens cooperative and participatory democratic governance. Therefore, the study seeks to assess if the TNF in Zimbabwe

is seen as a mechanism that ensures cooperative and participatory democratic governance.

THE EFFECTS OF THE TURBULENT BUSINESS CONTEXT ON THE TNF

UNDERSTANDING THE TURBULENT BUSINESS ENVIRONMENT

A turbulent business environment can be defined as a period of uncertainty or a time when events in the environment are unpredictable. It can also be defined as unpredictable, uncertain times for strategic planning processes. The discussion is that a turbulent environment is a time when business managers are not sure of what may happen in the future (Bridgman and McLaughlin, 2018). It has also been defined as a period of hyper competition or a period where businesses face stiff competition, leading to a decline in sustainability (Vecchiato 2016; Anxo, 2017). According to Sedlakova (2018), a turbulent business environment encompasses two dimensions: complexity and dynamic. Dynamic means that the organisation can no longer use history and data from the past to determine the future (Caraway and Ford, 2020). Insinuated here is that environmental turbulence implies uncertainty and the inability of the parties to be able to plan and anticipate the changes that can take place in the operating milieu.

Environmental turbulence, therefore, affects labour governance in terms of the conditions of employment. In most cases, economic shifts, inflation or depressions often surprise the government which, in most cases, is not prepared to embrace those changes very quickly (Müller, Vandaele, and Waddington, 2019; Bulfone and Afonso, 2020). As a result, the government responds by cutting the salaries and wages of the employees (public servants) or fails to ensure that there are necessary increments civil servants to meet the high cost of living. Ideally, when such a scenario arises, representatives of the civil servants and the government should come together for joint regulation and agreement on the terms and conditions of employment in response to the turbulent context. This is meant to ensure that practical terms and conditions can be implemented for the benefit of both towards sustainability in labour governance.

Seiler (2020) makes the argument that the persistent increase in prices has a significant impact on the collective bargaining processes between employees and employers. This point is further explained by Groshen (2018) who states that inflation affects the wage-setting practices in organisations across the country. This is because in periods of high inflation, employee wages are eroded due to the increase in the cost of living, which forces them to bargain for wage increases with their respective employers (Botella, 2019: Groshen, 2018). Inflation in the USA is at its highest in forty years, and has eroded the wages of low level employees across the country (Rosenberg 2021). Further, since the advent of global economic crisis in Europe in 2008, employment relations per se and the processes and institutional structures of collective bargaining that is collective bargaining systems, in particular have become increasingly contested (Visser 2016, Hanna *et al.,* 2018, Rogers 2016). In fact, collective bargaining became one of the important arenas for policy makers in Europe since the labour market had to bear the costs of economic recovery and therefore collective bargaining systems were often seen as the key facilitator or obstacle to labour market adjustment (IMF 2017; Marginson 2016).

LITERATURE REVIEW ON TNF SYSTEMS

SOCIAL DIALOGUE IN AFRICA

Generally, differences in political, economic and social systems have resulted in diverse social dialogue processes and practices across the world. Hence, the way social dialogue is practised in Africa needs clarification. The African Union (AU) Specialised Technical Committee (STC) on Social Development, Labour, and Employment oversees the implementation of social dialogue on the continent. Article 14 of the Constitutive Act of the AU establishes the committee, along with six other committees, in areas of monetary and financial affairs, customs and trade, together with transport, communications, and tourism that necessitates cooperation on labour and social matters within the African continent. The STC succeeded the former tripartite AU Labour and Social Affairs Commission that became defunct after the 2009 restructuring of the working methods of the AU through an assembly decision (Assembly/AU/Dec.227 (XII)). It is believed that tripartism is a hallmark of the STC working arrangements, in accordance with the ILO. Clause 3(f) of the AU Labour and Social Affairs Commission's procedural rules provides that the Commission shall promote "tripartism and freedom of

association in Africa" and endeavour to establish tripartite consensus on labour and social issues. Clause 4 of the same rules provides, in addition, that all delegations to Commission meetings should be tripartite, with governments meeting the expenses of the workers' and employers' representatives. The new STC configuration adopted the same spirit as it continues to apply the rules, moving the same motion.

In 2004, the African Heads of State and Government, through the AU Declaration on Employment and Poverty Alleviation, showed commitment to social dialogue by pledging:

> to support the continuing efforts made by the governments, social partners and civil society organisations to promote the decent work development agenda of ILO, including achieving a strengthened tripartism and social dialogue, among other strategic objectives of the organisation.

Hethy (2001) postulates that in principle, African governments are seen as pursuing social dialogue as defined by ILO, including respect for employers' and workers' organisational rights to freedom of association and the right to organise. In support of the this, one can simply look at the number of ratifications of ILO's conventions on freedom of association and collective bargaining by African countries. As of 2015, the Freedom of Association and Protection of the Right to Organise Convention, No. 87, 1948 and the Right to Organise and Collective Bargaining 67 Convention, No. 98, 1949, had been ratified by 49 and 54 states, respectively, out of a total of 54-member states. This is a clear indication of adherence to social dialogue and tripartism in Africa.

In Southern Africa, social dialogue or tripartism is pursued by the Southern African Development Community (SADC) through the Employment and Labour Sector (ELS). The objectives of the ELS, according to SADC, include the promotion of "social dialogue through tripartite consultation in addressing industrial relations and policy-making", alongside other labour market-oriented objectives of employment creation and social protection (Giedymin, 1963). The artoce notes that the ELS) is established on the principle of tripartism that brings together governments, workers and employers' representatives. Thus, the role of workers' and employers' organisations in SADC is well respected as it has been formally identified in the SADC Treaty. Article 23(3) of the SADC Treaty lists employers' and workers' organisations among the key stakeholders that can be involved in the pursuit of SADC

objectives of regional cooperation and integration. The status given to the organisations is the same as the private sector, civil society and non-governmental organisations (NGOs).

Heads of State and Governments adopted the SADC Protocol on Employment and Labour in August 2014. Article 2 identifies the "strengthening and institutionalisation of national and regional tripartite and broader social dialogue" as a key principle to guide its implementation. Article 11 of the Protocol calls upon member states to realise decent work for all, including through "good governance and social dialogue". Article 23 further commits member states to ensuring the promotion of inclusive, participatory and institutionalised social structures. Thus, the SADC Decent Work Agenda acknowledges the existence of social dialogue institutions in the region, albeit with limited usefulness and narrow mandates that focus mainly on labour relations issues (SADC, 2013). This observation resonates with that of the ILO when it commented on the limited effectiveness of social dialogue in African countries (ILO, 2007).

FINDINGS ON ZIMBABWE'S TNF

TNF SYSTEMS IN ZIMBABWE
The sections below focuses on the analysis of the legal and institutional systems for the TNF system, the state and effectiveness of the TNF and the challenges associated with the TNF system in Zimbabwe.

LEGAL ARCHITECTURE PROMOTING SOCIAL DIALOGUE IN ZIMBABWE

TRIPARTITE NEGOTIATING FORUM ACT OF 2019
The Tripartite Negotiating Forum Act of 2019 is a law that was passed to establish the Tripartite Negotiating Forum (TNF), giving it responsibilities for government, organised labour and organised business cooperation, consultation, and negotiation on economic and social issues, and making pertinent decisions. The Act provides for the establishment of the TNF which aims at bringing together the government, business organisations and other labour bodies for the purpose of negotiating the terms and conditions of employment. Among other functions, the TNF is tasked with

consulting and negotiating over social and economic issues and submitting the recommendations to the public, negotiating social contracts, generating and promoting a shared national socio-economic vision, and following up as well as the implementation of the agreements (TNF Act, 2019). It can be noted that the creation of the law is a major development towards creating an enabling context for social dialogue between employers and employees for a shared common vision in governing employment relations. The Act indicates the need for social dialogue that encourages tripartite consensus by allowing social partners to voice their needs, interests, fears and concerns as well as their opinions on government and public authority decisions that affect them. It also enables citizens to participate in decision-making processes on labour governance issues.

This literally means that the forum is now a creature of a statute. Suffice to mention at this point is the establishment and functions of the TNF. Section 3 of the TNF Act of 2019 provides as follows:
1) The establishment of the Tripartite Negotiating Forum as a platform to discuss issues on employee welfare and joint decision making.
2) The Forum has structures that include the main TNF, Technical Committee and the Management Committee.

The TNF has different functions which, among others, include, negotiating social contracts, enhance cooperation and consultations between members, perform follow-ups and monitoring of the social contracts, generate a platform for inclusive social and economic development and consult as well as negotiate the Zimbabwean labour laws with other international best practices.

The government further consolidated social dialogue together with the TNF's efforts towards economic resuscitation through invoking measures to address the country's risk factors by way of the new declaration on the national socio-economic vision. However, worth noting are the observations made by Bond (2005), that the governance and institutional power structure of the TNF are heavily tilted in favour of the

government, with other social partners feeling "crowded out" and disempowered. Gutu, (2016) argues that,

> …even though the Founding Principles of the TNF purport to establish the forum on the basis of tripartism, the TNF stands out more visibly as a platform through that (which) government seeks legitimation of its work programme by business and labour, particularly in the area of labour administration.

This implies that the TNF is, by and large, regarded as an instrument in the hands of government to which other parties respond when so called upon. Apart from participating in the specific meetings of the TNF, there is currently no other role appropriated to social partners to enable them to claim ownership of the dialogue process. It can be noted that this situation has conspired to isolate the social partners from the TNF process.

In terms of social dialogue and tripartism, many African countries, such as Zimbabwe, are facing challenges in institutionalising and funding social dialogue, while some governments are lacking the political will to utilise social dialogue and consult social partners (ILO, 2015). A member of the ILO Decent Work Team in Pretoria, South Africa, Ms. Hopolang Phororo, the ILO Country Director for Zimbabwe and Namibia implored Zimbabweans:

> Our hope now is that social dialogue will be given a sincere chance, strengthening the democratic space for social dialogue giving everybody a voice in shaping the changes underway and the quality of their working lives. More importantly, the future success of tripartism is in mutual trust between the parties involved. The next 100 years are like a blank page that affords us a chance to collectively write a good story that is worth reading and to do so, we must have a common vision (ILO, 2019).

