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Research Article

EFFECTS OF LABOR MARKET OVER-REGULATION ON REMUNERATION AND JOB SECURITY: EVIDENCE FROM THE ZAMBIAN LABOR MARKET

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There is debate in the literature regarding the effects of labor market regulation, particularly about its impact on employee remuneration and job security. One school of thought contends that labor regulation has the effect of increasing labor adjustment costs, which has a negative impact not only on wages and employment levels but also on productivity. On the other hand, another school of thought posits that regulation may increase worker motivation and commitment and stimulate labor-saving technological progress, thereby increasing productivity while also improving employee earnings and job security in the labor market. This paper's primary objective is to examine how a contentious labor market regulation in Zambia—the mandatory 25 percent gratuity—affects employee remuneration and job security. It presents empirical evidence, based on the results of a survey of 100 companies in Zambia, that excessive regulation of the labor market increases labor costs, resulting in lower employee wages and job insecurity. We corroborated the effects of the recently implemented 25 percent mandatory gratuity with evidence from the survey and by reviewing internal reports from the Ministry of Labor and Social Security to reinforce this argument.

Keywords**:** effects, employees, gratuity, job security, labor market, Zambia

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1. INTRODUCTION

The Zambian government has been working towards ensuring decent work for Zambian workers in the formal and informal economy over the years. This is because decent work is not only critical for self-flourishment and self-dignity but productivity as well. The country embarked on legal reforms aimed at ensuring the protection of workers' rights. In this regard, in 2019, Zambia enacted a new Employment Code Act, No. 3 of 2019. The new Employment Code Act introduced various provisions including imposing what has proved to be a contentious mandatory gratuity at the rate of 25 percent of the employee's basic salary on every long-term contract. Stakeholders in the labor market reacted differently, sparking a debate with others in support and others criticizing. Those in support, usually trade unions and other organizations concerned with the welfare of employees argue that in a country where poverty and unemployment are high, the law is perceived as a way to provide decent jobs for the population. Therefore, providing a mandatory gratuity rate in the law is the right way to ensure enforcement and compliance. On the other hand, most criticism has revolved around the fear of raising the cost of doing business which, unfortunately, when it takes place, always affects employees in form of job cuts and poor remunerations (Betcherman, 2014) defeating the very purpose of pursuing decent jobs. Moreover, others view it as unwarranted direct government intervention in the labor market which is akin to over-regulation and restrictions imposed by the government on the economy, both of which are potentially costly in economic and social terms (Betcherman, 2014). Although the debate is still going on, not a single study has been conducted to provide any empirical evidence regarding the effects of the new regulation on the remuneration of employees or the security of their jobs. This paper, therefore, fills in this gap by investigating the ramifications of the new law on remuneration and job security.

2. REVIEW OF RELATED LITERATURE

Understanding Labor Market Regulations

Labor market regulations encompass a broad spectrum, ranging from rules governing arrangements for individual contracts to collective bargaining mechanisms (Standing, 1999), and they are justified for guaranteeing workers' and employers' rights and certainty in their employment relationships (Standing, 1999). The idea that institutions adjust in order to most effectively meet the requirements set forth by society (Demsetz, 1967: North, 1981) underpins the efficiency theory, which we have used as the conceptual framework throughout the discussion in this paper. According to Djankov et al. (2003), each society chooses a system of social control of business that achieves the optimum combination of market mechanisms, dispute settlement, government regulation, and corrective taxes and subsidies. As a result of this, each society has its own system of social control of the business. This framework has been utilized in this paper to explain the general notion that countries adopt a combination of labor market policies to maximize social welfare, including employee welfare. The conventional understanding of this purpose is the elimination of market failures. Countries would choose greater intervention if employee exploitation in the market is high, and they will choose lighter intervention when distortions resulting from government regulation are greater. We apply the theory's inference that if regulation in the labor market in the form of protections for workers is effective, then it should not have significant negative effects, such as unemployment, wage stagnation, loss of employment, and the expansion of the informal economy. In other words, the theory is used to discuss labor market regulations focusing on the debate surrounding the impact of regulations on the labor market, which should be avoided if implementing them could result in distortions.

The 1995 World Development Report identifies four reasons for government intervention in labor markets: unequal market power, discrimination, insufficient information, and inadequate risk protection. In other words, all labor markets are regulated in a variety of ways to mitigate failures, protect the health and safety of workers, and lessen inequality (World Bank, 1995). Primarily, a country can choose between three distinct types of labor market regulations: market-based, collective-voice, and statutory (Betcherman, et al., 2001). Market-based mechanisms are frequently described as "unregulated" and involve the individual contract (explicit or implicit) between employer and employee (Betcherman, et al., 2001). In developed nations, this is a typical practice. The alternative mode of regulation, collective voice, refers to the voluntary negotiation and administration of the employment relationship in which workers are represented collectively. Collective bargaining is difficult to achieve in most developing nations, where the rates of unionization are very low. The third and final mechanism, which is the most prevalent in most countries including Zambia, is statutory, wherein rules and procedures are established by laws and decrees that regulate aspects of the employment relationship. These can include the establishment and protection of universal worker rights, the protection of vulnerable worker groups, principles for determining comp1`ensation, and working conditions (Betcherman, et al., 2001).

The difficulty in formulating effective labor policies lies in avoiding the two extremes of over- and under-regulation of the labor market through the maintenance of a healthy equilibrium between labor market flexibility and worker protection (World Bank, 2012). This is the cause of scholarly debate in the literature regarding the effects of labor market regulation, particularly its impact on employee remuneration and job security. One school of thought contends that labor regulation has the effect of increasing labor adjustment costs, which has a negative impact not only on wages and employment levels but also on productivity (Burges et al., 2004). The other school of thought posits that regulation may increase worker motivation and commitment and stimulate labor-saving technological progress, thereby increasing productivity while also improving employee earnings and job security in the labor market (World Bank, 2012: Gordon,1994: Buchele and Christiansen,1999).

