THE CHINESE ARE THE WORST?: HUMAN RIGHTS AND LABOR PRACTICES IN ZAMBIAN MINING

Barry Sautman* and YAN Hairong**

TABLE OF CONTENTS

I. INTRODUCTION: DISCOURSES OF CHINA-IN-AFRICA AND COPPER MINING IN ZAMBIA ... 2
II. EMPIRICAL PROBLEMS .................................................. 12
   A. Safety Records Compared and Contextualized ... 13
      1. Fatalities as a Key Indicator of Safety .......... 14
      2. Operational Configurations and Fatality Rates ........................................ 23
      3. Health & Safety Compared ................... 29
   B. The Wage Gap: Factoring in Contract Workers, Productivity and Profits ..................... 34
      1. Making Contract Workers Visible ................. 36
      2. Productivity Differences .......................... 41
      3. Profits Large and Small ....................... 45
      4. Other Factors Affecting Wages .................... 52
   C. Hours ............................................. 60
   D. Job Security ........................................ 62
   E. Unions ............................................ 65
III. METHODOLOGICAL CONFUSIONS ...................... 72
IV. CONTEXTUALIZING THE CLAIM ..................... 81
V. CONCLUSION: WHY “THE CHINESE ARE THE WORST” ................................. 91

* Barry Sautman is a political scientist and lawyer at Hong Kong University of Science & Technology. His main areas of research are China-Africa links, the Tibet Question and ethnic minority rights in China.

** YAN Hairong is an anthropologist at Hong Kong Polytechnic University and author of New Masters, New Servants: Migration, Development, and Women Workers in China (Duke University Press, 2008). Her research interests include China-Africa links and the rural cooperative movement in China. Her intellectual interests include labor, gender, rurality and rural-urban relations, socialism and post-socialism, comparative social development, etc.
I. INTRODUCTION

Listening to the hysteria from the Western powers, one might be forgiven for thinking this was a re-run of the racist 'yellow peril' propaganda that arose at the time Africa was being colonized . . . I'm against the singling out of the Chinese. I think that much is a Western con trick. It's a pretty neat trick, trying to turn one formerly imperialized people against another.”

—Prof. Steven Chan, University of London Africanist

A globally-prominent Zambian economist, Dambisa Moyo, has remarked that “When I speak to Chinese policy-makers the thing that annoys them the most about Western policy-makers is that they're not given any credit for anything. There's always bad news.” That is especially the case regarding Chinese activities in Africa, about which a negative narrative, the China-in-Africa discourse, pervades Western media and guides global discussions. Scholars have gauged how biased and inaccurate the discourse is and many dismiss it as based on ignorance of facts and methods, political posturing, or disregard of professional standards. The discourse, however, has intensified lately, as Western politicians and media ratchet up the rhetoric of strategic rivalry with China in Africa. The US government has had several tactics in that rivalry, one

2. “Economist Dambisa Moyo on the Life and Death Battle for the World’s Resources,” Telegraph (UK), July 2, 2012. Among many Chinese “there's a real frustration with the West and a sense that China can never do right in its eyes.” Clarissa Tan, “China’s Civilising Mission,” Spectator (UK), June 30, 2012. Lu Shaye, head of African Affairs at China’s Ministry of Foreign Affairs, has stated that bad behavior by Chinese “is the kind of thing the Western media like to report on . . . even when in most cases these incidents are isolated . . .” “China Warns Citizens Abroad,” Daily Mail (DM, Zambia), Nov. 9, 2012.
of which is "to criticize China's practice publicly," as Secretary of State Hillary Clinton did in Zambia in 2011:

China's foreign assistance and investment practices in Africa have not always been consistent with generally accepted international norms of transparency and good governance. [China] has not always utilized the talents of the African people in pursuing its business interests. It is easy to come in, take out natural resources, pay off leaders and leave. And when you leave, you didn’t leave much behind for the people who are there. You don’t improve the standard of living. You don’t create a ladder of opportunity. We don’t want to see a new colonialism in Africa." Ex-colonial European powers have made similar statements.  

A key aspect of the negative China-in-Africa discourse is the 2011 Human Rights Watch (HRW) study of labor abuses at copper mining firms in Zambia parented by state-owned enterprise (SOE) China Nonferrous Metal Mining Co. (CNMC). CNMC’s $2b investment in Zambia represents some 15% of the $13b total outbound foreign direct investment (OFDI) of Chinese firms in Africa.

8. A German ambassador stated in 2011 that “China’s dealings with African countries such as Zimbabwe are imbalanced and exploitative [and] his country was concerned about China’s underhanded approach to trade which left African countries poorer . . . Most of the agreements signed today by China will buy out the whole world’s raw materials and block other countries from having access to these raw materials.” “China Exploiting Africa: Germany,” Daily News (Zimbabwe), June 3, 2011. He added in 2012 that “It is up to Africa’s new elites to explain to China that African copper and cotton should not be shipped overseas before added value has been created in situ.” Albrecht Conze, “Emergence and Emancipation: a Fresh Look at Africa,” 2012, programs.wcfia.harvard.edu/fellows/files/conze.pdf. It is however Western-based firms that export 95% of the copper from Africa’s largest producer, Zambia.  
Chinese “neocolonialists”\(^\text{17}\); US conservatives called the miners the Chinese Communist Party’s “serfs.”\(^\text{18}\) A month after it was issued, a Polish member of the European Parliament’s right-wing group demanded to know, in light of the HRW report, what the European Commission would do to bring about decent working conditions for Zambian miners.\(^\text{19}\) Zambia’s Vice-President Guy Scott said of “the Chinese” that “at present, they don’t really think they should pay tax, or be guided by labor laws.”\(^\text{20}\)

As a centerpiece of the China-in-Africa discourse, the HRW report should be empirically analyzed using a sound methodology that accounts for similarities and differences in the operational conditions for CNMC and other foreign mining firms in Zambia. That analysis yields explanations that should not be taken as a general defense of CNMC. In fact, all foreign mining firms in Zambia are doubly exploitative. Contrary to what has been implied by a Chinese government official (discussed below), foreign-owned mining firms do not provide Zambian miners with a living wage, let alone one that allows for savings.\(^\text{22}\) Facilitated moreover by what is per-

---


haps the world’s most “business friendly” host state,23 these firms also remove the country’s chief wasting asset without adequate compensation to the host nation and often without adequate concern for the environment.24