The opinion was echoed as a recommendation in view of social dialogue and tripartism in a turbulent business context in Zimbabwe.

Despite being modest and measured, Zimbabwe's efforts to institutionalise social discourse appear to be making progress because there are so many successful precedents in Africa that may be studied (ILO, 2023). However, from a documentary review, it can be gleaned that the institutionalisation of social dialogue platforms in Zimbabwe has not

been followed by an amicable resolution of the plight of workers amid the turbulent socio-economic milieu. This takes place despite having the regional frameworks like the SADC Regional Indicative Strategic Development Programme (RISDP) which aims at eradicating poverty and attaining economic and non-economic development. This will be more ideal in addressing the social crisis of labour inequality that usually prevails under a turbulent business context.

Workers ought to have a decent living, despite the surge in inflation and the tense political context. Meaningful social dialogue has not been forthcoming due to multiple competing debacles that have relentlessly affected the performance of the actors for effective labour governance. The impact of worker's and employers' representatives has not been felt due to the use of force or violence in determining the terms and conditions of work in the turbulent business context. Means to engage the government as the employer, through the PSC, of public service workers have not been fruitful to consider the plight of the employees against the pressing socio-economic challenges. This portrays the TNF as having performed dismally in improving the harmonious relationships between employers and employees through the social dialogue process.

CONSTITUTION OF ZIMBABWE AMENDMENT 20 ACT 2013

Zimbabwe has numerous legal frameworks that seek to promote social dialogue in the country. The government has adopted and incorporated the principles of social dialogue and tripartism into the supreme law of the country, the Constitution of Zimbabwe (Amendment Act, 2013). The Constitution provides in section 58 for Freedom of Assembly and Association as it states that, "*Every person has the right to freedom of assembly and association, and the right not to assemble or associate with others*". This provision empowers and encourages every employee/employer to form, or be part of, a trade union or employer organisation, respectively, since the two are the locomotives for social dialogue and tripartism. This framework is in consonance with regional frameworks like the SADC Regional Indicative Strategic Development Pogramme (RISDP) document, which emphasises the need for frameworks

and platforms by national governments to address the unceasing labour disputes in their countries.

In addition, Section 65 of the Constitution further provides for other labour rights that can be referred to as the foundation of social dialogue and tripartism in Zimbabwe. Specifically, section 65(2) provides that, "......*every person has the right to form and join trade unions and employee or employers' organisations of their choice and to participate in the lawful activities of those unions and organisations*". In this regard, 'lawful activities' referred to in the above section can be interpreted to mean all forms of negotiation, consultation or simply the exchange of information between representatives of government, employers and workers on issues of common interest relating to economic and social policy, that culminate to social dialogue. Codification of the right to negotiate and bargain for employment relations reflects good labour governance, which ought to encourage good governance in labour.

THE EFFECT OF THE POLITICAL TURBULENCE ON THE TNF IN ZIMBABWE

Despite the availability of the legal frameworks that provide for a social dialogue platform in the country, the TNF has remained a 'talk show' without providing effective mechanisms to address the plight of employees and employers, thereby strengthening the effectiveness of the TNF. It has been observed that Zimbabwe has been and still facing multiple crises: unemployment, currency instability, rising inflation, fuel shortages widespread labour unrest, and increasing poverty against a backdrop of a shrinking economy (Thauzen and Mude, 2019; Nyikadzino, 2019).

It is worth noting that the effects of politics on labour come into play given that some political opposition parties are labour backed. They are aspiring to form a government; they are conflicted in their engagement with government to resolve economic problems. Political cleavage causes mistrust and bickering. The need for an effective social dialogue has been accompanied by intensified political instability, heightening the economic woes that have been felt in the country (Mugove 2019; Thauzen and Mude, 2019; Ncube, 2020). This seems to indicate that while social

dialogue is intended to bring long-lasting peace to the country, it has been rocked by a myriad of political vagaries that have continued to destabilise the social dialogue front.

There is no trust between employers and employees to bargain in good faith and ensure that all parties benefit from the bargaining systems. Government views its employee representatives as regime change agents. To this end, representatives of employees have suffered the full wrath of the government security measures as they are presumed to be spearheading regime change motives. Typical examples are the January 2019 protests, where employees took it to the streets as an expression of their dissatisfaction with the outcomes of the TNF, the 2020 strikes by nurses and doctors and the 2022 strike by the health workers when all security forces came in to quell the protests, claiming that they were politically motivated. The pluralist theoretical framework underpins that there are unceasing conflicts between labour and capital in that they constantly fight to dominate each other, when there are chances for dialogue and reconciliation with each other. The only way to address the impasse between labour and capital could be to engage each other to address the plights of both labour and capital through a functional TNF.

THE EFFECTS OF THE ECONOMIC TURBULENCE ON THE SOCIAL DIALOGUE

Equally devastating is the economic milieu that has so far witnessed surging inflation that has reached approximately 257%, one of the highest across the globe (ILO, 2019, 2020; Oesch and Vinga, 2022). In May 2022, the annual inflation spiked back to triple digits an in December 2022, it reached 244%. However, fiscal policy initiatives and monetary tightening, including steep increases in interest rates, reduced inflation to 230% in January 2023 (World Bank, 2023). This inflationary situation crippled the employers' capacity to pay employees decent wages to foot the cost of living. Most interestingly, the economic turbulence affects both parties in meeting the needs and expectations of each other in the employment relationship. Thus, an impasse between labour and capital that can be addressed only through a special dialogue process, arises. Regardless of the recognition of the role of the social dialogue in responding to this economic turbulence, evidence on the ground shows that the TNF has not been an effective model to amicably address the concerns of employers and employees. For instance, the government has been at loggerheads

with the civil service unions as restive state workers demand their salaries in United States dollars owing to the collapse of the local currency and the soaring inflation (Chibamu, 2022; Vinga, 2022). In July 2022, the government managed to cushion public sector employees with a 100% local currency increment as a response to the demands of state workers for them to make ends meet. However, it is important to note that the major concern of the public sector workers was to get their salaries in United States dollars so that they can hedge the cost of living against the rising inflation. This shows that the TNF has not been able to respond effectively to the needs of employees for a healthy social dialogue in the country.

It is important that tripartism involves the government, organised labour's and employers' organisations. Among the three, it appears as if workers are the weakest party that depends on social dialogue and tripartism for achieving labour rights. In that regard, the Labour Act (28:01) provides for the fundamental rights of employees, expanding them from the Constitution. Thus, the Labour Act (28:01) provides. in section 4, for the employee's entitlement to membership in trade unions and workers committee. These are the platforms that can be referred to as the voice of the voiceless workers as far as social dialogue and tripartism are concerned. In addition, the Act also provides for the protection of employees' right to democracy and fair labour standards. One cannot, however, ignore the fact that the Labour Act (28:01), as amended by the Labour Amendment Act, No.11, 2023, also provides and protects the rights of employers to ensure equality between the two.

Furthermore, the law allows for the formation of trade unions, workers committees and works councils to deal and address issues not limited to the following: to represent employees concerned in any matter affecting their rights and interests; to negotiate with employers concerned, a collective bargaining agreement relating to the terms and conditions of employment of employees concerned; and to recommend collective job action to the party concerned. This mechanism of incorporation was invoked in a bid to manoeuvre through the turbulent environment in the world of work. The political context in Zimbabwe has not been enabling enough to facilitate the effectiveness of social dialogue in Zimbabwe (Accord 2019; Nyikadzino, 2019; ZIMCODD, 2020). The government, arguably the largest employer in the country, has been having challenges dealing with its restive workers in the public sector due to the uncertain political context, coupled with the economic decline (Nyikadzino, 2019).

Public sector workers have been calling for sustainable dialogue with the government to address the ever-ceasing economic decline negatively impacting their disposal income. However, the government, as the employer under the TNF, has not been accommodative to the demands of the employees as expected. Consequently, public sector workers have declared incapacitation and called for strikes in a bid to force their employer to take heed of its demands. Nevertheless, the government has since responded with a heavy hand, politicising the plight of employees. To this end, the government has been seen using force to silence the employees. A typical example is the bloody 2019 January protests when the military was deployed to quell the striking workers. A general impression from the Zimbabwean experience is that the current context of the Zimbabwean labour system has not been conducive to promoting the effectiveness of social dialogue in Zimbabwe.

THE WAY FORWARD FOR ZIMBABWE

There is need for an independent commission to facilitate social dialogue. This comes from the standpoint that despite the legal and institutional architecture for social dialogue in Zimbabwe, the government that happens to be the employer of public sector workers, seems to be more controlling of the other social dialogue partners. It is the view of this article that Ministry of Public Service, Labour and Social Welfare, which chairs the TNF, undermines the neutrality of bargaining decisions. The independent commission can help to ensure a level playfield for all the social dialogue partners to make sure that there is a harmonious relationship between employers and employees on terms and conditions of work under the turbulent business context. The country should take lessons from the NEDLAC Commission in South Africa which managed to negotiate a national minimum wage in South Africa in 2017 to ensure that there is common ground in the payment of the employees under turbulent times.

There is need for sufficient provisions in the legal frameworks to support effective equal participation of the TNF members. The findings suggest that the legal frameworks are not sufficient to ensure that all the players under the TNF are equally participating at the negotiating table.

The study recommends that TNF leaders must have the will to give a voice to the other partners in the TNF so that there are mutually agreed decisions in the regulation of the terms and conditions of employment. Social dialogue works effectively when all the partners in the TNF have a voice in the outcomes of the bargaining systems. As it stands, the government, as the regulator for public service negotiations, appears to be more powerful than the other partners in determining the course of the bargaining process. The TNF has remained symbolic, without any meaningful achievements of the purpose of its creation.