The detrimental effects of excessive regulation have been extensively researched and documented in the economics literature. By creating disincentives for the movement of workers from lower-productivity jobs to higher-productivity jobs, stringent employment protection laws, for instance, may discourage hiring and reduce economic growth (Burges et al., 2004). There is a wealth of evidence from both developed and developing nations demonstrating how labor regulations affect labor markets, albeit evidence from developing countries is biased toward situations of high unemployment and informality. Important to note however is that globally, the impact of labor market regulations on such issues as unemployment, productivity, and development has not been consistent. For instance, regulations pertaining to minimum wages have been proven to raise the cost of labor and have a negative impact on employment in Brazil, Colombia, Costa Rica, Hungary, Indonesia, Nicaragua, and Trinidad and Tobago (Betcherman, 2014). Andalon and Pages (2008) observed the same findings in two developing countries: Indonesia and Kenya, where regulations related to minimum wages resulted in employees of smaller enterprises losing their jobs. However, in China and Mexico, no such overall impact on employment was observed (Betcherman, 2014). This is perhaps because of the dynamics that interplay in the labor market, like Fox and Oviedo (2008) posit that in developing countries, such as the ones in Africa, regulations in the labor market are not the only barriers to job creation but also the absence of business-supportive services like infrastructure.

Stricter regulations in the labor market have been found to harm employment in developing nations. For example, Fallon and Lucas (1991) found that strict laws demanding companies to get approval from the government to retrench or lay off employees were responsible for a considerable decline in the demand for employees in India and Zimbabwe, resulting in increasing trends of unemployment. Similarly, regulations that discourage and prohibit short-term work arrangements like casual employment and make severance packages expensive, increase both the duration of employment and the period of unemployment. This means that those who currently hold jobs will do so for a while as long as the laws are still in force, but employers are also reluctant to hire new workers. Kugler (1999) uses the example of Colombia to demonstrate the impact that high separation payments have on employment. In Colombia, the government lowered termination charges, and there was a considerable drop in unemployment of nearly 25 percent. This is attributed to the understanding that employers in this environment think that employing is as easy as terminating.

Another study conducted in India found that states with pro-worker Industrial Disputes Laws had lower registered or formal manufacturing output, employment, investment, and productivity (Besley and Burgess, 2004). At the same time, unregistered or informal manufacturing output increased, suggesting that this type of regulation affected formal enterprises more than informal ones.

On the other hand, however, there are also negative effects associated with insufficient regulation of the labor market. Productivity at a company may suffer, for instance, if employees are prohibited from taking sick leave or if they are routinely required to work long hours without being given any weekly off time to rest (ZIPAR, 2017). In addition to this, economies that do not have minimum wage regulations, unemployment protection, or medical insurance may struggle to maintain social cohesion because of inadequate regulation (World Bank, 2012). Thus, despite the evidence presented above on the effects of labor regulations on employment, other authors question this notion. According to de Barros and Corseuil (2004)'s research, rising separation costs in Brazil had no appreciable impact on the demand for labor. This is similar to the findings of Downes et al. (2004), who posit that severance payments in the three Caribbean nations of Jamaica, Barbados, and Trinidad and Tobago were not connected with major employment consequences. The argument put forward after all is that the effects of labor regulations vary depending on the type of workers who are being considered (Nataraj et al, 2011). For instance, Montenegro and Pagés (2004) argue that "job security raises the age profile of employment, which results in higher employment rates for older and skilled workers but lower employment rates for younger and unskilled workers" (Montenegro and Pagés 2004, Pagés and Montenegro 2007). Further, Bell (1997) documents that there is no evidence upon which a general conclusion can be taken that labor market regulations lead to a reduction in employment because the effects vary from one country to another. While studying the effects of minimum wages on employment, she found that in Columbia minimum wages lead to a reduction in employment, but she did not see any such effect when examining manufacturing in Mexico.

Similarly, Fox and Oviedo (2008) argue that labor regulations may not be among the top impediments to development in developing countries such as the ones in Africa. Instead, they argue for comprehensive approaches that focus on strengthening investment climates to boost job creation, instead of focusing on labor legislation reform alone which may not result in desired payoffs seen in other places.

The Zambian Economy

Zambia is a country in south-central Africa. Its neighbors include the Democratic Republic of the Congo and the United Republic of Tanzania to the north and north-east, Malawi and Mozambique to the east and south-east, Zimbabwe and Botswana to the south, and Namibia and Angola to the west. Due to the country's heavy debt load, Zambia has experienced considerable economic difficulties recently (Geda, 2021). This situation was made worse over the previous two years by the COVID -19 pandemic, which had a negative impact on economic growth. In 2020, at the height of the pandemic, the nation experienced a recession as a result of the economy's contraction by 2.8 percent from its peak in 2018 of 4 percent, such that Zambia's income profile has been downgraded to a low-income country (World Bank, 2021). However, economic growth started to pick up in 2021, and by the end of the year, growth was projected at 3.6 percent (World Bank,2021). The current administration, elected in 2021, has a broad policy direction to generate economic growth and employment. This is expected to happen in the context of sustainable public finances, which include manageable inflationary pressures, sustainable public debt, and diversification of the production structure. Together, these measures are intended to assist in combating poverty, which is exceptionally high even by African standards, with a headcount ratio of 38% in 2019 (Geda et al., 2017).

This economic recovery and the political will to create a conducive economic environment offer a chance to improve policy development and implementation with the goal of fostering the growth of decent jobs and enabling industry recovery.

Some Key Characteristics of the Zambian Labor Market

Table 1 presents some key characteristics of the Zambian labor market. According the Zambia Statistics Agency (2020), the current Zambian population is around 17.9 million with a working age population of around 9.9 million and labor force is estimated at 3.5 million. The unemployment rate is around 13.8% (Table 1).