The main conclusion of the analysis of HRW’s report that follows is thus not that CNMC is blameless. Rather, it is that among foreign copper mining firms in Zambia, CNMC is not, as HRW would have it, especially blameworthy. In presenting that evidence-based conclusion, our critique does not differ from other empirical studies that disconfirm commonplace understandings within the larger negative narrative of “China” and “the Chinese.” Recent examples include Cambridge University economist Peter Nolan’s findings that China is not “buying the world”25 and Harvard University political scientist Gary King’s massive study that concludes that the Chinese government does silence social media posts that advocate collective action, but does not generally censor online criticisms of the government.26

HRW is assumed to be empirically accurate, methodologically sophisticated, and politically independent. A week after its report emerged, an official Zambian newspaper reported that the government of President Michael Sata, the historically anti-Chinese head of Zambia’s Patriotic Front (PF),27 had “stepped into the Chinese

23. For example, Deputy Finance Minister Miles Sampa noted in 2012 that “We boast of a free market economy with very little prohibitive industry regulation and we have virtually no exchange controls. You can repatriate a hundred percent of your dividends from Zambia as a business and our labor costs are low.” Anthony Mukwita, “Scratching the Surface: are Zambians about to Get their Dues from Foreign Miners?,” Bureau of Investigative Journalism, June 15, 2012, www.thebureauinvestigates.com/2012/06/15/scratching-the-surface-are-zambians-about-to-get-their-dues-from-foreign-miners/.


and the Human Rights Watch’s row, with Minister of Labor Jackson Shamenda demanding a stop to the abuse of Zambians working [for] Chinese investors.”28 Another organ of the Government of the Republic of Zambia (GRZ) assured readers, quoting verbatim (but without attribution) from HRW’s own publicity, that

Human Rights Watch established in 1978 is a non-profit, independent, non-governmental human rights organization renowned for its accurate fact-finding, impartial reporting, effective use of the media and targeted advocacy often in partnership with local human rights groups.29

These assumptions about HRW are problematic as to its report on CNMC in Zambia, which draws empirically inaccurate conclusions and uses a dubious methodology. Despite HRW’s verbal gestures distancing itself from the China-in-Africa discourse, the report appears to reflect a political agenda, which sets out to provoke inferences based on that narrative. Thus, HRW avers (p.1) that through the report, it “begin[s] to paint a picture of China’s broader role in Africa.”

The report implicitly re-invigorates highly racialized claims made about the CNMC and Chinese investments in Zambia. These were described in 2007 by John Lungu of Zambia’s Copperbelt University and Alastair Fraser of Oxford University, leading specialists of mine labor conditions in Zambia, writing when the sole CNMC firm there was NFCA:

NFCA are commonly claimed to be ‘the worst investors’, usually one step ahead of ‘the Indians’ . . . on a ladder of shame of abusing the workforce, ignoring local businesses and labor, and showing little interest in environmental protection. Swiss, British, South African, Canadian and other Western investors are typically labeled ‘white’ and . . . despite plenty of poor practice . . . are assumed to have a more sympathetic style of management. The debate is


clearly heavily informed by racist assumptions . . . and a fair sprinkling of frequently repeated urban myths.30

In this paper, we examine conditions at CNMC and Zambia’s mining enterprises, with an eye to assessing charges of CNMC being “the worst.” We do not conclude that CNMC firms have not engaged in labor malpractices, but that, if the empirical evidence is engaged through a sound comparative methodology, they cannot properly be deemed “the worst.” Empirically, we examine CNMC practices implicating rights related to safety, wages, hours, unions, and job security, finding that the binary approach taken by HRW of CNMC vs. the rest is inappropriate.31 At the level of explanation, we interpret our findings in the context of the development and configuration of Zambian copper mines and find wanting HRW’s interpretation that CNMC’s practices are a result of trivializing safety and exporting labor abuses from China. HRW’s binarist approach also does not allow readers to consider a possible rough equivalence of rights-affecting practices among foreign mining firms in Zambia32 and ignores that practices at CNMC firms are generally better than at Zambian-owned companies, whose mines are even smaller than those of CNMC,33 not to speak of the mines in and across Zambia’s borders.34


32. We treat this equivalence in a monograph in progress, Red Dragon, Red Metal: China’s Investment in Zambian Copper Mining.


34. See Pan Jihua and John Fogach, “Going Global, Going Green: CCICED on Investment, Trade and Environment,” International Institute for Sustainable Development, 2012, : 4.3.1 (“in relative terms, the Zambian copper belt was still considered ‘heaven’ as a work location, when compared to the mines in neighboring DR Congo and Zimbabwe”), www.iisd.org/publications/pub.aspx?pno=1615.
Comparisons of Zambia’s mining labor conditions moreover become almost beside the point when the abuses that HRW addresses in its study are viewed in the context of human rights in Africa generally. Chinese-owned mining assets are a tiny proportion of all foreign-owned mining assets in Africa. In 2010, the assets of the top 40 mining companies in Africa exceeded one trillion US dollars and their profits were $110 billion. Chinese investment in mining in Africa is a very small proportion of the total investment by the top 40 firms; Chinese firms’ investment in mining in Africa was 29.2% of China’s $9.33 billion total stock of all investments in Africa in late 2009, i.e. $2.9 billion, compared to $25 billion for the US and Euro 11.7 billion for France. As a 2011 UN study recorded, Chinese mining investments abroad are small relative to those from other countries. Less than 1 percent of total world mine production outside China is controlled by Chinese companies. (Despite rapid growth in recent years, it was from an almost zero base). It will take years before Chinese companies and China become powerful global players in international mining.

Chinese investment in mining in Africa, calculated at about $2.9 billion in 2009, is also a small part of global Chinese mining OFDI, which was $41 billion in 2009. Chinese investment in Zambia, the bulk of it in mining, has also been far behind that of several other countries. In 2009, 64% of FDI stock in Zambia was derived from five countries, all of whose investment was largely in mining: Canada: 19%; India 17%; Australia 11%; Switzerland 11%; China: 8%.

38. Judith Fessehaie, “Development and Knowledge Intensification of Industries Upstream of Zambia’s Copper Mining Sector,” University of Cape Town, MMCP Discussion Paper No. 3, 2011: 21, www.cssr.uct.ac.za/ ... MMCP%20Paper%203.pdf. FDI flows in 2006-2010 ranged from $600m to $1.3b a year, 90% for mining and (often mining-related) manufacturing. From 2000-2010, about 115,000 new jobs were created

In the end then, the HRW report tells us less about CNMC in Zambia or China-in-Africa than about HRW’s political agenda. The politics of HRW, while avowedly universal and independent, are in fact incorporated in global governance as “the capillary ends of the
The binarist HRW report and the discourse in which it is embedded are a Manichaean obstacle to understanding Chinese activities in Africa and give rise to another entrapping binarism that dismisses criticism as a defense of the Chinese state.