The study further recommends that the social dialogue partners must bargain in good faith. Bargaining in good faith implies that the government, as the regulator and employer, gives the other social partners space to air out their concerns without fear and the employers should be able to adhere to the promises they make to the employees at any TNF. Organised labour should not threaten to withdraw its labour as obtaining at the moment. This will give confidence and trust to the TNF partners and strengthen tripartism in the country. This can be the same as the situation in Chad where the National Commission for Social Dialogue in 2017 reached an agreement to end the protracted three-month strike in the country. This shows that when partners in collective bargaining system come in good faith, there is likely to be the ability of the members to address the concerns of both parties fairly.

CONCLUSION

This study provided insights into the findings of the research concerning social dialogue, its platforms, challenges and effectiveness of social dialogue and mechanisms adopted to strengthen social dialogue. By and large, it should be noted that there is a general application of the principle of social dialogue in Zimbabwe at company, sectorial and national levels. Overall observations made by the research point to an environment that is not supportive of social dialogue, especially in Zimbabwe. It can be deduced from the views of various scholars and social partners interviewed, that social dialogue has not been effective in addressing the socio-economic and political problems in Zimbabwe. The article also addresses various social dialogue experiences of other African

countries and it has been noted that social dialogue has somehow been effective in addressing socio-economic and political problems. It should, therefore, be given a chance in turbulent business environments.

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"How Dare You Take Us Out of the Land of Our Ancestry?" Perspectives on Human Rights and Novel Land Invasions and Evictions in Zimbabwe

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Abstract

This article examines the laws relating to access to communal land and their effectiveness in protecting the villagers from arbitrary evictions for development purposes. These laws are further discussed in the context of specific examples where evictions that resulted in the displacement of people from their ancestral lands took place. ARDA Transau where local inhabitants were displaced to make way for diamond mining in Chiadzwa, and Mutoko where two wards were abandoned as a result of blasting during extraction of black granite are used as good examples. A discussion of these examples shows that the villagers did not only lose their land but also their ancestral connections and historically formed family ties. The compensation and the required notices were insignificant and were not in line with relevant international and domestic laws that govern evictions and displacements in Zimbabwe. These include the Constitution of Zimbabwe that requires that in evictions of that nature, the acquiring authority must give adequate notices and compensation. Instead of benefiting from the resources that naturally accrues to them, the villagers slipped into extreme poverty. In addition, rural district councils did not benefit meaningfully from the extraction of such minerals. On the other hand, the mining companies became beneficiaries and were substantially enriched.

Keywords: Chiadzwa, villagers, mining companies, land rights, ancestral land

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INTRODUCTION

Land rights constitute property rights that are vital to the African society (Tsabora, 2016). In Nhamo and Katsamudanga's view (2016), human beings are connected to a certain place and land is the cosmological glue that holds the world together. They further opine that the occupation of a commercial farm by the people of Svosve in 1999 was largely driven by a desire to reclaim their ancestral land from colonisers (*ibid.*). Thus, a link between the right to a given piece of land and the local communities' cultural rights is established. This article discusses this link and examines various land rights that are accorded to the indigenous people of Zimbabwe. The constitutional rights to land are discussed in order to assess the extent to which they protect local communities against land invasions and arbitrary evictions in Zimbabwe. Apart from the constitution, there are other pieces of legislation that govern land rights in Zimbabwe with a focus on communal land rights such as the Traditional Leaders Act [Chapter 29: 17], Communal Lands Act [20:04] , Mines and Minerals Act [21:05] and the Environmental Management Act [Chapter 20:27]. The analysis of this legal framework is followed by a detailed analysis of selected examples of land dispossessions in Zimbabwe that were carried out for developmental purposes and how they have impacted on certain economic and socio-cultural rights of the local inhabitants. Particular reference is made to the ARDA Transau where local inhabitants were displaced to make way for diamond mining in Chiadzwa, and Mutoko where two wards were abandoned as a result of blasting during extraction of black granite are used as good examples.

THE LEGAL FRAMEWORK

As highlighted in the introduction, it is instructive to discuss the legal framework on land rights in Zimbabwe. Relevant provisions on cultural rights and their link to land rights are also discussed in this part. Before delving into the legal framework in Zimbabwe, it is insightful to explore the United Nations principles and guidelines on the displacements and evictions that are a result of development initiatives. This is done in order to test the legal framework in Zimbabwe against international best norms and how they have also been observed in practice.

United Nations Basic Principles and Guidelines on Development Based Evictions and Displacement.

To start with, whenever people are displaced for the purposes of development, the displacement must occur in a way that does not violate the human rights of the affected people and the resettlement must be in accordance with the international human rights law. Zimbabwe is a member of the United Nations and whatever development-based evictions that may occur should follow the guidelines that are set by the United Nations Basic Principles and Guidelines on Development-based Evictions (UN principles). They provide that where there is need to carry out evictions, the acquiring authority must demonstrate that the evictions are unavoidable (Art. 40). The affected villagers must be given a notice written in the local language sufficiently in advance (Art. 41). The resettled villagers must be adequately compensated including compensation for non-monetary loss. Compensation must be done immediately after the evictions and their livelihoods should not compromised. When compensating, women should not be made to benefit through their husbands or male relatives. Married men and women should be made co-beneficiaries of all compensation packages while unmarried women should be entitled to their own packages. The evictions should be carried out in a manner that is procedurally correct and the dignity of the people must be ensured. Use of force must be avoided as much as possible but where it is used, it must be legal and should respect the principles of proportionality and necessity (Art. 48). What comes out from the UN principles is that all the fundamental rights of the people to be evicted should be respected including those of the weaker groups in the society like women. Every form of compensation should be adequate and prompt. The scope for such compensation is also wide to include non-monetary loss.

The Constitution Of Zimbabwe

Zimbabwe follows the principle of constitutional supremacy in that the constitution is the supreme law of the land and any law, practice, custom and conduct that is inconsistent with the constitution is invalid to the extent of the inconsistency (Constitution of Zimbabwe, s 2). The constitution has national objectives that are designed to guide the State

and all relevant institutions in coming up with laws and policies that establish, enhance and promote a sustainable, just, free a democratic society in which people enjoy prosperous, happy and fulfilling lives (Constitution of Zimbabwe, s 8). One of such national objectives is the promotion and preservation of cultural values and practices that enhance the dignity, well-being and equality of Zimbabweans (Constitution of Zimbabwe, s 16). The preservation of cultural heritage and values is also part of the constitutional functions of traditional leaders in their respective areas of jurisdiction (Constitution of Zimbabwe, s 282). These provisions entail that the preservation of cultural rights lies at the centre of a democratic and free society that promotes and observes human rights. Of importance is the Declaration of Rights in the constitution that also binds the State and private persons (Constitution of Zimbabwe, s 45). In addition, natural and juristic persons are entitled to enjoy the rights and freedoms that are set out under the Declaration of Rights. It applies to the State and private persons that fortifies the vertical and horizontal application of its provisions (*ibid*.). Thus, it becomes necessary to discuss those rights and freedoms that are relevant to land and economic and socio-cultural rights. To begin with, section 51 of the Constitution of Zimbabwe recognises every person's right to dignity in his or her private or public life. As indicated earlier on, the preservation of cultural rights and practices is one of the key indicators for upholding the dignity of the relevant communities. This may include the preservation of land that is regarded as sacred by a given community. Related to the preservation of human dignity is the freedom of every person from torture, cruel, inhuman or degrading treatment or punishment (Constitution of Zimbabwe, s 53). It is submitted that an unjustified eviction from one's ancestral land may amount to inhuman and degrading treatment. Another important right is the right of every person to administrative conduct that is lawful, prompt, efficient, reasonable, proportionate, and impartial both substantively and procedurally fair (Constitution of Zimbabwe, s 68). The effect of this provision is that any decision to relocate people from their ancestral land must not only be reasonable, but it must also be substantively and procedurally fair considering those people's right to preserve their cultural values and heritage.

The right to property is well recognised under the Declaration of Rights (Constitution of Zimbabwe, s 71). It is a substantive constitutional property clause that contains general provisions on property rights, their protection and the framework for their deprivation (Tsabora 2016). No person should be deprived of his or her right to property unless the deprivation passes the constitutional procedure that is set out under section 71 that include the fact that such deprivation must be in terms of a law of general application, necessary, give reasonable notice of the intended deprivation and provide for fair and adequate compensation. However, the challenge is that the constitution does not define what constitutes adequate compensation and more often, victims of development-based evictions are usually poorly compensated, if at all. In addition, the aggrieved party should have the right to challenge the proposed deprivation or the adequacy of compensation (*ibid*.). Thus, apart from the substantive aspects of property rights, section 71 of the constitution provides for the procedures to be followed before one can be deprived of his land. Such provision goes a long way in respecting due process and compliance with human rights (Tsabora 2016). Ultimately, section 71 of the Constitution of Zimbabwe has a dual function that recognises and protects private property rights on one hand while affirming the power of the State to subject private property to compulsory deprivation for public benefit on the other hand (*ibid*.). Hence, there is a clear constitutional framework for the protection of the right to property that is a panacea for the preservation of cultural values in those areas where communities reside.

It is also necessary to briefly consider the general limitation clause in the constitution that allows for the limitation of rights provided it is done in terms of a law of general application and the limitation is fair, reasonable, necessary and justifiable in a democratic society based on openness, justice, human dignity, equality and freedom (Constitution of Zimbabwe, s 86). The constitution proceeds to outline factors that can be considered in determining whether any given law of general application can pass the constitutional limitation test. These include the nature of the right or freedom concerned; the purpose of the limitation; the nature and extent of the limitation; the need to preserve the rights of others;

the relationship between the limitation and its purpose and whether there are lesser restrictive means of achieving the purpose of the limitation (*ibid*.). In *Majome v ZBC and Others* CCZ-14-16, the Constitutional Court held that "to argue that only 'law of general application' may justify the impairment of a fundamental right means that conduct-public or private that limits a fundamental right but that is not sourced in a law of general application cannot be justified." The "law" requirement refers to legislation, common law and customary law but excludes a mere policy or practice by government or its organs (Mavedzenge and Coltart 2014). The "general application" requirement means that, in its form, the law must be sufficiently clear, accessible and precise to the extent that those who are affected by it can fully understand their rights and obligations (*ibid*.). Therefore, the scope for limiting the right of any given community to preserve its cultural rights is largely curtailed by the constitutional limitation clause through the provision of safeguards against abuse. It is also important to note that rights may also be limited during public emergency (Constitution of Zimbabwe, s 87). However, such a limitation is not vital to this research because it is rare to find dispossession of ancestral land that is purely driven by public emergency.