Table 1. Zambian Labor Market in Brief

Labor Market Statistics	**Value**
National Population	17,885,422
Working Age Population	9,905,071
Labor Force	3,465,526
Formal Sector	1,000,594
Informal Sector	1,358,694
Household	629,091
Formal Employment	783,422
Informal Employment	2,204,956
Trade Union Membership	343,033
Employment Rate to Population Rate	30.2%
Unemployment Rate	13.8%
Youth Unemployment Rate	19.9%
Trade Union Density Rate	25.8%

Source: Zambia Statistics Agency, 2020.

a). Type of Employment

There are three distinct sectors of employment available in the labor market: the formal, the informal, and the domestic sector. In the national context, the formal sector refers to production units that are registered with any tax or licensing authority and those that are not registered constitute the informal sector. The domestic sector refers to households as producers of goods and services. Gatti and Honorati (2008) posit that an employee may work in a formal or informal setting. In contrast to informal employment, which refers to employment in which the job holder is not entitled to any social security, formal employment is the type of employment in which employees are entitled to social security coverage and contracts in addition to annual paid leave, or any such entitlement and any legal registration for own account workers or employers (Gatti and Honorati, 2008).

According to tax-based or employee-based features, informality dominates Zambia's labor market. In 2020, the informal sector was reported at 45.5 percent, while the formal sector was at 33.5 percent, and the domestic sector was at 21.1 percent (Figure 1) (ZSA, 2020). This also means that most Zambians work in the informal sector. Lack of social security benefits and annual paid leave are two characteristics of informal employment.

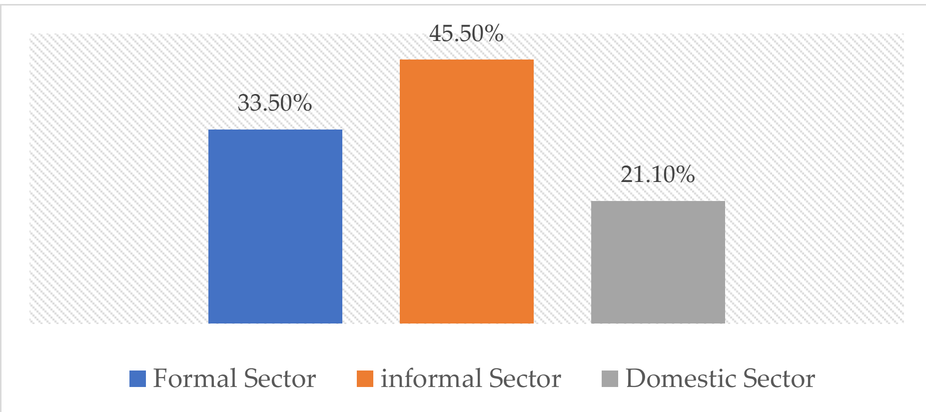


Figure 1. Percentage Distribution of the Employed Population by Sector of Employment, Zambia 2020
Source: Zambia Statistics Agency, 2020

In 2020, Figure 2 shows that the formal employment was estimated at 36.5 percent. Informal employment on the other hand stood at 63.5 percent (ZSA, 2020). Furthermore, it was estimated in the same year that only 11 percent of the working population was estimated to be covered by social security, leaving the other workers vulnerable to various economic and employment risks (ZSA, 2020). Apart from substantially impeding effective tax collection, this informality has also impeded economic expansion because most informal production units lack access to resources like bank loans and other growth-promoting incentives.

It is common to label the informal economy as "illegal," "underground," "black market," or "grey market" and it is seen as immoral or criminal behavior. However, in Zambia, this is beginning to change as the government has realized that it is unfair to generalize the activities of the informal sector in this way. Most unorganized employees struggle to make an honest living. Many people labor in public settings and significantly improve communities and economies rather than operating covertly. Moreover, in the current global economy, not enough formal jobs are being produced, and many formal occupations that already exist are becoming informal. In the short, medium, and most likely long terms, informal employment will likely not go away.

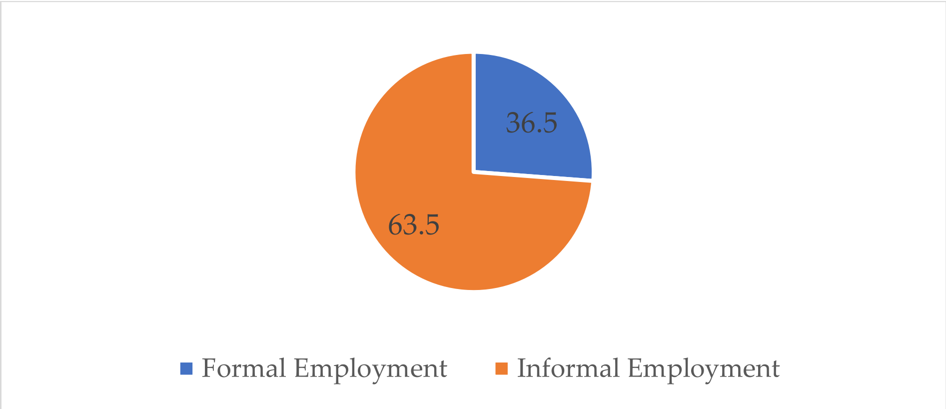


Figure 2. Percentage Distribution of the Employed Population by Type of Employment, Zambia 2020
Source: Zambia Statistics Agency,2020

For most of the workforce and population in developing countries, it serves as their primary source of employment and income. Informal workers typically make less money and suffer greater risks than formal workers, are less likely to benefit from economic opportunities and legal safeguards and are less able to exercise their economic rights and collective voice (ILO 2002). It is important to acknowledge that the informal sector makes up a sizable portion of the global labor and economy. It is important to recognize the contributions made by informal businesses and workers, as well as to incorporate them into legal and economic planning.

b). Unemployment

Unemployment is defined as the inability of available, job-seeking individuals to be hired (Broussard and Tekleselassie, 2012). In other words, it can be said to be a situation where available human resource is underutilized.