II. EMPIRICAL PROBLEMS

Days after HRW issued its CNMC study, Mineworkers Union of Zambia (MUZ) President Oswald Munyenyembe responded to it by saying that "his union cannot entirely blame the Chinese companies because other mining houses are equally culprits." He added

We cannot wholesomely condemn the Chinese-owned mining houses. Remember when we had the global crisis no worker was retrenched at any Chinese mine [unlike at other mines]. Yes, they have their own problems like mistreating workers and not following labor laws, but other mining houses are also culprits in this area. It is not only the Chinese mining companies.

The MUZ President thus disputed HRW's central argument: that CNMC, among the foreign investors that dominate Zambian mining, is almost uniquely culpable of abusing workers' rights. That argument is based on HRW's proclaimed "accurate fact finding," yet Zambian union leaders and monitors of mining, who know more about practices across the industry than do the individual workers interviewed by HRW, differ with it factually — and with its conclusions that single out Chinese-owned firms as the worst employers.

Even Minister of Sport Chisamba Kambwili, the PF’s most consistent baiter of "the Chinese," has indirectly negated HRW’s


43. “Chinese Firms not that Bad, says Miners’ Union,” DM, Nov. 4, 2011. See also “Minister, Union Defend Chinese Labor Conditions,” ZW, Nov. 5, 2011 (“[Deputy Minister of Labor Rayford Mbulu] says not only Chinese mining companies have been flouting labor laws but all employers should try and ensure their workers are properly looked after”), www.zambianwatchdog.com/archives/25835.

44. Kambwili stated in a 2010 Parliament debate that “the miners in Luanshya and I have declared war on the Chinese . . . These hon. Ministers must listen to us. We live with these Chinese and when we tell them that these Chinese are bad, they must listen and not defend them.” Nov. 25, 2010, www.parliament.gov.zm/index.php?op
conclusions. During his stint in 2012 as Minister of Labor, he paid many surprise visits to enterprises in Copperbelt, the center of Zambia’s mining industry. Several visits were to Chinese-owned firms, but many were to non-Chinese firms. Kambwili concluded that “three quarters of the companies owned by foreign nationals he visited on the Copperbelt were not complying with labor laws.”

A. Safety Records Compared and Contextualized

Among Zambia’s foreign copper mining firms, CNMC is a relatively small producer. Like other foreign investors, its entry into Zambia was facilitated by a World Bank-ordered privatization of Zambian SOE’s. In the 1990s and early 2000s, 280 parastatals, accounting for 85% of Zambia’s economy, were privatized through a corrupt process: 6% of firms were closed, 65% were sold to Zambians, and 29% went to foreign firms, with firms of Zambia’s ex-colonizer Britain the leading beneficiaries. Zambia Consolidated Copper Mines (ZCCM), the country’s largest parastatal, was divided and sold to seven foreign investors.

Scholars of mining in Zambia attribute worsened conditions in mining since the 1990s to privatization, a result that parallels worsened conditions for miners in China due to privatization and marketization. Western media, however, have a history of claims that safety conditions at CMNC mines in Zambia, but not mines of

49. Fraser and Lungu, For Whom: 21-31. Mine community residents also complain that “standards of living in their towns have deteriorated since ZCCM,” i.e. since privatization. “Riots Rock Chingola,” LT, Mar. 15, 2012.
Western-based firms, are in general abysmal. In 2011, for example, a "trusted" UK business journal asserted that

At Chinese-run mines in Zambia’s copper belt [employees] must work for two years before they get safety helmets. Ventilation below ground is poor and deadly accidents occur almost daily. To avoid censure, Chinese managers bribe union bosses and take them on ‘study tours’ to massage parlors in China.50

No evidence accompanied these assertions. As we will show, deadly accidents at Chinese-run mines occur not daily, but 2-3 a year on average. Miners have helmets from the onset of their work.51 CNMC Zambian employees sent to China who we interviewed went there to learn about CNMC and China’s development and did so.52 We will compare CNMC’s fatality rate with the overall fatality rate of foreign-owned mines in Zambia from 2001-2011, and also compare Zambia’s fatality rate with that of other countries, particularly China. We will then interpret CNMC’s safety records in the context of mining development in Zambia. We find not that CNMC mines have no safety problems, but that they are not the worst in that regard.

1. Fatalities as a Key Indicator of Safety

Many HRW study readers have doubtless been impressed that it was based on interviews with miners. Indeed specific observations of miner interviewees about safety deficiencies they experienced or witnessed, such as having to work in unsafe conditions, cannot be wholly dismissed. The interviewees cannot however reliably infer from their experiences that CNMC operations are less safe than those at other firms. Any such inferences are highly suspect, given the climate of intense anti-Chinese prejudice present where they work and live.

A better measure of whether one mining firm is safety deficient, compared to others, is whether the firm accounts for a highly disproportionate share of fatalities. A leading sociologist of indus-

trial injuries has put forward that “The data which are the most reliable indication of safety are those for fatalities.”\textsuperscript{53} Less-than-serious injuries may go unreported, but firms in Zambia cannot avoid reporting fatalities, while serious injuries correlate with deaths, as both mostly result from rock falls.\textsuperscript{54} Fatalities data are thus indicative of safety practices, although the logical principle of \textit{ceteris paribus} (other things being equal) must also be applied, to account for the differing features of mines. Given the small number of Zambian mine fatalities, comparison of rates between firms is not useful,\textsuperscript{55} comparing CNMC firm fatalities and the 2001-2011 total for foreign-owned copper firms does not indicate that CNMC’s safety record is extraordinarily bad.

According to union-provided statistics, fatalities in all foreign-owned copper firms from 2001-2011, with corresponding figures for the CNMC-owned operations, were:

---


### Table 1: Total Fatalities in Zambia Copper Mining and CNMC Zambia Fatalities

<table>
<thead>
<tr>
<th>Years</th>
<th>Deaths in all Foreign-owned Mines and their Total Workers (Higher &amp; Lower Estimates)</th>
<th>CNMC Firm Fatalities and Total Workers (Higher &amp; Lower Estimates)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>23 (21,000) 13,500</td>
<td>1 (2800) 2300</td>
</tr>
<tr>
<td>2002</td>
<td>17 (21,000) 13,500</td>
<td>2 (2800) 2300</td>
</tr>
<tr>
<td>2003</td>
<td>21 (26,000) 13,500</td>
<td>4 (2800) 2300</td>
</tr>
<tr>
<td>2004</td>
<td>19 (30,000) 13,500</td>
<td>2 (2800) 2300</td>
</tr>
<tr>
<td>2005</td>
<td>34 (50,000) 40,000</td>
<td>1 (2800) 2300</td>
</tr>
<tr>
<td>2006</td>
<td>18 (52,000) 40,000</td>
<td>3 (2800) 2300</td>
</tr>
<tr>
<td>2007</td>
<td>15 (58,000) 40,000</td>
<td>0 (2800) 2300</td>
</tr>
<tr>
<td>2008</td>
<td>22 (59,000) 38,000</td>
<td>1 (2800) 2300</td>
</tr>
<tr>
<td>2009</td>
<td>17 (40,000) 32,500</td>
<td>4 (5800) 5800</td>
</tr>
<tr>
<td>2010</td>
<td>14 (55,000) 53,000</td>
<td>3 (5800) 5800</td>
</tr>
<tr>
<td>2011</td>
<td>19 (55,000) 53,000</td>
<td>4 (5800) 5800</td>
</tr>
</tbody>
</table>