COMMUNAL LAND ACT

Having explored the constitutional provisions, it is vital to discuss legislation that directly affect communities who stay in communal lands that they have occupied for centuries. In addition, about seventy percent's population in Zimbabwe resides in communal areas (Zimfact 2018). It becomes justified to discuss the legal framework governing such areas. All communal land is vested in the president who should allow the local communities to occupy and use it in accordance with the Communal Land Act (s 4). This tenure system creates its own problems because the State can interfere with such use and occupation at any time, thus, depriving local communities of their ancestral land. Furthermore, the president has the power, after consulting rural district council concerned, to declare by statutory instrument that any part of communal land ceases to be such and becomes part of state land (Communal Land Act, s 6). This comes from the fact that the president owns all communal land. However, it flies in the face of section 71 of the Constitution of Zimbabwe that requires the acquiring authority to give reasonable notice

coupled with the right of an aggrieved party to challenge the decision to acquire his or her property. This provision assists communities in challenging the decision of the president on the basis that they intend to protect their cultural values that are entrenched in that community.

Apart from the constitution, the Communal Land Act itself recognises the importance of customary law by providing that rural district councils should consider customary law relating to the allocation, occupation and use of land when granting permission to use communal land for agricultural and residential purposes (Communal Land Act, s 8). In addition, the rural district council concerned should consult and cooperate with the chief appointed for that area (*ibid.*). Thus, it can be argued that a rural district council should consider representations on certain cultural values by local communities before a decision is made on the use of a particular piece of land.

Another problematic provision is section 10 of the Communal Land Act that grants the responsible Minister, in consultation with the local rural district council, the power to set aside any given area of communal land in the interests of local inhabitants, public interest or the development of communal land generally. There is no provision for consulting traditional leaders who are required by the constitution to preserve cultural values. Moreover, the local community is not given a chance to be notified and oppose the setting aside of their ancestral land for other purposes that is contrary to section 71 of the Constitution of Zimbabwe. It is submitted that it is difficult to determine the issues of 'development' and 'public interest' without considering representations by local communities. Although section 12 of the Communal Land Act attempts to provide for alternative land or compensation for land dispossessions in terms of sections 6 and 10 that have already been considered, it can be argued that it is still non-compliant with the constitution in the absence of due process for the dispossession of the land from the onset. Some inhabitants may not need compensation or alternative land due to the desire to preserve their cultural values and they must be given an opportunity to defend themselves before the decision to take away their land is implemented.

TRADITIONAL LEADERS ACT

The Traditional Leaders Act is the principal legislation that defines the role of traditional leaders that originate from the Constitution of

Zimbabwe. They have a duty to promote and uphold the cultural values among members of the communities under their jurisdiction (Traditional Leaders Act, s 5). This provision reiterates traditional leaders' constitutional function that has been already discussed. It follows that traditional leaders should always be consulted on any decision to alienate any piece of land as they are the custodians of cultural values in their areas, and they know the importance of certain cultural sites in those areas.

In addition, traditional leaders have a duty to ensure that communal land is allocated in terms of Part 3 of the Communal Land Act (*ibid.*). Part 3 of the Communal Land Act that has already been discussed above includes land allocations by rural district councils in consultation with traditional leaders for the area concerned and the setting aside of land in the public interest or for developmental purposes by the responsible minister. On the other hand, the Traditional Leaders Act empowers a chief to approve the settlement of any new settler in his area with the advice of the relevant headman (Traditional Leaders Act, s 5). It is submitted that the Communal Land Act does not seem to give traditional leaders a leading role like what the Traditional Leaders Act does and this can be a source of conflict. This explains why it has been opined that the legal regime around communal land management creates a high degree of ambiguity and potential for overlap of roles between traditional and State institutions (Chigwata 2016). The potential conflict is inimical to the quest by traditional leaders to preserve certain cultural values in their areas of jurisdiction as there exist other competent powers who can make conflicting decisions on how land should be allocated and used.

MINES AND MINERALS ACT

The Mines and Minerals Act is another contentious piece of legislation when it comes to the dispossession of local communities from their ancestral land and sacred sites. To start with, communal land, just like State land, is open to prospecting (Mines and Mineral Act, s 26). A person who is given a prospecting licence can search for any minerals, mineral oils and natural gases from that land that is open to prospecting (Mines and Minerals Act, s 27). The same applies with mining rights after

registration of a mine. The miner retains superior rights with the landowner only retaining the right to graze or cultivate the surface of the mine to the extent that such activities do not interfere with mining activities (Mines and Minerals Act, s 179). Searching for minerals or mining may include digging and land clearance that directly interferes with sacred sides and graves for the local communities. The land occupiers are only given limited rights like the requirement that no prospecting should take place near homesteads (Mines and Minerals Act, s 31). Outside those limited rights, the consent of local inhabitants is not required if one intends to prospect or mine in that area. The notice of intention to prospect is only given to the relevant rural district council but not the chief or local inhabitants (Mines and Minerals Act, s 38). These provisions are against other laws starting with the Constitution, Traditional Leaders Act and Communal Land Act, that recognise the role of traditional leaders in one way or the other. In addition, and as highlighted before, the due process that is prescribed by the constitution should be followed.

The law favours the miner ahead of the landowner. It explains why it has been suggested that greater protection should be given to these local inhabitants by providing for a share in profits from minerals that are extracted from their land (Veritas 2021). Alternatively, there must be adequate compensation for leaving the land where the local inhabitants' family graves are or where they have carried out farming activities for generations (*ibid*.).

ENVIRONMENTAL MANAGEMENT ACT [CHAPTER 20:27]
The Environmental Management [Act Chapter 20:27] is a piece of legislation that was enacted to regulate sustainable management of natural resources, prevention of pollution and environmental degradation among other aspects of the environment. Section 9 establishes Environmental Management Agency, a body corporate that is responsible for implementation of its duties outlined in Section 10 of the Act. Among other things, the agency is responsible for making environmental impact assessments, audits and monitoring of projects. Where there is non-compliance with the law, the agency can order the offending party to

comply or order closure of the project until there is compliance. Section 110(1) of the Act empowers the president to set aside any communal land for conservation or improvement of natural resources or protection of irrigation works or sources of water supply. The Minister responsible for the implementation of the Communal Lands Act is only required to make a provision of land elsewhere for the villagers affected by the setting aside. If properly implemented, the Environmental Management Act has the potential to make the affected villagers benefit from the exploitation of resources in their ancestral lands or at least be protected from the resultant potential harm. However, Kativu and Oskarsson (2021) point out that the agency is incapacitated to execute its mandate. It is not adequately resourced to monitor activities that affect the environment. In addition to that, the agency has been implicated in fraudulent production of fake environmental impact assessment reports. This has the effect of violating the rights of people particularly in mining areas and other extractive industries.

SELECTED CASE STUDIES

Having outlined the Zimbabwean legal framework that is meant to protect and promote the rights of the people to land, including ancestral land in Zimbabwe, this section examines its adequacy in protecting the human rights of the affected people in specific cases that took place in Zimbabwe. Two mass evictions that fall in the category of development-based evictions, that is, Chiadzwa Diamond fields and the black granite mining in Mutoko district are used as case examples.

The justification for Chiadzwa evictions were that the villagers and the artisanal miners presented a risk against smooth mining activities by multi-national companies for the common public good. Gukurume (2020) discloses that removal of the villagers from Chiadzwa diamond fields was violent. The armed security forces used guns to shoot at villagers and police dogs were used to track and, in some cases, scare the villagers into submission. The villagers who attempted to resist the evictions became victims of state security brutality (Gukurume 2020). Kusena (2015) reports that more than two hundred people lost their lives due to state security brutality during this period. He gives an example of one

Tsorosai Kusena who was killed by a police officer and the matter was successfully prosecuted and the offender was sentenced to eighteen years imprisonment (See *Joseph Chani v State* SC-43-2017). This severely impaired the right of the villagers to life and security. The people were left with no choice but to comply. On the other hand, in Mutoko, blasting made it practically impossible for the villagers to continue staying in their ancestral land even if they desired to do so (Kativu and Oskarsson 2021).

Evictions of the people from Chiadzwa and Mutoko are among many examples of evictions that were conducted under the pretext of serving a common public good in Zimbabwe. Large numbers of people were evicted from their ancestral land to pave way for diamond mining in Chiadzwa and black granite extraction in Mutoko. A wide range of rights of the people were violated in the process (Gukurume, 2020). The State is duty bound to ensure that its citizens enjoy the right to be protected from forced evictions from the lands and homes that they occupy. They should only occur where it is demonstrated that they are unavoidable. The protection of the enjoyment of this right is inextricably linked to the protection of a plethora of other rights such as freedom from inhuman and degrading treatment, right to healthcare, right to education and the right to shelter as enshrined in the Declaration of Rights of the Constitution of Zimbabwe. As highlighted above, communal land in Zimbabwe vests in the President. This law is one of the colonial pieces of legislation that are still applicable in Zimbabwe and was used to dispossess the indigenous people of their ancestral land during the colonial era. Thus, occupants of rural land do not have a legally secure land tenure. They make use of the communal land at the pleasure of the president. In addition to this piece of legislation, there is also another colonial tool, the Mines and Minerals Act that gives priority to mining activities over any other land use wherever the minerals are found in Zimbabwe, including farming and communal lands. This means that villagers can be easily removed from their ancestral land to pave way for mining activities or any other land use that the president deems fit like what happened in Chiadzwa.