Unemployment is undeniably one of the most problematic macroeconomic and social issues that countries are currently dealing with. Its repercussions at both national and household levels are very extensive. At the national level, unemployment represents the underutilization of human resources and wasted potential. The output gap, or the difference between potential and actual national income, rises because of unemployment, which has detrimental effects on population welfare. Because it widens the difference between the actual income earned and the potential income a household could earn if all available human resources were employed, unemployment has similar effects on households. A decrease in the social and economic welfare of households is another effect.

The unemployment rate in Zambia has been highly volatile throughout the course of the past two decades, with a significant spike between the early and middle of the 2000s followed by a steady decline beginning in 2005. However, in 2017, the national unemployment rate had risen to about 12.60 percent and it was estimated at 13.8 percent in the year 2020 (Figure 3).

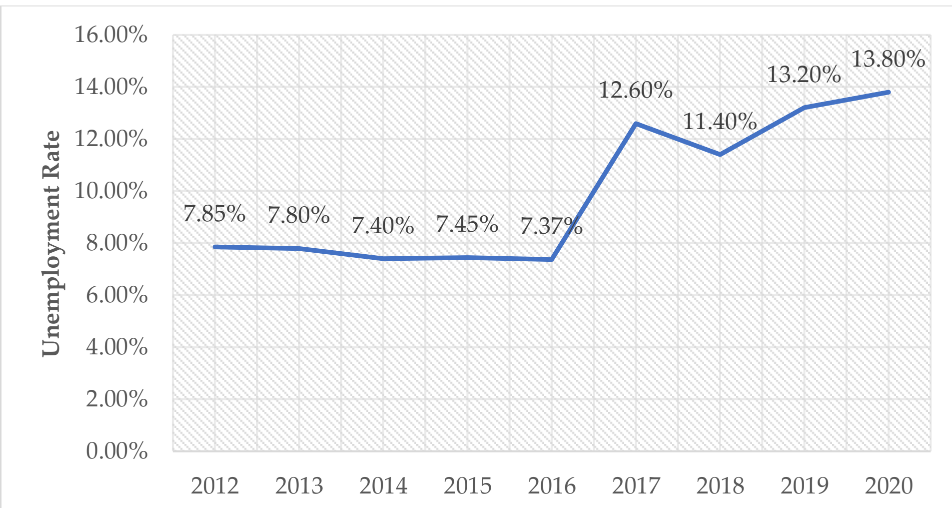


Figure 3. Unemployment rate from 2012 to 2020-Zambia
Source: Zambia Statistics Agency, 2020

Youth unemployment in Zambia, like everywhere, is higher than general unemployment. While total unemployment was estimated to be 13.8 percent in 2020, youth unemployment was estimated to be 19.9 percent in the same year (ZSA,2020). In most countries, the relatively larger proportion of youth unemployment compared to adult unemployment has been linked in part to the friction associated with the transition of young people from school to work (Broussard and Tekleselassie, 2012). The unemployment rate for young people is geographically distributed differently in urban areas compared to rural areas; in 2019, it was 18.1 percent in urban areas and 17.7 percent in rural areas (ZSA,2019). In comparison to rural areas, the unemployment rate for women was higher in urban areas. This shows that women have better opportunities in rural areas with an agrarian economy.

For the youths who are employed, a larger percentage of them work in the informal and domestic sectors, where they are not only underpaid but also underemployed and do not enjoy workers' rights such as paid leave, as do their counterparts in the formal sector. The high rate of youth unemployment, the poor nature of the jobs that youths find themselves in, and the destitution that arises from discouragement when youths are unable to find work all pose a threat to Zambia's social and political order. As a result, this situation is a ticking time bomb that, if not addressed immediately, might result in political instability and national insecurity.

c). Basic Working Conditions

The term "basic working conditions" refers to the minimum working conditions that employers must offer to their employees. The Employment Code Act in Zambia establishes minimum requirements and fundamental working conditions for workers. Working conditions are crucial to paid employment and have far-reaching consequences for employee welfare. They include a wide range of topics, including pay and working hours as well as physical issues that affect employees. Prior to the introduction of the Employment Code Act, in 2019, the scope of several fundamental employment conditions was governed solely by statutory instruments issued under the now-repealed Minimum Wages and Conditions of Employment Act, which only covered a subset of vulnerable workers, to the exclusion of all other workers who did not meet the description of vulnerable workers. The Employment Code Act, however, has addressed this issue. The Act is now the primary legislation governing basic employment conditions for all Zambian employees, apart from members of the Zambian Defense Force, locally engaged civilian employees, members of the Zambia Police Service, the Zambia Correctional Service, and the Zambia Security Intelligence Service. The Employment Code Act regulates various minimum basic working conditions including the rates of wages to be paid to employees by the hour, day, week, or month; the number of hours of work in any day or week; the normal working days in any week or month; the rates of paid holidays; maternity protection; the prohibition of casualization and discrimination; the protection of employee wages; the conditions attached to the granting of holidays; hygienic and safety conditions; and rest breaks. Importantly, section 106 of the Employment Code Act permits the minister responsible for labor to enact a statutory instrument relating to basic employment conditions if he or she determines that adequate provisions do not exist for the effective regulation of minimum wages or minimum employment conditions for a group of employees.