Total Fatalities and Ave. No. of Workers for 2001-2008 and 2001-2011:
- Total Fatalities: 2001-2008: 169 Fatalities; Ave. Total Workers (39,600) 26,500
- Total Fatalities: 2001-2011: 219 Fatalities; Ave. Total Workers (42,700) 31,900
- Total Fatalities: 2001-2008: 14 Fatalities; Ave. CNMC Workers (2800) 2300
- Total Fatalities: 2001-2011: 25 Fatalities; Ave. CNMC Workers (3618) 3255

Sources for Fatalities: 56

From 2001-2008, before CNMC acquired CLM and operationalized CCS, we estimate that its firms averaged 2,800 employees — 7.1% of foreign-owned copper mining firm employees, which according to one source averaged 39,600. 57 Using the 39,600 figure for all foreign copper mining firms’ average employment in 2001-2008, CNMC firms had 8.2% of the 169 fatalities and 7.1% of the

---

56. For 2001-2010, MUZ, “Statistics of Mine Accidents by the Mine/Division for the Past 11 Years,” photocopy, MUZ, Lusaka, Aug. 17, 2011; for 2011, Mine Safety Dep’t (MSD), “Mining Industry Safety Record from the Year 2000 to August 19, 2011,” photocopy, Kitwe, August 23, 2011 and interview, Wilford Besa, Inspector, MSD, Aug. 19, 2012. There were 46 fatalities in a 2005 explosion at BGRIMM dynamite plant, which was 60% BRIMM-owned, 40% NFCA-owned and BGRIMM-managed. MUZ does not attribute BGRIMM fatalities to NFCA and we omit them. Like MUZ, we include fatalities at (white-owned) Ox Drilling Co.

workers. It thus had a slightly higher than average fatality rate, but that is before taking into account the key safety-affecting factor of mine operation configurations: whether a firm’s mines are underground, an open pit or a mix (see below).

The 39,600 average of miners in 2001-2008 is uncertain however. In 2011, Permanent Secretary of the Ministry of Commerce Trade and Industry Lubasi Sakwiba told a parliamentary committee that “An estimated 13,500 people were employed in the mining sector between 2000 and 2004.”58 While that may seem too low a number, a 2002 business journal article also stated that Zambia’s mines then had “about 10,000 full-time employees and 4,000 contractors,”59 numbers which do not include the 30,000 small-scale miners in the country.60 Zambia’s Chamber of Mines stated in 2010 that total employment in mining at the end of 2007 was 40,017 and at the end of 2008, 37,751.61 Assuming 40,000 employees in Zambian mining for 2005 and for 2006,62 average mining employment for 2001-2008, using these alternative figures, would be 26,500. Given an estimate of 2,800 CNMC employees for 2001-2008, but an average of 26,500 for Zambian copper mining’s total 2001-2008 workforce, CNMC would have had 10.6% of Zambia’s mining workforce, but 8.2% of fatalities. If the estimate for CNMC workers is also lowered, to say 2,300, the CNMC firm share of the total mining workforce would be 8.6% and, again, 8.2% of fatalities.


In any case, for 2001-2008, CNMC’s share of fatalities appears to roughly approximate its share of Zambia’s copper mining workforce. That may actually be better than expected, as NFCA’s managers during that period, unlike many of the managers at other mines, began working there with no experience of the idiosyncrasies of the long-closed Chambishi mine. A study of de-Nazification of Germany has described how the victorious Allies in 1945 removed Nazi mine managers and replaced them with others who lacked experience of the mines where they were placed. Many mine accidents occurred, including, in early 1946, the Peine cage fall that killed 46 miners and Unna explosion that killed 418 miners.63

In 2009-2011, CNMC’s proportion of fatalities was higher, because its workforces grew and incorporated more inexperienced workers. New mines built at Chambishi and Luanshya meant more workers doing construction, which raises the likelihood of fatalities. From 2001-2011, using the higher average total foreign mining firms workers (see Table 1), CNMC firm workforces averaged 8.5% of total Zambian copper mining foreign investor employees, but 11.5% of total fatalities. Using the lower estimates of total foreign firms’ workforces and the CNMC workforce for 2001-2011, CNMC had 10.2% of the total workforce and 11.5% of total fatalities. For 2001-2011 then, CNMC had a slightly higher than average fatality rate, but without taking into account differences in mine operation configurations.

These figures in themselves make it unlikely that CNMC firms’ safety conditions are markedly worse than those at other mines. Fatalities statistics also put paid to fantastically inaccurate recollections such as “NFCA used to have fatalities almost every month.”64

Zambian foreign-owned mines averaged ten fatalities a year from 1997-2002, but by 2004 that number increased by 70%.65 A study of a large, non-Chinese-owned mine showed 20 fatalities from

---


January 2005-May 2007. 66 Then-MUZ president and now Deputy Labor Minister Rayford Mbulu stated, with only slight exaggeration, that in the 2000s “at least two employees per month [were] dying” in the whole set of privatized copper mines. 67 His successor, Acting President of MUZ Charles Mukuka told us in 2011 that “The current investors don’t invest in safety. They’re in a hurry to make money . . . . Now every month there are fatalities.” 68

Zambia is not however a high mining fatality country by world standards. It is not among the 60 most dangerous countries for miners listed in 2011 by the International Federation of Chemical, Mining and General Workers Unions (ICEM). 69 ICEM has annually tracked, 12,000 or 15,000 reported fatalities in mining as a whole. In many countries, a lot of mining deaths are not recorded however, because firms pay miners’ survivors to keep quiet. 70 No accurate figure for the world total of miners exists either, as artisanal miners may or may not be included. A union federation has guessed at a 20 million miner total. 71 Assuming that number and 20,000 fatalities, the annual world death rate would be 100 fatalities per 100,000 miners. Zambia foreign-owned mine fatalities are now at about 16 a year, among some 55,000 copper miners or 29 deaths per 100,000 workers. It is a much higher rate than in Australian mining (3.5 deaths per 100,000 workers in 2009-2010), 72 where the death rate may be especially low, not only because of very advanced technology, but also because of the predominance of open

---


68. Interview, Charles Mukuka, Acting MUZ President, Kitwe, Aug. 15, 2011.


cut mining. The fatality rate is however lower than in South Africa's platinum mines in 2008. Zambia's rate is half that of US mining and the rate in Chile, the world's largest copper producer, may be up to four times higher than in the US.