Diamonds in Chiadzwa were first discovered during the colonial period but that discovery was only made public in 2006 and the Government of Zimbabwe declared Chiadzwa and Marange state protected zones (Gukurume, 2020). This meant that occupants of these rural communities were supposed to be moved away from the diamond-rich fields. Development-based evictions must be carried out in line with UN principles on developed-based evictions and displacement as discussed above. One major requirement in such evictions is that adequate notice to the affected communities must be given. Section 71 of the Constitution of Zimbabwe requires that the acquiring authority must give reasonable notice of the intention to make the acquisition to everyone whose rights or interests may be affected by the acquisition. In the case of Chiadzwa villagers, there was no adequate notice given neither was the notice reasonable given that they were, according to Madebwe *et al.* (2011), given a month's notice before they were evicted from their ancestral land. The first relocation occurred at the onset of a harsh winter season in the midst of crop harvesting. Some people were relocated before they finished harvesting their crops (*ibid.*). This negatively impacted on their right to food security as there was no room for them to finish crop harvesting.

Mudebwe *et al.* (2011) further highlight that the Chiadzwa diamond fields covers an area of 66 640 hectares. The people who occupied this vast piece of land were removed from their ancestral land to pave way for diamond mining by both local and foreign companies. They were relocated to ARDA Transau Farm that measures 12 000 hectares (Gukurume, 2020). This is more than five times smaller than their ancestral land that they were dispossessed of even though the soils at ARDA Transau were better than those at Chiadzwa. Gukurume (*ibid.*) estimates the number of families who were affected by this eviction to be 1700 and were settled at a farm that was already occupied by other 92 families. The UN principles require that where people are dispossessed of land, they should be compensated with land commensurate in quality, size and value or better. It is submitted that the people of Chiadzwa suffered an injustice in that regard and given that the people occupying rural land do so at the pleasure of the president in terms of the

Communal Lands Act, they had no adequate remedies except to accept relocation to ARDA Transau.

Section 63(b) of the Constitution of Zimbabwe guarantees the right to culture. Land is a rallying point for all cultural activities in the lives of black Zimbabweans. The people have deep spiritual and emotional attachment to their ancestral land. They are connected to their ancestral lands through *rukuvhute,* ancestral graves and family shrines. Removal of the villagers from their ancestral land meant that the people also lost their connection to their ancestors, family structures, kinship ties, livelihoods, historically constructed social relations and a sense of identity. No monetary value can compensate the villagers for this kind of loss. This brings in the question of adequate compensation whenever villagers face eviction for developmental purposes. As already highlighted, section 71 of the Constitution of Zimbabwe provides that the acquiring authority must compensate the affected people adequately before acquisition or within a reasonable time after acquisition. It is not clear from the constitution itself as to what constitutes 'adequate compensation' or 'reasonable time'. In the Chiadzwa case, no proper human rights impact assessment and valuation of individual properties was made before the Ministry of Mines and the mining companies settled for one thousand five hundred United States dollars for each family as compensation for the developments on the land (Gukurume, 2020). As for the affected villagers in Mutoko, particularly those in ward five and ward ten that were the most affected wards, they were only given three hundred and twenty dollars as compensation (Kativu and Oskarsson 2021). On the other hand, the Mutoko villager's losses cannot be quantified since they are ongoing. Kativu and Oskarsson (2021) states that whole villages abandoned their homesteads due to the impact of blasting during the extraction of the black granite. Dwelling places within five kilometres radius from any blasting points were the most affected. The buildings cracked due to shaking during the blasting period, fields were damaged as well as the household utensils. Thus, they would have to repeatedly invest in the same items. Therefore, it was impossible to assess the loss and compensate them adequately in those circumstances.

Companies such as Mbada Diamonds, Anjin Investments, Marange Resources and Diamond Mining Company that were authorised to mine diamonds in Chiadzwa were duty bound to build houses, provide monthly food handouts until the villagers were food secure and set up irrigation facilities for the displaced villagers in Arda Transau (Kusena, 2015). This corporate responsibility was not done with diligence. Of importance to note is that among the relocated villagers were the people of Johane Marange Apostolic sect from Nechirasika Village in Chiadzwa whose religious beliefs requires that they marry more than one wife. Some of them had more than ten wives. The circumstances of the cases required that each wife and her children get their own housing unit. This was resisted by the companies that were supposed to provide accommodation (Kusena, 2015). Allocation of resources was blind to this necessity. Patriarchy reduced the affected women to perpetual minors who were made to access land and accommodation through their fathers or husbands. This phenomenon continued despite the existence of equality between men and women guaranteed by Section 56 of the Constitution of Zimbabwe. The result was that several co-wives were made to share a house, in complete disregard of issues to do with decency and avoidance of disputes among the family members (*ibid.*).

Most promises of community development remained unfulfilled. Kativu and Oskarsson (2021) states that the level of poverty and marginalisation increased as a result of mining activities in Mutoko. The expectation was that youths in the affected areas would get employment and there would be development of infrastructure. However, in Mutoko, the major benefits that were recorded were the construction of a community hall, a classroom block and a signpost made of black granite at Nyamakope bus terminus (Kativu and Oskarsson, 2021). According to Kusena (2015) villagers did not benefit much from the diamond extraction in Chiadzwa. Chinese companies brought their own labour from their countries of origin leaving very few opportunities for the local youths who had the legitimate expectation to get employment in companies operating in their ancestral land. In 2012 the Marange-Zimunya Community Share Ownership Trust did not create the expected opportunities for the villagers. The original purpose of the Community Share Ownership Trust

was to receive money from the companies operating in Chiadzwa that would be used as loans for income generating projects to benefit the local villagers. The original target was to gather as much as $50 million United States dollars. However, this was a gigantic failure since the Trust only managed to collect about US$44000 by 2015 and the whole programme was eventually abandoned. Mudebwe *et al*. *(*2011) point out that as at 2011, no schools were built by the mining companies in Chiadzwa. They merely refurbished the existing school at a sum of $58 000 United States dollars and children had to travel as far as eight kilometres to the nearest school.

The extraction of black granite in Mutoko did not transform the fortunes of the district neither did it give any direct benefits to the villagers. Like in Chiadzwa, there was a mismatch between what the companies got from the mining activities and what they transferred to the communities in Mutoko. The legitimate expectation was that after the villagers were removed from their ancestral land due to developmental needs, whatever benefits that came therefrom, the villagers must benefit first. That was not the case. Youths were employed as manual labourers without any employment contracts. The working conditions were so poor that they were made to work for twelve hours per day and paid for eight hours per day (Kativu and Oskarsson, 2021). They further highlight that there was not even a room for them to enforce their labour rights. Any complaints led to dismissal. In addition to the signpost, a classroom block and community hall were constructed by the mining companies as part of their social responsibilities. Kativu and Oskarsson (2021) further point out that food handouts during national celebrations and funeral assistance are the major benefits obtained by the villagers in Mutoko. Before they were removed from their ancestral land to pave way for black granite extraction, the villagers were able to produce enough food to cater for themselves without having to rely on food handouts during funerals or any other traditional gatherings. This is a clear indicator that their livelihoods were negatively affected by the extraction of black granite. It is submitted that the mining companies reduced the affected villagers to beggars, and this may be regarded as a modern-day form of colonialism.

A money trail of the black granite used for the construction of the Danish Royal library extracted in Mutoko revealed shocking findings. One of the major findings that is of concern is that Mutoko Rural District Council was paid less than one United States dollar in taxes for every tonne of black granite extracted therefrom and the council received less than $45 000 United States dollars in taxes in total (*ibid*.). On the other hand, the supplier who supplied that same but polished black granite to the Danish Royal library got a total of $9.12 million United States dollars (Boroma, 2019). This was a monumental violation the villagers' rights to benefit from the resources that naturally accrued to them. Mutisi (2011) reported that in 2009, a mining company that was supposed to pay more than 12 million United States dollars in taxes ended up paying only $18 400 United States dollars to the district council and this payment occurred after a long legal battle.

The mining activities in both Chiadzwa diamond fields and Mutoko black granite mines has caused environmental harm. Section 73 of the Constitution of Zimbabwe guarantees the right to an environment that is not harmful to health and wellbeing of the inhabitants and other creatures. The Environmental Management Act prohibits water pollution and littering among other environmentally harmful activities. The rubble from mining activities in Chiadzwa were first washed before processing was done. The dirty water was then dumped in Save and Odzi rivers. This adversely affected both human and animal population down streams. Kusena (2015) reported that there were new types of infections among the people that were directly linked to mining activities in Chiadzwa.

CONCLUSON

From the discussion above, Zimbabwe have laws that are meant to protect the rights of its citizens from arbitrary evictions from their ancestral lands for developmental purposes. However, as demonstrated in this article, some of the laws were inherited from the colonial period and were used as colonial tools to compulsorily acquire land and minerals from the indigenous people and so they were never meant to protect the interests of the majority of the black people who largely occupy communal lands. Section 71 of the Constitution of Zimbabwe protects the

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right to property. Any form of acquisition to be made must be done in terms of the law. The acquiring authority must give reasonable notice and fair and adequate compensation to the people affected by the acquisition. However, there is still need to make the land tenure for people who occupy rural land in terms of the Communal Lands Act secure. Currently, the law provides that all communal land is owned by the president. This puts the villagers at the risk of being removed from their ancestral land for developmental purposes or for conservation purposes without due regard to their rights. It is difficult for the villagers affected by side effects of mining activities to effectively assert their rights. This was clearly demonstrated in the Chiadzwa and Mutoko cases. In addition, the development-based evictions were not done in terms of the UN principles. The villagers' livelihoods were disrupted by mining activities and were removed from their ancestral land for the public common good. It was found that not many people benefitted from the mining activities in both Chiadzwa and Mutoko particularly those from the affected communities. Their youths were not employed in the diamond rich Chiadzwa fields. In Mutoko they were largely employed as manual labourers and the conditions of employment were so bad. The respective district councils receive insignificant remittances from the mining companies that makes it difficult for them to at least fund council activities. The villagers became poorer, and they were disconnected from the traditionally constructed social ties and relationships. Their cultural ties were destroyed since they were forced to leave their ancestral graves and shrines. There was no meaningful development in form of social responsibility and children had to travel for long distances to access education and health care.