The minimum wage is seen as an important part of Social Security. The concept can be described as the minimal amount of payment that an employer is expected to pay wage earners for labor performed over a specific period. A collective agreement or a contract of employment cannot diminish this compensation. The minimum wage exists to safeguard employees and workers from being subjected to unfairly low salaries. Furthermore, minimum wages strive to alleviate and limit poverty as well as people's vulnerability to numerous social risks throughout their lives. Zambia's minimum wage framework has fallen below its intended goals. First, it is not inflation responsive. Any change to the minimum wage that is significant must take the nation's inflationary patterns into account. The government must therefore examine and revise the minimum wage more frequently while considering the requirements of workers. The poor provisions regarding the minimum wage fixing process may be the cause of the delay and unresponsive adjustment. Addressing the discrepancy between the law and existing practice regarding the setting of minimum wages and conditions is also required. The modifications would serve to protect workers who depend on periodic increases in the minimum wage by laying out clear procedural rules that would guarantee extensive and meaningful consultation. Second, the country lacks a national minimum wage. Instead, there are minimum prescriptions that only apply to specific groups of employees and exempt others including unionized employees. In this situation, it is conceivable to find low remuneration, even below the mandated minimum wage, for excluded employees and sometimes even unionized employees. This is an urgent matter that must be remedied to protect vulnerable employees.

Due to the high prevalence of precarious employment in Zambia, wages are often quite low. The precarious employment rate was 40.6 percent. Females had a greater rate of insecure employment than men, 41.4 percent compared to 40.3 percent. 47.2 percent of rural residents were unemployed, compared to 38.5

percent of urban residents (ZSA,2020). This indicates that many individuals have decreased job stability. However, government personnel do enjoy job security and better compensation. Expatriate employees are another category that enjoys improved working conditions.

Working conditions can also relate to the physical characteristics of the work environment, such as inadequate lighting, dangerous equipment, and excessive noise. In the past, it was believed that the Zambian labor market was risky, but efforts have been made to strengthen safety standards, particularly in the mining and construction industries.

There is observed a declining trade union density rate in Zambia. A trade union density rate is the proportion of union members to all employed people in a given location and time, represented as a percentage. It serves as a gauge of the influence and representation of employees with regard to the use of their right to organize. It helps in evaluating and tracking the progress of labor relations in the job market. There were around 343 033 union members in the labor market in 2020, of which 63.4 percent were male and 36.6 percent were female. There was a total of 86,193 members in rural areas and 256,840 in metropolitan areas (ZSA,2020). Numerous reasons have contributed to the continuous decrease of unionism in the labor market, but the primary one is that employers do not want unions.

The Rationale for Legal Regulations in Zambia

One of the reasons for legal regulations in Zambia is the growth of informal and precarious jobs in the labor market. Zambia has seen a gradual increase in private sector participation in the economy since economic liberalization in the early 1990s. Most private-sector businesses, such as those in mining, services, construction, and manufacturing, have been at the forefront of recent economic growth. While many of these businesses have grown stronger and more profitable, decent jobs have remained scarce in the same economy. This has caused a lot of stakeholders to speculate that the private sector thrives on exploited labor. The speculations are even fueled by reports of employees - particularly Zambian nationals - being mistreated, unjustifiably dismissed, and remunerated poorly in most multinational firms, especially in Chinese-owned companies which constitute a larger portion of Foreign Direct Investment in Zambia.

The above challenge can contribute to failures in the labor market, which have the potential to adversely affect the efficient allocation of labor in the market and can lead to a decrease in economic productivity. This is the reason for the increased interest by the government to regulate the labor market. This is because decent work is not only critical for self-flourishment and self-dignity but for productivity as well. The country, therefore, embarked on legal reforms aimed at ensuring the protection of workers' rights. In this regard, in 2019, Zambia enacted a new Employment Code Act, No. 3 of 2019. The new Employment Code Act introduced various provisions including imposing what has proved to be a contentious mandatory gratuity at the rate of 25 percent of the employee's basic salary on every long-term contract.

The Mandatory Gratuity Rate: An Example of Overregulation

Gratuity payment is generally defined as a monetary benefit given by the employer to his employee at the time of retirement. Prior to the enactment of the Employment Code Act, No.3 of 2019, the only law on gratuity in Zambia existed in the Constitution. Article 187 (1) of the Constitution provides that: - "*An employee, including a public officer and Constitutional office holder, has a right to a pension benefit*", and Article 266 of the Constitution defines a *"pension benefit"* to include *a pension, compensation, gratuity, or similar allowance in respect of a person's service.* A detailed analysis of how the provision sits in the law and how it is administered reveals that this form of gratuity is intended to be paid as a statutory benefit for employees that have attained retirement age and have retired accordingly.

In the 2019 Employment Code Act, however, gratuity is defined and administered as a payment made to an employee in respect of his or her service on the expiry of a long-term contract of employment. The computation of which is based on a mandatory minimum rate of twenty-five percent of the basic pay earnings that would have accrued to an employee during the term of service (Employment Code Act, No.3, 2019). The law further mandates the proration of the gratuity in circumstances where an employee's contract of employment is terminated (Section 73(2), Employment Code Act, No.3, 2019). Section 54(1)(b) of the Employment Code Act further grants this gratuity to long-term contract employees who leave the employment of their employers. This provision applies to employees on long-term contracts, regardless of the termination type. Thus, if the contract ends due to effluxion of time, retirement, resignation, or dismissal, the employee will get 25 percent of the basic income received during the contract period.

Parallels can be drawn between the nature of the two types of gratuities as they exist in the Constitution and the Employment Code. The most important is that for the pension benefit provided in the constitution, an employee contributes towards its accumulation over the years of service, but the gratuity provided in the Employment Code is a defined benefit plan where no contributions are made by the employee. Moreover, the gratuity provided for in the constitution is tied to retirement, whereas the one in the Employment Code Act can be paid out to an employee whose contract has expired or has been terminated even when the employee has not attained retirement age. It can be prorated unlike the gratuity provided in the constitution. Furthermore, a minimum mandatory twenty-five percent rate is prescribed for calculating the gratuity under the Employment Code, except for a few categories of employees including expatriates, management employees with written contracts providing for gratuity, domestic employees, and employees in the agricultural sector (Employment Code (Exemption) Regulations,2020).