Zambia's fatality rate is much lower than in China, a world center of mining fatalities due to poor governance, remote rural mines, fast expansion of small township and village enterprise (TVE) mines and a huge mining workforce — up to 3 million in the mid-2000s in coal alone, working in thousands of legal and illegal mines. China's coal mining fatality rate, for example, even just for key SOE mines, exceeds the rate for all US mines, although 90% of Chinese coal mines are underground, while two-thirds of US mines are open-pit. Moreover, China's top eight mining groups accounted for only around 20% of national coal output in 2010 . . . whereas in the U.S. just three companies produced 70%.” Thus, in addition to other factors, the comparatively high fatality rate in China also reflects much more scattered control over safety conditions, "the difficulty of regulating 12,000 mines, and the fact that its coal veins are so deep underground."

Ownership also matters: China's national SOE mines are on par with other developed countries and safer than local SOE mines, which are in turn safer than the (disguised privately-owned) TVE

---

73. “Mining Rights,” Daily Examiner (Grafton, Australia), Nov. 5, 2011.
74. Unnatural Deaths. ICEM uses fatalities per 100,000 workers “because what matters to a miner in considering whether a mine is safe is unsafe is whether he or she goes home intact at the end of the day. The number of tons mined in that day is secondary to that fact.” ICEM, Mine Safety.
For coal mining fatalities, in per million tons terms from 2001-2009, the rates were key SOEs 0.7, local SOEs 2.2 and TVE mines 3.9. Put another way,

Large, government-run coal producers in China recorded a fatality rate of 0.28 per million metric tons mined in 2010 while small operations killed five times as many people, or 1.4 . . . China’s national average in 2010 was 0.75 deaths per million tons, down sharply from 7.6 deaths per million during the mid-1980s.

Responding to growing public concern, China’s central government took measures over the past decade to reduce fatality rates by revamping the regulatory framework for work safety and closure of tens of thousands of TVE coal mines. Reported fatalities dropped from 6,000 in coal mining alone in 2005 to 1,973 in 2011. It is unlikely the drop is due to mine bosses being more successful at covering up deaths, as “the discrepancy between reported coal mine deaths and true fatality levels has been narrowed down in recent years” and there is now more public scrutiny and tougher penalties for cover-ups.

Some 65% of copper worldwide is mined in open pits, which are less dangerous than underground mines. China has just seven open pit copper mines, accounting for 10-20% of its mined cop-

85. For example, Chinese regulations now ban temperatures above 26 degrees in mines and require installation of cooling systems. See “First Central Mine-Cooling System with Siemag Tecbeg Technology in China,” Siemag Tecbeg, s.d., www.siegm-tecberg.com/inforcenter/technical-infromation/ti_31-liuzhuang.html.
86. “Mining the Story of King Coal,” Shanghai Daily, June 6, 2012.
No figures exist for copper mining fatalities alone, but with 500,000 workers in non-ferrous mining and dressing, which includes copper, China’s non-ferrous reported fatalities are 83 per 100,000 or 2.9 times the Zambian copper mining rate. This difference indicates that if CNMC officials are determined to disregard human life by trivializing safety and bent on exporting China’s mining conditions to Zambia, they are doing a poor job of it. The argument of exporting China’s practices is also ironic given changes in safety conditions in China’s mines. The leading Western specialist of coal mining in China has observed that there has been a spectacular improvement in China’s coal safety record over the last decade – the number of deaths has fallen by about two-thirds during a period when output has more than doubled. Although one has to remain skeptical about the details of the official statistics, at least a major part of the decline in fatalities does reflect a real improvement. This improvement has been due to a number of factors: high profits creating the resources to invest in safety; the beginnings of labor shortages allowing workers to demand better conditions; the higher priority accounted for 27% of 2010 non-coal fatalities, Telephone interview with SAWS, Beijing, Nov. 16, 2011. If that percentage also applied in 2009, non-ferrous mining had 416 fatalities. Around 2008, there were 116,600 employees in copper mining and dressing. Shang Fushan, et al., “Sustainable Development of the Chinese Copper Market,” (Winnipeg: IISD, 2010): 16.

No one relies only on reported fatality rates in China however. When reported deaths in mining in China still topped 6,000 annually in the mid-2000s, it was noted that “Unofficial data provided by a senior work-safety bureaucrat suggests that as many as 20,000 miners actually die each year.” Tu, Coal Mine Safety: 38.

put on social and safety issues by the WEN Jiabao – HU Jintao government; and collaboration with foreign safety experts.  

2. Operational Configurations and Fatality Rates

Unlike NFCA and CLM, non-CNMC foreign-owned Zambian copper mining firms do not have only underground (UG) mines. Some have open cast (open pit, open cut, or surface) mines; others are mixed. The two firms with mixed configurations are KCM and MCM: KCM Nchanga is OC (55% of production) and UG (45% of production). MCM Nkana also has both UG and OC mines. Chibuluma South (in operation from 2004), Kansanshi (in operation from 2005), and Lumwana (in operation from 2008) have only OC mines.

HRW’s compares safety in terms of attitudes or practices, but operational configurations also determine outcomes: UG mines usually have many more casualties, including many more fatalities, than OC mines. A mining safety journal explains that “The main factors contributing to high injury and fatality rates in underground mines are the confined spaces people work in, the lower degree of visibility and that personnel may work directly beneath (undetected) unstable grounds.” The deeper the UG mine, the more likely there will be casualties. At over 900 meters, NFCA’s Chambishi Main is a deep UG mine. CNMC Luanshya’s (CLM) main Baluba mine, at 580 meters, is also a fairly deep UG operation.