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Locating Tripartite Negotiations within Labour Law in Zimbabwe

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Abstract

Over the past decades, lawmakers have been overhauling the welfare programme of employment security that has become a central node of attention within labour law discourse in Zimbabwe. Against this background, the purpose of this article is to bring to the fore the understanding that the respect to the rights of the workers is an integral justificatory ideal for labour law that can only become possible through tripartism. The only existing tripartite United Nations agency, the International Labour Organisation has helped to bring together governments, employers, and workers of all 187-member states to set down international accepted labour standards. Since its formation, the organisation has done a lot in achieving the goal of a decent working environment in a globalised world economy. The article demonstrates that, tripartism is not about one group or body overriding the other, it is not about superiority or who demonstrates more power than the other through the social dialogue process. It is all about open negotiations that help to advance the creation of a decent working environment that provide people a stake in lasting peace, prosperity and progress. The article highlights the importance of the interplay between the role of government and the workers and the rate to which the parties have successfully addressed the problems and solutions necessary to curb a common gap in labour law. The primary issue addressed throughout the article points to a comparative analysis on whether tripartite negotiations have yielded positive results in labour law. The article then argues that social dialogue is an instrument in promoting democracy and good governance. Therefore, tripartism becomes the most powerful tool of dealing with common labour security issues that other bodies and partners might have failed to resolve.

Keywords: social dialogue, tripartite negotiations, statutory instrument, repression, constitution, employment security.

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INTRODUCTION

The Tripartite Negotiation Forum has remained an ineffective standalone orphan forum that its actions remain relatively low, curtailed with slow recommendation and policy implementation, worsened by strong politicisation of the whole negotiation forum. Policy considerations surrounding labour law has evolved significantly to improve fragile relationships between the employer and the worker. There is an existing inherent struggle imbalance between the employer, the workers organisations and governments to effectively have consensus *ad idem* in matters relating to labour. Because the minds of the three tripartite partners can never meet, it is hard to successfully have fruitful negotiations that can address modern day labour grievances. The International Labour Organisation, being the principal organisation to oversee the welfare of workers has set internationally accepted labour standards that member states are obliged to follow. The common phenomenon is that member states should agree that every individual regardless of gender, race, colour, origin, tribe have an inherent right to employment security. International conventions have been implemented to lay a map of guidance on how best the relationship of the worker and the employer can successfully be achieved. It is important to note that, the prevailing system of incorporation of international law in domestic law, either monist or dualist, influences the way in that international labour instruments can be used in and by domestic courts. It has been argued that dualist systems carry an advantage over monist systems due to their application of common law Not embodied in statute but instead evolved by interpretation in the courts (Layton, 2006).

Zimbabwe has made strides in trying to ratify and domesticate international labour conventions that at its core lies the doctrine of tripartism. It would be argued that the only way towards achieving transnational or regional labour standards in Zimbabwe is to ensure that measures are put in place to ensure international labour standards are carefully met and to the effect that such standards or policy considerations are made possible through tripartite negotiations. Consequently, the international labour organisation drafted the tripartite Declaration principles that guides member states towards the negotiating forum. The aim of the tripartite declaration principles is to encourage the positive contribution that multinational enterprises can make to economic and social progress and to minimise and resolve the difficulties to which their various operations may give rise (Tripartite Declarations Principles, 1977).

Zimbabwe has done a lot in meeting international labour standards. Lawmakers have made efforts in coming up with the Tripartite negotiating Forum Act of 2019 as read together with the Labour Amendment Act No 11 of 2023 that seek to address labour matters for the advancement of social and economic progress. The article highlights the importance of tripartite negotiations as an engine towards labour law development. The article further demonstrates the meaning of *tripartite -plus* in the labour arena, that means tripartite parties choose to open the dialogue to other relevant actors in society. The article makes an overall analysis on the extent on how several players in Zimbabwe have successfully managed to negotiate to resolve important economic and social issues. Labour organisations such as the Zimbabwe Federation of Trade Unions (ZFTU), Zimbabwe Congress of Trade Unions (ZCTU), Zimbabwe Teachers Association (ZIMTA), APEX Council, as the leading players in the labour sector have been instrumental in shaping and changing the look of the employment relationship. The findings of the article, then suggest recommendations on the best available route to follow in pursuit of social justice at the workplace and discuss the role that social dialogue can play in driving socio-economic recovery and growth in Zimbabwe.

CONCEPTUAL FRAMEWORK

At the heart of the international labour organisation objectives lie social dialogue and tripartism. The article adopts different theories that include the Convergence theory adopted by Weinberg, (1969), Marx theory of industrial labour relations and the pluralist worker and employer theory. According to the convergence theory as expounded by Weinberg social dialogue typically results in positive long-term results that correspond to the collective bargaining agreements. It is argued that social dialogue is increasingly seen as an instrument to promote democracy and good governance (Hermans, 2016). In a bid to understand labour relations between an employer and the employee, Marx through the confrontational theory expressed the view that employees are led by employers who consistently exploit servants to maximize profits. Unknowingly workers can become part of a process in that they are expropriated from property (Bugra, 2008). Karl Marx further assets that the way to escape from a capitalist society is to enhance and facilitate negotiations with the worker, employer, and other players. These theories have helped in argument that, tripartite negotiations are the existing remedy to cure the wound of a servant who should be bitter for his master. The conceptual framework has helped the researcher into making

a comparative analysis on what other organisations have understood the term 'tripartite'.

According to the definition of the International Labour Organisation, social dialogue includes all types of negotiations, consultations and information sharing among representatives of governments, social partners or between social partners on issues of common interest relating to economic and social policy (ILO, 2013).There is an already growing consensus that tripartism is an inevitable pillar for sustainable development, such process that however requires the minds of interested parties to meet without pressure or influence to address and provide labour law solutions for it promotes the wings of good governance.

METHODOLOGY
The article used various sources that include, but not strictly limited to, already published literature from the international labour organisation and its bodies. To achieve the object of the article, the research findings were informed by primary and secondary data collection (Kennethe & Bailey, 1994). Therefore, in a bid to come up with a good design for the study, plenty of time was spent in the collection of data to gain appropriate results since insufficient and inaccurate data prevents assuring the accuracy of findings (Kabir, 2016). Because primary data are original and are used collectively for highest efficiency the researchers for the article, who have many years of practical experience and knowledge in labour law and social dialogues have made the research easier. The article used secondary data that resulted in a thorough analysis of government's pieces of legislation that advance tripartism. Information was then collected from leading labour organisations who annually report on the prevailing labour issues, such as the Zimbabwe Congress for Trade Unions, Zimbabwe Federation for Trade Unions and Apex Council for Public Service Association. The major goal for obtaining information from these labour organisations, sometimes called workers organisations is to understand the degree to which Zimbabwe has managed to have successful social dialogues and the challenges that that are faced by the organisations. For quite some time, different researchers have written interesting piece of works on different subjects but ignore the position of the law with regards to the subject.

LITERATURE REVIEW

Tripartite negotiations undoubtedly contribute to sustainable development, inclusiveness, accountability and good governance. The article adopts a theoretical review of literature that its purpose is to develop a body of literature that openly establishes a contrarian viewpoint. This has helped the article to establish what theory already exists, the relationships between them, the degree of the existence of the theories and to develop new terminology (Cook & Marincic, 2014). The time when the research was designed, the Labour Amendment Act of 2023 was in the process of amendment, but in part it clearly gave prospects of success in addressing existing labour questions. The article has been divided into three key major parts, literature relating to employment security, social protection and its approaches, literature relating to tripartite negotiations and social dialogues and literature relating to existing piece of legislation guiding labour law in Zimbabwe.

In the context of this article, social protection is a key pillar of decent work, reduces inequality and increases resilience among workers. Firstly, this has helped in arguing that social protection or employment security is a human right and is defined as a set of policies and programmes designed to reduce poverty (LEDRIZ Report, 2021). It is now common cause that, social protection policies developed through social dialogue help people and communities cope with pandemics and crises. Secondly, the article has used different literature from the international labour organisation with regards to the understanding of tripartite negotiations. According to the ILO, Tripartite negotiations are those negotiations that promote inclusiveness between groups to identify problems, provide solutions and reach a mutual decision for the betterment of good governance (ILO Tripartite Declaration Principles, 2016). Finally, in order to establish a solid review of literature, the article made use of existing literature within the labour law, already published articles and journals by labour organisations that helped to create a solid review of literature.

HISTORICAL BACKGROUND OF TRIPARTITE NEGOTIATIONS IN ZIMBABWE.

After Zimbabwe attained its independence, the new government had one goal that was to get away with past policies that were pyramid blocks to the progression of labour security. The government soon after independence pledged its commitment to abide by the constitution, abiding to ILO principle of tripartism and international labour conventions. During the period, employers went one step further in prioritising the development of trade unions for the development of

worker participation (Riddel, 1987). The new government was in a hurry to improve wages and working conditions of black workers especially in commercial agriculture and domestic service, realising. It would take some time before trade unions could play a strong role in wage setting. As a result, the government introduced the Minimum wages Act (Kanyenze, 1993). It can generally be argued that the weakened relationship between government and trade unions over time has been the driving factor in slowing down economies. It is either one body is not willing to comply with the demands from the other that hostile relationship is a stab to at the back to the workers. The introduction of the Minimum wages Act allowed the minister responsible for labour to put a parameter for expected reasonable minimum wages for workers. Throughout the years of weakened relationship between government and workers organisations, the government was criticised for legislation that restricted workers unions from collective bargaining. It is either the government is in total control of the negotiations, or the unions are expelled from the table that such a move raised a question for human rights violation.

The argument was that as long unions were not allowed to fully become involved in collective bargaining, workers were not induced to join trade unions (Schiphorst, 1993). But slowly, tripartite collective bargaining with governmental parameters was to give way to bipartite negotiations (Makanya & Schiphorst, 1993). It cannot be gainsaid that, both sectors that are instrumental in improving the welfare of workers were reluctant and failed to negotiate that led one body criticising another. It remained a matter of one body exposing another weakness, thus falling short to the principles and demands allowed as per international labour conventions.