Stakeholders in the labor market have reacted differently to the regulation of mandatory gratuity, sparking a debate with others in support and others criticizing it. Those in support, usually trade unions and other organizations concerned with the welfare of employees argue that in a country where poverty and unemployment are high, the law is perceived to provide decent jobs for the population. Therefore, providing a mandatory gratuity rate in the law is the right way to ensure enforcement and compliance. On the other hand, most criticism has revolved around the fear of increasing the cost of doing business which, unfortunately, when it takes place, always affects employees in form of job cuts and poor remunerations, thereby, defeating the very purpose of pursuing decent jobs. Moreover, others view it as unwarranted direct government intervention in the labor market which is akin to over-regulation and restrictions imposed by the government on the economy, both of which are potentially costly in economic and social terms (Betcherman, 2014).

3. METHODOLOGY

The study employed a design incorporating both qualitative and quantitative methodologies. This allowed the researchers to obtain a deeper understanding of the relationships between qualitative and quantitative data and to explore the issues originating from the overregulation of the labor market from multiple viewpoints. Moreover, this design not only strengthens the precision, validity, and stability of the findings but also gave the researchers the opportunity to study labor market overregulation and its effects in its appropriate context and environment. The use of qualitative methods in this study is justified by the fact that qualitative methods are especially effective in obtaining culturally specific information about populations' values, opinions, behaviors, and social contexts (Mack, 2005). Indeed, the values, opinions, behaviors, and social contexts of both employers and employees influence their perceptions, interpretations, and application of labor laws and regulations. Furthermore, the qualitative primary data provided detailed textual descriptions of how stakeholders perceive the regulation concerning the mandatory 25 percent gratuity.

In-depth group and individual survey interviews with significant participants in the labor market, including employers and employees, were used to gather the qualitative primary data on themes such as the role of the imposed mandatory gratuity in raising labor costs; reasons for declaring employees redundant; impact on emoluments and general employee welfare. The interactions were anticipated to lead to the documentation of real-world experiences and business concerns regarding the prevailing labor regulatory frameworks. With a focus on the effects of the mandatory gratuity rate on hiring, maintaining, and terminating labor, the study's employers were encouraged to share their experiences. Data from the interviews were helpful in providing information that was used to corroborate the conclusions drawn from the secondary quantitative data gathered through a desk review.

The desk review was based on the use of secondary data of different kinds, including documents like the Zambian constitution and various labor legislation including the Employment Code Act, the Industrial Relations Act, and internal reports obtained from the Ministry of Labor and Social Security on collective bargaining, redundancies, and other labor administrative activities. This procedure was useful in understanding how certain contentious regulations have affected the labor market. Additionally, information about various labor laws in other nations and their impacts on the labor markets was gathered and compared as part of the desk review. This was done to determine whether Zambian labor laws affect the labor market differently than those in other nations. Most importantly, the analysis of reports obtained from the Ministry of Labor and Social Security offered a wealth of secondary quantitative data on themes like the number of workers made redundant annually due to the high cost of labor (especially putting into context the role of the mandatory gratuity in raising labor costs), the average length of contracts, the average salaries negotiated, and other quantitative data that was useful in drawing conclusions about the effects of the mandatory gratuity on remuneration and job security.

Purposive sampling was used to select the participants for the study. Purposive sampling is a frequent sampling technique that groups participants based on predetermined criteria pertinent to a specific research question (Mack, 2005). In this regard, 100 companies from four industries of Construction, Manufacturing, Mining, and Tourism Services, were chosen. The inclusion of these industries in the study was based on the fact that they are the most stable and formally employ the greatest number of Zambians and contribute the most to the country's gross domestic product (Central Statistical Office, 2014). A deliberate inclusion criterion was put in place to only include large-scale companies that had more than 100 workers in employment, had been in operation for ten or more years and were registered for both tax and pension purposes.

A total of 500 employees, selected from the participating companies, participated in coordinated group interviews. Individual interviews were conducted with 33 participants comprising 20 employers chosen from the participating companies, 3 officials from the ministry of labor and social security, 4 trade union leaders, 2 employer association leaders, and 4 leaders from industry associations. Furthermore, 130 collective agreements for 55 of the 100 companies were reviewed to corroborate data from the interviews, particularly on the effects of mandatory gratuity on employee remuneration.

Both qualitative and quantitative approaches of analysis were used because the study included both qualitative and quantitative data. This study used Content and Narrative analysis methods to analyze the qualitative data. The researcher categorized verbal data during the content analysis process to classify, summarize, and tabulate the information. The narrative analysis approach, on the other hand, was focused on reformulating stories offered by respondents while considering the context of each case and the unique experiences of each respondent. The three processes of qualitative data analysis: developing and applying codes, identifying themes, patterns, and linkages, and summarizing the data were strictly followed. For the quantitative data, which is usually numerical, descriptive statistics analysis was used to summarize and find patterns.

4. FINDINGS AND DISCUSSION

The research generally found that introducing gratuity is not a problem for many employers; after all, some employers were already paying employees gratuity prior to the enactment of the Employment Code. The mandatory nature of the 25 percent gratuity rate provided for in the Employment Code Act, however, is a major concern for most businesses and other stakeholders. For all workers on long-term contracts, the mandatory gratuity has been set at not less than 25 percent of the basic pay. Furthermore, depending on the nature of the contract and the circumstances of the separation, a company may pay either gratuity or severance pay. However, in each case, the rate should not be less than 25 percent of basic pay. Thus, simply enforcing this law has resulted in a 25 percent increase in labor costs for businesses.