94. MUZ, Statistics and Mine Safety Dep’t, Mining Industry.
97. CLM commissioned an OC mine, Mulyashi (Muliashi) in early 2012. Its initial workforce was to be 460, but by April, 2012, 800 young Zambians had been hired, many from the workforce of the CNMC-affiliated mine construction firm 15MCC. The Mulyashi workforce is expected to reach 1,500, all pensionable permanent employees, when the mine is fully operational. “$368m Muliashi Mine Opens this Months-End,” DM, Feb. 11, 2012; “Muliashi Mine Opening: Is this the Rebirth of Luanshya?” Zambian Guardian Weekly, Mar. 28, 2012; “Muliashi Leading Luanshya to Lost Glory,” TOZ, Apr. 5, 2012.
Mining firms in Zambia are well aware that UG mining is much more dangerous than OC mining. KCM, which has two UG and three OC mines, has stated that its safety "record was impressive considering that 70 percent of its workforce is involved in underground operations where the risk factor is high." Zambian officials also know UG mining is more perilous: Minister of Mines Maxwell Mwale noted in 2010 that Collum Coal Mine "was experiencing a lot of accidents especially underground and urged CCM management to consider having an open pit mine like their counterparts at Maamba Collieries."

Exactly how much more dangerous Zambia’s UG mines are compared to OC mines is not certain, as we lack documentary data for the Mopani Copper Mine disaggregated as to UG and OC workers. Even reports of MCM’s number of UG and OC mines are not necessarily accurate. It has been said to have four UG and four OC mines. More precisely it seems, MCM has four UG and four OC mines in its Nkana concession, but only the four Nkana OC mines produce copper. The UG mines produce cobalt. MCM also has three copper-producing UG mines at Mufilira, which "currently" employ either 5,000 or 8,000 workers. Breakdowns for workers in Nkana’s UG cobalt and OC copper mines, as well as at the Nkana Concentrator and Nkana Cobalt Plant have apparently not been published.

Nevertheless, in 2012 MSD inspectors provided us fatality figures by mine for 2006-2011 that identified those that are OC and UG. These indicate that 12 died in OC mines and 92 died in UG mines, a ratio of 7.7:1, while we estimate that for the non-CNMC foreign-owned mines as a whole, half of the workers are in UG and

half in OC mines. The inspectors themselves put the UG/OC fatality ratio for the copper mining industry over the years at 8-9:1.103

Statistics from other countries that distinguish fatality rates by UG and OC mines show much higher rates in UG mines. In the US, the fatality rate of UG mining is nearly three times that of OC mining.104 US copper mining is concentrated in Arizona, where “Copper represents the lion’s share of the state’s mineral production” and fatality rates are low. The Arizona Department of Mines and Mineral Resources director has “said the fact that Arizona has few underground mines also could be a reason for lower fatality rates. “Surface mining is always . . . in general safer than underground.”105 In Australia, the fatality incident rate (fatalities per 1,000 employees) for the metalliferous sector from 1997-2007 shows deaths in UG mines were 6.3 times higher than in OC mines.106

Another indication of the fatalities rate differential between UG and OC mines in Zambia is found in a study of KCM from January, 2005 to May, 2007, when 6,338 KCM’s workers were in the Underground Department and 2,601 in the Open Pit/Construction Department. There were 17 fatalities among the UG miners and one fatality among OC miners, a fatality ratio of 7:1 when the relative size of the UG and OC workforces are taken into account.107

Another way to show that fatalities are more likely to occur in Zambia’s UG copper mines than its OC mines is to compare fatality records of firms that only have OC mines with the overall fatality rate in Zambian copper mining. Such comparisons will still yield a significant underrepresentation of the UG/OC difference in fatality rates, because the fatality rate for OC mines only is not being compared with the fatality rate for UG mines only, which is pre-

103. Besa interview.


cluded by the lack of published data on the workforce breakdown of MCM's UG/OC.

Kansanshi, an OC mine with about 4,000 workers has operated since early 2005. In 2005-2011, there were four fatalities, for a fatality rate of .00014. Using the higher estimate of miners at all UG and mixed UG/OC foreign-owned copper mines, which had 130 fatalities in 2005-2011, their fatality rate was .00042, i.e. three times the Kansanshi rate. Using the lower estimate of miners at the UG and mixed UG/OC mines, the fatality rate at these mines was .00055 or almost four times the rate for Kansanshi.

Lumwana, an OC mine with about 3,800 workers, has operated since late 2008. In 2009-2011 it had two fatalities, for a fatality rate of .00017. Using the higher estimate of miners at all UG or mixed UG/OC foreign-owned copper mines, which had 44 fatalities in 2009-2011, their fatality rate was .00035, i.e. twice the Lumwana rate. Using the lower estimate of miners at the UG and mixed UG/OC mines, the fatality rate average at these mines was .00039 or almost three times the rate for Lumwana.

Chibuluma South, an OC mine with about 600 employees has operated since mid-2004. In 2005-2011, it had one fatality, for a fatality rate of .00023. Using the higher estimate of miners at all UG or mixed UG/OC foreign-owned copper mines, which had 130 fatalities in 2005-2009, their fatality rate was .00042, i.e. almost twice the Chibuluma rate. Using the lower estimate of miners at the UG and mixed UG/OC mines, the fatality rate at these mines was .00055 or about two and a half times as high as at Chibuluma.

The above comparisons were between each of these three OC mines and the combined fatality rates of all Zambian UG and mixed UG/OC foreign-owned copper mines. Much higher UG/OC fatality ratios would be found if comparisons could be made between the overall fatality rate of the three OC-only mines and the overall fatality rate of the UG mines. That is especially so given that the mixed UG/OC mines are KCM and MCM, which employ roughly two-thirds the total of Zambia's foreign-owned mines' workforce and had two-thirds of the fatalities in 2001-2011 (145 of 217).

CNMC firm facilities have had a high level of rehabilitative and new construction. Deaths are more likely among building, rather than working in mines, because mine construction in Zambia is done mainly by less-skilled contract workers and because, as a US study notes, mine construction has "a relatively high frequency and
severity of worker injuries and fatalities from accidents." ¹⁰⁸ Skill levels affect safety and are lower at CNMC mines than at other mines, in part due to salaries, ¹⁰⁹ but in large measure because most of Zambia’s non-CNMC mines have been open continuously; for example, Mopani has operated since 1932.