In the first years after independence, employers felt unable to influence governmental wage setting (Herbst, 1990). Such failure to enable the government to improve the working environment through advancement of tripartism created poor working conditions of all time. Criticism was also voiced regarding the lack of involvement of the rank-and-file membership in the exercise. Already in 1988, a finger was pointed at the "fundamentally undemocratic nature of the union movement'' that impaired the union functioning in wage negotiations. This created an overall viewpoint that collective job action in Zimbabwe has always been restricted, an issue further worsened by trade unionists ending up in the political field. Generally, any move by a labour union in addressing genuine labour issues is taken as a threatening move by the government

that automatically derails the principle of tripartism from having positive results.

THE KADOMA DECLARATION: TOWARDS POSITIVE TRIPARTISM

The Kadoma declaration is one of the celebrated tripartite negotiation forum Zimbabwe has ever experienced. At its meeting on 20 Aug 2001, the Tripartite Negotiating Forum (TNF) noted that it was desirable to address the totality of the macro-economic problems including the country's risk factors facing Zimbabwe (Kadoma Declaration, 2001). The negotiation forum noted significant issues that required solutions that include lack of patriotism, insecurity in the labour sector, lack of political tolerance, high unemployment, lack of meaningful response to positive government, labour and business policy initiatives. This is because, poverty generally has melted down the economy iron bar that in turn has led to socio – economic crimes. The Kadoma declaration laid down solutions that were to identify empowerment opportunities for workers and creation of good working conditions with trade unions. It cannot be gainsaid that, the fragile relationship between trade unions as workers representatives and government has for long been the most reported hostile existing relationship of all time.

The Kadoma declaration that was signed by government representatives, business representatives and labour representatives concluded in tandem that the poor service delivery, poverty, corruption and lack of policy initiatives have been something that had dragged off the country's economy. Any move to address this resulted in a negotiating forum concluding to solve the standing challenges through solid support of implementation of agreed national policies, depoliticisation of the workplace and generally improve the welfare of the workers. A negotiation panel without addressing to the country's risk factors is irrelevant and its existence remains sorely for gaining ''negotiation title ''. Years after the declaration, there seemed to be light in addressing the challenges in the labour sector, but it would be observed that no form of authority can topple a poisoned or manipulated set of policies. In simple, the recommendation s proffered as per the Kadoma declaration has not been fruitful. This have further been worsened by Draconian laws that have been enacted by the government that analysts argue that it's a deliberate move of protection to continue its hold on power. This is because, the Movement for Democratic Change was born out of the labour movement and government maintains an uneasy relationship with the main trade union federation the Zimbabwe Congress for Trade Unions

(ZCTU), (Zimbabwe Liberators platform, Aug 2002, Professional Audit of the public order and security Act). Any move by a worker's organisation to genuinely address the cause of the workers have for long never been entertained by the government. On 8 August 2004, the police proceeded to disrupt a ZCTU public gathering initially holding that it was unlawful (Standard 8 August 2004).

Another example is that security agents abducted Amalgamated Rural Teachers Union of Zimbabwe (ARTUZ) leader Obert Masaraure in January 2018. Masaraure claimed the agents ordered him to strip off his clothes and shoes, and then they beat him with whips while they forced him to roll around in mud and interrogated him about union activities, such as encouraging persons to participate in the January 14-16, 2018, demonstrations. The attackers abandoned him in a remote area on a winter night, with substantial injuries and no clothing (Zimbabwe Human Rights Report, 2019). Human rights are inviolable, sacred and the right to have a decent working environment is a right that the government should always respect. Nevertheless, the government did not always respect workers' right to form or join unions, strike, and bargain collectively. The major reason for such stumbling blocks by the government is the historical background in Zimbabwe's political arena that previously saw labour movements and representatives ending up in building a political journey. In 2019, the parliament of Zimbabwe enacted a legislation establishing the Tripartite Negotiating Forum (TNF) to formalise dialogue efforts among government, labour leaders, and employers to discuss social and economic policy and address demands (Zimbabwe Human rights Report, 2019). Discussions concluded with different bodies with divergent minds has left same discussions to effectively be of no importance. The ZCTU stated the TNF did little to address its demands for wage increases and labour law reform, and the government showed little progress in supporting workers' protections, fairness, and peaceful resolution of labour disputes (Zimbabwe Human rights Report, 2019). It is now common cause that government has consistently either monitored trade or labour unions activity or disrupted such meetings that at the end of the end does not conform to the tripartite principles for good governance.

LANDMARK OF THE CONSTITUTION OF ZIMBABWE, LABOUR RIGHTS AND COLLECTIVE BARGAINING.

After the historical 2008 disputed elections in Zimbabwe, the legislature had one objective that was to review the existing laws something that

ushered lawmakers in drafting a new constitution in 2013. The Constitution of Zimbabwe is the supreme law of the land and any other law inconsistent with it is deemed invalid to the extent of such inconsistency (Constitution of Zimbabwe, 2013). In the event that there is a conflict between the constitution and other statutory instruments and Acts of Parliament, it is trite that the constitution overrides other laws. Chapter 4 of the Declaration of Rights and Freedoms as per the constitution has embodied a notable number of labour rights that among others include, freedom from forced labour, right to collective action, collective bargaining, freedom of assembly and association and right to dignity. It can widely be stated that because Zimbabwe is a member of International Labour Organisation and has ratified major labour conventions that saw the right to collective bargaining and right to strike being enshrined in the Zimbabwean constitution.

Section 65 has become an important provision within labour law parameters as it provides for protection of the worker, employer and their environment. The provision states that, " Every person has the right to fair and safe labour practices and standards and to be paid a fair and reasonable wage, Except for members of the security services, every person has the right to form and join trade unions and employee or employers' organisations of their choice, and to participate in the lawful activities of those unions and organisations Except for members of the security services, every employee has the right to participate in collective job action, including the right to strike, sit in, withdraw their labour and to take other similar concerted action, but a law may restrict the exercise of this right to maintain essential services, Every employee is entitled to just, equitable and satisfactory conditions of work, Except for members of the security services, every employee, employer, trade union, and employee or employer's organisation has the right to engage in collective bargaining, organise; and form and join federations of such unions and organisations, Women and men have a right to equal remuneration for similar work …."(Constitution of Zimbabwe, 2013).

This is an important provision of employment security in Zimbabwe's jurisprudence. It however can be noted that, there is an inseparable relationship between collective bargaining and freedom of association. It was the pure intention by lawmakers who drafted the 2013 constitution to incorporate international conventions such as, the Forced Labour Convention of 1930 that seek in abolition of all forms of forced labour, the Right to Organise and Collective bargaining convention of 1949 and

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the Promotional for Occupational Safety and Health Convention of 2006. These international conventions have been domesticated to promote social justice in the workplace. The international labour organisation, a body that was created in 1919 as part of the Versailles treaty has spent many years in reviewing, reconsidering on laying a map on the best way to employment security. Article 2 of the Convention on the Promotion of Collective Bargaining 1981 (No .154) defines collective bargaining as such extending to all negotiations that take place between an employer, a group of employers or one or more employer's organisations. This convention was sorely drafted to determine working conditions in the employment sector with the mandate of regulating relations between employers and workers. What the constitution of Zimbabwe has done is to promote the principles and advance the objectives of these conventions.

The existence of international labour conventions, the Constitution or Acts of Parliament relating to labour remain insignificant so long the government, employer and workers organisations maintain the "superiority power mantra". This in simple terms refers to one body being in control over the other or regard it as superior over the other or remains a matter of power or authority showcase among the three tripartite partners. It can openly be argued that the existence of superiority power mantra within the three branches, that the employer, government, and workers organisations have been the core driving factor towards ineffectual tripartism in Zimbabwe. Article 3 of the of the ILO convention no 87, establishes the right to workers and employers to form and join organisations. Section 65 of the constitution then reinforces the same move as it provides for the right to form, join and participate in the activities of trade unions and employers. Zimbabwean laws are very clear, they guarantee for the promotion of tripartism, however the issue that has led to ineffective tripartism is a political factor than a legal one. This has left section 65 of the Constitution of Zimbabwe and other provisions in the Labour Amendment Act to be of no value as long labour activists are taken as threat to the existing government.

AN ANALYSIS OF THE LABOUR AMENDMENT ACT, NO 11 OF 2023 AND THE TRIPARTITE NEGOTIATION FORUM ACT OF 2019 IN STRENGTHENING THE DOCTRINE OF TRIPARTISM

The only modern-day remedy to avoid mounting pressure, insecurity among the partners is by creation of a solid negotiation forum free from political pressure economic crises, that might have arisen due to

insecurity within tripartite partners is by creation of a solid negotiation forum that will be free from political pressure. In low- and middle-income countries, social dialogue is playing a key role in promoting a transition to democratic, more equitable and sustainable political and economic systems (Grimshaw & Tavora, 2017). The ILO is promoting a social dialogue approach to crises response, particularly in fragmented societies where social dialogue can contribute towards reconciliation and confidence building (Hermans, 2016). The Tripartite Negotiation Forum was born during socio -economic crises that required urgent need between tripartite partners to heal an acrimonious toxic relationship. Within such a backdrop of a broken relationship between labour unions and government, a call from different labour movements and unions were put in place that saw the enactment of the Tripartite Negotiation Forum Act in June 2019. Although in the year 2017, through a bill, the political and economy environment proved lack of trust, transparency, accountability and oneness.