The effects are experienced in a variety of ways, primarily dependent on the size of the company and the structure of the salaries. The majority of companies that are negatively impacted are those that operate on a smaller scale because they lack the resources to cover the increased costs. Companies that have a large number of workers and pay competitive wages are also negatively impacted because the 25 percent rate translates into enormous sums of money that the companies are unable to accommodate.

Effects on Job Security

An analysis of reports obtained from the Ministry of Labor and Social Security, on redundancies and their causes, shows that there is a growing trend of employers downsizing their workforce due to rising labor costs since the implementation of mandatory gratuity. There are a number of reasons for redundancies, but we only fished out the ones that are reported as being a direct result of the high cost of labor. It was very easy to segregate because the Employment Code Act mandates employers to seek permission and give reasons for all redundancies. The number of redundancies attributed to labor costs increased dramatically, from 653 in the year 2018 to 2,111 in 2019 (Figure 4). The upward trend continued, with 2,710 and 3,028 cases recorded in 2020 and 2021, respectively (MLSS, 2021). A further breakdown of various reasons for the rise in the cost of labor revealed that the introduction of a mandatory gratuity rate is cited as the main cause of raising labor costs.

We took into account two major variables that happened at the same time which all contributed to the rise in labor costs during the period 2019-2021: mandatory gratuity and the Covid-19 Pandemic. Both contributed to job losses, but we had to separate the redundancies attributed to the Covid-19 pandemic to avoid conflating the findings with the pandemic's effects. Essentially, when data on mandatory gratuity redundancies was corroborated with evidence from the survey, it was clear that mandatory gratuity was the leading cause of job losses in the labor market. In fact, by 2021, the number of people losing jobs due to pandemic effects began to decline, while the number of people losing jobs due to mandatory gratuity continued to rise in the same year (Figure 5).

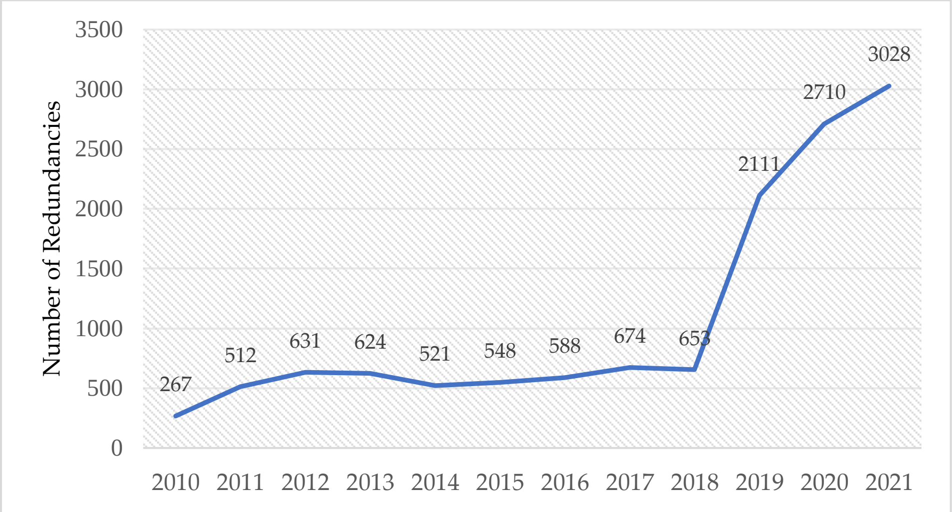
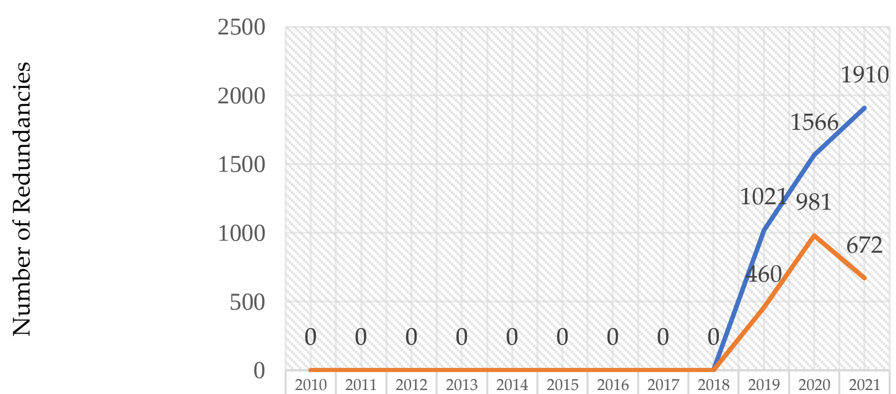


Figure 4. Redundancies Attributed to Rising Cost of Labor: 2010-2021
Source: Authors' Construction



	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Redundancies Attributed to Mandatory Gratuity	0	0	0	0	0	0	0	0	0	1021	1566	1910
Redundancies Attributed to Covid-19	0	0	0	0	0	0	0	0	0	460	981	672

Figure 5. Redundancies Attributed to Mandatory Gratuity and Covid-19 Pandemic: 2010-2021
Source: Authors' Construction

It was also interesting to note that in most cases, several employees who were declared redundant were rehired within a shorter period of time. While this may also indicate recovery from the effects of the pandemic due to the many measures put in place by the government to aid businesses, such as recapitalization funds and reluctance on certain taxes, the research found that most employers were merely terminating long-term contracts of employees with higher basic salaries to only rehire them on lower basic pay rates and on types of contracts that are not eligible for gratuity such as short term contracts, to avoid the huge cost of the mandatory gratuity. Others, particularly in the mining and construction sectors, have terminated ongoing employment contracts in order to transfer personnel to independent human resource providers, relinquishing the employment relationship but continuing to use their services as outsourced employees. Several businesses that used to hire employees directly in their establishments have now preferred to outsource their entire operations to other companies, and prefer dispatched workers, except for top management positions. This is a trend that we interpret as a deliberate strategy by companies to avoid complying with the country's labor and employment laws, including the mandatory gratuity which they view as raising the cost of labor. Consequently, not only do employees transferred to independent human resource providers lose job security, but they are also subjected to poor conditions of service including being paid much less for the same jobs that they used to get paid more for before being transferred.