NFCA Chambishi Mine was closed for 13 years before its acquisition in 1998 by CNMC and was the first African mine bought by a Chinese company.¹¹⁰ CLM had been abandoned repeatedly by former owners. Luanshya mine was acquired in 1997 by Ramcoz, whose main investor was the UK/Indian firm Binani. Ramcoz went into receivership in 2000 and the mine was flooded, closed and stripped until 2004. Its next owner, Switzerland-based J&W (“Enya”), abandoned it in 2008, during the global financial crisis. It was stripped again, requiring a year of refurbishment before CNMC could fully resume operations. Continuously opened mines create more skilled, experienced and higher-paid workers;¹¹¹ when mines close, skilled workers drift away or are de-skilled and are often hard to recruit again, especially in Zambia which, like many mining countries, is acutely short of skilled miners.¹¹² A longer development of technical/managerial expertise in a particular mine setting may also matter.¹¹³

¹¹⁰ Kopinski and Polus: 185.
¹¹¹ Due to long continuity of employment by non-CNMC miners and discontinuities at CNMC mines created by former owners, more non-CNMC miners have moved up their salary ladders. Interview, Wang Jinjun, Deputy CEO (production) and Robert Kamanga, Deputy CEO (technical), CLM, Luanshya. August 17. 2012; Interview, Frederick Chola, Human Resources Manager, CLM, Luanshya, Aug. 17, 2012.
¹¹² “Zambia KCM Launches Drive to Boost Skills of Local Miners,” TendersInfo, Mar. 25, 2010. It has been noted that “Low productivity among Zambian workers can be due to lack of skills and social attitudes or culture . . . The World Bank . . . puts the value added per Zambian worker at US$2,700 per annum, far below countries like Kenya, India and China. Similarly, skills shortages have been observed by some local and foreign investors . . .” Sebastian Kopulande and Chileshe Mulenga, “Impact of South-South Cooperation and Integration on the Zambian Economy: the Case of Chinese Investment,” Background Paper No. 4 for UNCTAD, The Least Developed Countries Report 2011, lder_2011_kopulande%20and%_en[1].pdf. See also What would it Take: 7 (“Low productivity is in large part driven by gaps in workers’ skills that are rooted in weak technical and vocational training from industry and training institutions”).
¹¹³ See Wright, The Political Economy: 172.
Fatalities are also linked to subcontracting, as accidents disproportionately occur among contract workers, who are not permanently employed by a mining firm. Zambia's MSD Director has noted that "Most companies do little work on their own. This has contributed to accidents, because contractors are poorly supervised and don't employ people on a full-time basis. Their workers might get a quarter of the regular salary ... Most accidents occur with contractors' employees." Many accidents occur because contract workers' bosses try to meet unattainable targets in order to collect bonuses. MUZ's CLM branch chairman has also pointed to subcontracting as hazardous:

There's a quite OK safety record in the main mine [but] the contractors [constructing a new CLM mine] are not good in safety. Both foreign and Zambian contractors need to understand our standards ... With Chinese, you just need to convince them. Then they will give you whatever safety equipment you want."

Fatalities rise with work expansion and the pressure to produce, especially when copper prices are high. The MSD Director has stated that "Supervisors in mines are all supposed to be safety officers, but are often pressured to maintain production schedules." He did not single out Chinese-owned mines in that regard. When mining firms push to expand, fatality rates rise as new workers are brought in to boost production. For 22 months, from October, 2006


115. Interview with Mr. Mooya Lumamba, August 19, 2011, who cited shaft sinking by South African contractors at KCM and Brazilian contractors at MCM, adding that "Foreigners take the big contracts, Zambians have small and medium sized contracts." The District Commissioner of Solwezi, home to Kansanshi mine, criticized its owners for using foreign contractors for tasks such as cleaning and stated that "the former Zambian contractors were paying their employees between K1.2 million to K2 million, but the new foreign investors are paying the same workers K400,000 net." He added that Kansanshi sources supplies from South Africa and Ghana. "Zambians Being Treated Like Children," LT, Jan. 21, 2008.


118. In China, reduced demand for coal in the 1990s led to strapped mines reducing expenditures for and adversely impacting safety. The boom in demand for coal in the 2000s resulted in a drive for increased production and that too negatively affected safety. Wright, The Political Economy: 188-189.
to August, 2008, NFCA had no fatalities, an industry rarity. In August, 2008 GAO Xiang, then NFCA vice CEO for human resources, stated “Now we pay special attention to safety. We would rather spend the money on preventive measures than spend it on the aftermath. The good conditions [including this record] we have don’t come easily. We value them.”

In a 2011 interview, referring to this past experience and expressed determination, we asked CEO WANG Chunlai about NFCA’s fluctuating safety record. He said:

The amount of work that we have is much greater than before. Before, we only had one ore body to work on; now we have two which are in operation and a third one is in development. With the main ore body, as you go deeper there is more stress on structures. Now we go down to more than 1,000 meters. The ceiling there gets unstable and that can create injury. We do try to look for weaknesses in our safety work. As the scale of work enlarges, we’ve recruited more new workers, so our training may be lagging and we have to invest more in training.

3. Health & Safety Compared

In 2011 interviews, union leaders and mining regulators held views on safety and other labor matters more in keeping with MUZ President Munyenjembe’s than those of HRW. MUZ Acting President Charles Mukuka said labor abuses occur mostly because the law permits them and added “I don’t blame the Chinese for what they’re doing, because of what they found in terms of our labor law.”

Zambia’s Chief Mining Engineer said NFCA is “doing well now around these issues. They’re raising the bar.” The MSD Chief Inspector of Mines singled out NFCA in terms of its first five years of operation (2003-2008), when he said it “was the worst mine in terms of safety. It didn’t want to do sufficient support work. And it didn’t have proper ventilation.” Now, however, he said “NFCA is OK” and “no longer stands out.”

When asked which Chinese firms comply with the country’s labor laws, Zambia’s Assistant Labor Commissioner listed only CNMC firms: CLM, NFCA and CCS,

121. Interview with Charles Mukuka, August 15, 2011.
123. Interview, Mr. Kalezi, Kitwe, Aug. 16, 2011.
three of the four companies HRW says are labor abusers. Similarly, two scholars in the US have noted that “Roy Mwaba, General Secretary of the Zambia Congress of Trade Unions, acknowledged that the larger Chinese enterprises were abiding by local labor law.”

MUZ’s Director of Occupational Health and Safety told us that at Chambishi mine, the firm was still not doing well in terms of ventilation systems, but that the safety situation at Chambishi was better now than it was during the period from the 1970s to late 1990s, when Zambia’s copper mines were state-owned. Safety training had particularly improved. The president of the main union at Chambishi, the National Union of Mine and Allied Workers (NUMAW), also stated that safety was improving there. The MSD Director stated that

Chinese mines have some of the most advanced technology. For example, CLM has got the best winder, having replaced the old one that was in place since the 1930s. NFCA has the best trolley line. CLM has introduced the best dust abatement system. They’ve done a good job in terms of dust control.