The Tripartite Negotiation Forum is defined by the TNF Act of 2019, as a platform for social dialogue and negotiations over socio – economic issues involving tripartite partners. The Act defined tripartite partners as those that include, government, organised business and organised labour. Section 3 of the Act establishes the functions of the negotiation forum that includes to consult and negotiate over social and economic issues, negotiate social contracts, foster cooperation, follow up and monitor the implementation of agreements, negotiate Zimbabwean labour law in line with constitution of Zimbabwe. While the 2019 labour force and child labour survey indicated that informal employment accounted for 75% of total employment by the fourth quarter of 2021, it had risen to 86% (ZCTU Report, 2023). Despite significant measures to establish a negotiation forum that was to be a person at law, capable to sue and be sued, the Act has done sorely nothing in improving the welfare of the workers and to effectively negotiate a contract of improvement. Two years from 2019, saw the pronouncement of the Labour Bill in 2021 that sought to amend the Labour Act Chapter 28:01 and align it with the constitution of Zimbabwe and obliges with the international labour standards. The labour movement notes a displeasure at the Amendment that is a threat to a decent working environment (ZCTU Report, 2023, An Analysis to the Labour Amendment no 11 Act of 2023).

The major concern that has seen labour unionists showing displeasure to the labour amendment is its failure to address the problem of

criminalisation of legitimate strikes. The Labour Amendment Act of 2023 criminalises the right to strike and further promotes a jail term of 1-5 years imprisonment. However, the wording of section 65 of the Constitution is clear that, every person has the right to collective action and such strikes should be those that are legitimate and confines within the territory of the law. The labour Act of 2023 is therefore ultra vires the constitution (ZCTU Report, 2023). Not only has it departed from the clear objectives of the constitution, but it has also further confronted the international conventions and the tripartite declaration principles. Article 1 of the ILO Convention 105, para 955 states that penal sanctions should not be imposed on any worker for participating in peaceful strikes (ILO Convention no 105). It can still be argued that there is no harm in criminalisation of unlawful strikes. It is to the view of the police service to analyse a certain strike on whether it can be deemed to be unlawful or peaceful, thus the provision in the Labour Amendment act of 2023 was drafted in bona fide to promote good governance. This can remain a contestation issue of law.

DISCUSSION

Efforts of tripartism in Zimbabwe have been shrouded by institutional and strong political blockbusters that has corresponded to poor performance of the Tripartite Negotiation Forum. Since Zimbabwe attained its independence, several steps have been taken by successive governments to put in place several consultative committees, bodies and unions to fast forward tripartite and bipartite consultations. The Zimbabwe Congress for Trade Unions (ZCTU) continued to rise in the 1990s despite the efforts of the Economic Structural development programme (ESAP) and state repression (Sachikonye & Matombo, 2010). The period 1999- 2000 was destined to be a turning point in the fortunes of the labour movement (Ranger, 2004). Such a period was marred with great insecurity from labour organisations and the government that further weakened the already slippery relationship (Musarurwa & Nzombe, 1989). The culmination of the rise of the ZCTU that was led by Morgan Tsvangirai caused a historical stir that saw him regarded as threat to their government leadership, surprisingly in 2000, he had already stolen the limelight in the political arena that saw the formation of the Movement for Democratic Change. It is during this period that the ZCTU was viewed as an enemy of the state and the historical tensions persisted that made tripartite negotiations impossible (Alexander, 2000).

The only strategy by the government was to establish a new labour centre under the control of the ruling party that a union would participate actively in the maintenance of stable industrial relations (Saunders, 2001). The strategy worked that resulted in the creation of the so-called pro-ZANU PF trade union, in the name of the Zimbabwe Federation for Trade Unions. To avoid history repeating itself and formation of many oppositions political parties that had the capacity to challenge it, the government enacted repressive laws to consolidate its continued hold on power. Instead of focusing on depoliticising the economic environment, fight corruption, and respect labour rights, African governments have showcased excessive effort in putting illegal measures to strengthen their continued stay on power. After 1999, the central motivation by the ZCTU in seeking a landmark political journey was due to consistent lack of progress on tripartite negotiations that had proved to be barren. The relationship with the three tripartite partners has remained unequal and hostile (Alexander & McGregor, 2014).

As stated earlier, social dialogue is seen as an instrument in promoting good governance and democracy. The International Labour Organisation has carefully argued that a successful dialogue structure and process has the potential to resolve important economic and social issues, encourage good governance, and advance social and industrial peace and stability (Buckley & Casale, 2006). For long, social dialogue has made it possible for countries in disputes or labour crises to find ways out. Zimbabwe has officially created a culture of violence to address grievances than consultations and negotiations. In 2015, the Supreme Court delivered what was called a controversial judgement in the case of Nyamande vs Zuva Petroleum Pvt (ltd) that allowed either party to terminate an employment contract on notice. It was argued that the requirement for notices in terminating lawful contracts was a stab at the back that later saw employers unceremoniously terminating contracts. Despite spirited several efforts from labour movements in showing displeasure after the judgement that created another dimension in employment labour law, the efforts however remain null by virtue of judicial precedence. Strictly, the court cannot be regarded as having erred at law in bringing such a judgement that had repel effects on employees. This is because law is law regardless of its moral content. Although one may argue that such a kind of law is unjust or bad, it however remains law (Madhuku, 2010).

It can carefully be argued that there seem to be pyramids standing in the process of positive tripartism, consultations and negotiations. One such

pyramid is the existence of the Maintenance of public Order Act (MOPA) that is in violation of free conduct of tripartite negotiations. On September 13, 2006, close to 130 members of the mass trade union organization, the Zimbabwe Congress of Trade Unions (ZCTU) were arrested during peaceful demonstrations throughout the country against poor working conditions and government's economic and political policies (Human Rights Watch, 2006). The ordinary people are hindered from lawfully and peacefully addressing their working conditions because there is a law that restricts them. This surely confronts the process of effective tripartism. Section 25 of the repealed POSA Act as read together with section 7 of the Maintenance of Public Order Act (Chapter 11:23) has placed unreasonable requirements to conduct consultations and negotiations. The requirements allow for notices to demonstrations and public meetings, information for the purpose of the gathering, the time, duration of the gathering, place where the gathering is to be held, the anticipated number of participants, the exact number of participants and complete route, number of vehicles and the time for the end of the gathering. The Act has raised several human rights issues that include violations to freedom of association, freedom of expression accompanied with violations to human dignity through torture and degrading inhuman treatment by police officers. On 16 November 2018, seven members of the ZCTU, including the Secretary General Japhet Moyo and ZCTU President Peter Mutasa appeared in court facing charges of disruption of public order (Mahove, 2019), The inexcusable reasons and ill argument that the existence of the Maintenance of Public Order Act is to ensure peace and order should not be countenanced.

CONCLUSION

The article has demonstrated that the Tripartite Negotiating Forum Act, 2019 (Act No. 3 of 2019) was published with the Government Gazette on 4th June 2019 and came into effect from that date. Among much else, a useful addition to the process of changing labour laws results from the insertion of new paragraph (f) into sub-section (3) of section 3 ('Establishment and functions of the TNF') which now stipulates that the functions of the Forum shall include 'to consult and negotiate Zimbabwe labour laws in line with the Constitution and other international best practices'.

The political landscape in Zimbabwe has been tumultuous with the decades of disputed elections, culture of violence, poor policy implementation, pervasive corruption that has negatively caused the

erosion of tripartism. Mistrust, insecurity and conflation of partisan politics and reluctance in policy implementation are central to ineffective social dialogue. The tripartite process requires the government to take a lead to the dialogue, but such centrality does not mean the government should override other tripartite partners. In low and middle economy countries, tripartite agreements have brought together governments, industry and trade unions, employers towards robust effort to improve workers welfare.

Zimbabwe attained its independence in 1980, and the new government had a duty to review labour laws with the goal of black empowerment in a country that was clothed with white superiority and pervasive racism. Since independence the government has placed several politicised advisory and consultative bodies that never addressed real labour grievances. By the end of 1999, tensions between government and trade unions had escalated leading to historical countrywide strikes. The year 2001 saw business organisations, government, and workers organisations draft the Kadoma Declaration towards a shared national economic and social vision. The declaration noted quite a few challenges that include corruption, delay in policy implementation, political intolerance and severe human rights violations. The tripartite negotiation forum successfully agreed to fight corruption, depoliticising economic activity, towards timeous implementation of labour policies. The major goal for the tripartite negotiation forum is to identify and deal with all macro-economic issues, negotiate and recommend. The Kadoma Declaration of 2001 was drafted and never signed, only performed in the era of the government of national unity in 2008. The tripartite negotiation process is a nonstarter, it is either one party is not willing to negotiate or vice versa. A once stable relationship between the government and trade unions evaporated in the early years of 1990 when former unions started to challenge repressive government policies. That created a toxic relationship that worsened when the Zimbabwe congress for trade unions (ZCTU) members formed a pro-labour movement called the Movement for Democratic Change. The government then adopted a non-negotiation principle to further consolidate its hold on power thereby ignoring pertinent labour issues.

Scenes from different labour movements celebrated the promulgation of the Tripartite Negotiation Forum Act of 2019 that was a one step ahead in pushing the principle of tripartism. Despite the enactment of the law governing tripartite negotiations, the law has done nothing to address

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everyday labour issues and improve the working conditions. The article has however argued that the question to improvement of working conditions is not the purpose of the law, it is a political question. The lawmakers never erred in drafting a law that was to guide the process of negotiation, but working conditions are subject to improvement not by law but by negotiations. The article then finds that no meaningful tripartite negotiations have been concluded by tripartite partners.

For all the three partners to collectively improve labour relations there is need for the creation of a new culture of cooperation and unity free from outside influence for the betterment of national interests. The private sector should assist in building the capacity of workers, improve, maintain and adopt international working standards and employ progressive practices to improve the welfare of workers. When the private sector puts measures, it would then be the duty of the government to create an enabling environment, develop a common understanding to the challenges and commit to dialogue with other players be it political or private sector. There is an existing interval that has made the tripartite negotiation forum an ineffectual sharp less forum with no capacity of genuine force and effectiveness. The process of successful tripartism is not a labour question, ours is a political question that require a common understanding, creation of a culture of cooperation and togetherness. If all the three tripartite partners can fully concur that social dialogue is a tested barometer, that has proved to be concrete in bringing key principles of social and economic development then the negotiation process can be inevitable.

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