The research further revealed that the independent human resource providers are not awarded contracts based on the value of the work but are instead paid fluctuating "labor management commissions" based on average percentages of the total monthly wage bill. Our analysis has shown that this current labor outsourcing structure is the major reason for non-compliance with the law and poor conditions of service for employees because independent human resource providers lack the capacity to adequately care for their employees and comply with the law. For instance, most of the independent human resource providers fail to formalize the employment relationship by way of issuing contracts of employment to their employees as demanded by the law, firstly because they do not have the financial capacity (as they operate on a commission basis) to administer contracts as required by the law, and secondly because they themselves have either been awarded verbal contracts for service without period specifications, or they have been awarded contracts for service on very short periods. In most instances 2-3 months periods. This leads to the casualization of jobs and a general failure to comply with other dictates of the law on working conditions such as providing adequate safety; paying minimum wages; unionization and including the payment of gratuities.

Effects on Employee Remuneration

The impact on remuneration quality is multifaceted. As previously stated, the obvious result has been a significant reduction in employee wages, as well as other monetary conditions of service such as housing and transportation allowances and bonuses. Though the purpose of this paper is not to discuss the effects on the unionization rate, it is a good area to consider because we looked at Collective Agreements between some trade unions and 55 of the companies we surveyed. The findings revealed that most of the Collective Agreements that were submitted to the Ministry of Labor and Social Security for approval in 2020 and 2021 indicated that unions failed to negotiate better wages for their members. Most unions were able to negotiate an average gross salary increase of K115 (US$6.5) for their members. This is a decrease when compared to Collective Agreements entered by the same parties in 2017 and 2018, where the average negotiated gross increase stood at K608 (US$34.2).

Apart from deliberately delaying salary negotiations, as evidenced by the large number of applications filed with the Ministry of Labor and Social Security seeking approval to postpone negotiations and extend Collective Agreements, there was also a trend among employers to prevent their employees from unionizing in order to avoid negotiations and rely on statutory minimum wages, which are significantly lower than what unions can usually negotiate for. Employees who are not unionized have been the most affected, as they have received no salary increases and have continued to be paid low salaries based on the statutory minimum wages that were last revised in 2018. This is also true for employees who are not under the coverage of the minimum wage and are supposed to negotiate their salaries. We interpret these developments in the labor market as constituting an indirect wage freeze in the labor market arising from the rising cost of labor.

Employers, ironically, get away with such schemes and continue to pay low wages to employees due to gaps in the law and its enforcement. For example, the law does not require an employer to provide a reason why an employee's contract will not be renewed, but it may be obvious that the reason is that the employee decided to join a union, and the only way to keep the union out of the company is to not renew the contracts of unionized employees. This is also the case for those whose salaries are reduced after signing a new contract, either directly with the same employer or when transferred to a new employer because it is a general rule in contract law that previous contracts have no effect on new ones, which means that it is possible and still legal to sign a contract with lower terms than the previous one, and Zambia's labor and employment laws have not closed this gap at all.

5. CONCLUSION

In conclusion, based on the above findings and in the context of the debate about the effects of over-regulation in the labor market, the paper finds that while labor market regulations are necessary to help protect the interests of workers, they can be detrimental to employment and salaries for workers. The research found out that the mandatory 25 percent gratuity has the effect of increasing the cost of doing business which has resulted in employers cutting jobs and offering poor working conditions including poor remuneration.

For workers, the 25 percent mandatory gratuity is supposed to be a major benefit that not only protects their interests but also creates further motivation to work. In Zambia, many employers use fixed-term contracts to avoid placing employees on a permanent footing. This is problematic because when employees are not on permanent terms, they remain in a constant state of anxiety, not knowing whether their contracts will be renewed, and employers do not have to follow the full procedure when dismissing them but simply wait for their contract to expire. Therefore, the intention of the gratuity was to provide an additional benefit for this category of employees who are less protected than those on permanent terms. This is as it should be, given that employers could abuse fixed-term contracts by choosing to renew the contracts several times instead of placing the employees on permanent and pensionable terms. To subvert this potential abuse, payment of gratuity will be due each time the fixed-term contract expires. Consequently, because this benefit is only for those on fixed-term contracts, not only does it reduce the abuse of fixed-term contracts, but it also acts as an incentive for employers to place employees on permanent terms since employers would save money on gratuity by placing employees on permanent contracts.

A problem for employers, however, is that the new gratuity law applies to all employers. But not all employers in Zambia have the financial means or capacity to pay 25 percent of the salary earned during the contract period to all their employees, especially considering that 90 percent of companies in Zambia are Small and Medium Enterprises (SMEs) operating in the informal sector. It is also true that not every employer has the capacity to hire employees on permanent and pensionable contracts, moreover, most of the employers in the mining and construction sectors operate on contracts for service. It is, therefore, illogical, to assume that they will be able to hire employers on a full-time and pensionable basis.

In this regard, therefore, the mandatory 25 percent regulation only increases the cost of doing business for many employers, who unfortunately shift the impact on employees by implementing rational cost-cutting measures, including the release of some labor, which will only exacerbate the unemployment situation in the economy. Moreover, there is a high presence of noncompliance with the 25 percent gratuity and other basic conditions of service by both small and large businesses. The mandatory gratuity rate will only deprive employees of potential benefits they would have received if more practical legislation had been passed. It does, therefore, make no sense to implement a law that no one can afford to comply with and is counter-reactive to the very objective it was intended to achieve.

6. CONFLICT OF INTEREST

The authors declare no conflict of interest.

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