GAO Xiang, then-CLM Vice CEO, related that “When we took over the mine, there was so much dust underground that it was impossible to stay there.” Displaying then-and-now pictures in CLM’s newsletter, Gao remarked that “The local Environmental Protection Agency (EPA) didn’t seem to interfere with the previous owners in that regard. Had we been like that, the EPA would certainly have come to us. CLM spent $60 million on updating equipment and now when you go down the shaft, it’s much better.” On safety, he noted that from June 2009-December 2010 there was only

127. Interview, Goodwell Kaluba, NUMAW President, Kitwe, Aug. 19, 2011.
128. Interview, Mooya Lumumba, Kitwe, Aug. 19, 2011. A winder or hoist raises or lowers conveyances, such as the cage containing miners, into a shaft. Trolley lines feed trolley trucks that carry cargo.
one fatality, also that “We’ve been complemented on the health and safety front” and that “this record has completely changed the situation from what was obtained earlier, when we weren’t in control of the situation.”

Health and safety remain industry-wide problems. Lungu and Fraser found it improved in recent years, largely due to technical advances; yet, substantial problems remain, because the privatization of the mines in the late 1990s and early 2000s allowed new owners to bring in many contract or casual workers, whose firms are often paid by how much tunnel they develop. There have been several studies of conditions at foreign-owned copper mines in Zambia that have drawn conclusions about health and safety generally or about specific mines. NGOs that studied conditions at KCM around 2007 reported that

Some contract workers told us their firms had given them insufficient equipment. Underground workers said they are meant to have two pairs of disposable gloves a week but are given only one pair a month; and they often have to buy protective clothing from their own meager wages. The unions share this concern about the safety of contractors. NUMAW general secretary Albert Mando told us that contracting firms ‘do not put much interest on [contract workers’] safety; they want to do the job, take the money and forget about the safety of their workers’. Officials from the Mines Safety Department have also said that the use of contractors is their biggest worry.

Another NGO did a study of MCM, published in 2010, which stated that working conditions are difficult. In the mine they are described as “pathetic” due to the lack of ventilation and the heat. A worker explained: “They will tell us to go ahead, where there is no ventilation, as long as they’re producing . . . When there is an inspection, they show other parts underground [than those not ventilated].” Many miners complain of leg pain and respiratory problems . . . A study in 2008 revealed however that in mines managed by the company . . . levels of silica in the air exceed rates authorized by US regulations. This means that emission controls are insufficient, and that miners are exposed to greater risks of lung diseases, especially silicosis.\footnote{Counter Balance. “The Mopani Copper Mine, Zambia: How European Development Money has Fed a Mining Scandal,” Dec. 2010: 16-17, www.counterbalance-eib.org/?p=347.}

A study by still another NGO of the (white) South African firm Metorex’s Chibuluma mine in Zambia concluded that

The company has no clear policy on occupational health and safety. Union officials claim the company has done away with safety committees that used to be in place during the [state-owned] regime and now arranges ad hoc safety meetings at sections underground . . . contrary to [International Labor Organization] Convention 176.\footnote{Austin Muneku, “South African Multinationals in Zambia: the Case of Chibuluma Mines, Plc.” in Devan Pillay (ed.) \textit{South African MNCs Labour and Social Performance}, 2005: 258-283 (275), www.gurn.info/ . /mining-africa-south-african-mnsc-labour-and-society.}
No one, including CNMC, asserts there are no health and safety problems in its Zambia facilities or that at these and other mines such problems do not require urgent attention. Yet, a 2010 study monitoring the underground environmental in Zambian copper mines “revealed that very little is being done by the owners of the mines to ensure a safe working environment for the miners...” and “that the current methods are not very effective and a number of accidents that could have been avoided were recorded in the past five years.”

Taking into account fatality figures and differences in the configuration of mines, there is no empirical basis for labeling CNMC the worst in terms of safety. There is also a logical contradiction between HRW’s acknowledgment that safety at CNMC firms is being improved and its assertion (pp. 1-2) that these firms “have tended to treat safety and health measures as trivial” and “appear to be exporting abuses along with investment.” In any case, HRW’s assertion of exporting abuse does not square with fatality rates in China and Zambia. The assertion about trivialization not only ignores different structural conditions of mining development, but also calls to mind hoary stereotypes, which have been around for more than a century in the West and spread to Africa, that the Chinese are cruel and have a disregard for human life.

Such stereotypes are found in both contemporary Western journalism about China-in-Africa and in the minds of Zambians influenced by the PF anti-Chinese campaigns. For example, workers at Chambishi Mine told a researcher in 2008 that “the Chinese do not value life because there are so many of them in China.” The father of a worker injured in a 2010 shooting by two Chinese supervisors at a small, privately-owned Zambian coal mine told journalists that “The Chinese don’t care about human life and do just what they want.”

Referring to the HRW report, then-Minister of Labor Fackson Shamenda “said the ruling party (PF) had been ‘vindicated’ for its

hard stance on Chinese investment ahead of the polls.” 138 Thus, the PF now proclaims that the HRW report shows that it was right to engage in years of anti-Chinese incitement. Judged by global reportage, the main result of the HRW report has been to bolster anti-Chinese sentiment, rather than to improve safety in the mines.


The HRW report contends there is a large pay gap between CNMC-owned firms and other foreign copper mining investors, asserting that “Chinese copper mining companies offer base salaries around one-fourth of their competitors’ for the same work” (p.24). 139 In contrast, in 2011, John Lungu compared miners’ CNMC mine salaries with those at MCM and KCM, the two largest foreign-owned copper firms in Zambia.

MCM and KCM are the best payers among the mine owners. But the Chinese have responded to criticisms. The lowest wage in Chambishi went up from 400,000 Kwacha to K1.5 million and there’ve been later increments... Chinese companies have not caught up completely with the Western companies in terms of incomes in the mines, but they’re not lagging behind too much. There’s been great improvement. 140

A wage gap continues. It is explicable, however, in terms other than the desire of CNMC — and by extension, Chinese enterprises more generally, to export China’s labor standards, as claimed by the HRW report and larger China-in-Africa discourse. Factors that mitigate and explain — but do not excuse — the wage gap, include

---

138. “We are Good Guy: China,” DM, Nov. 9, 2011.
139. Base salary or basic pay excludes subsidies for housing, transport and medical care that all foreign-owned mines pay in Zambia and that amount to much of miners’ total income. Base salary or basic pay figures quoted are typically for the lowest paid miner at a given firm. The HRW report itself contains contradictions and makes generalizations about pay not supported by the specifics it provides; for example, the report’s generalization that “Chinese copper mining companies offer pay base salaries around one-fourth of their competitors’ for the same work.” This unqualified statement applies only to CNMC processing plants, where only 20% of CNMC firm employees work and which have particular difficulty turning a profit. The report’s wage annex differentiates between pay in processing plants and mines. Large pay hikes at the CNMC processing plants in 2012 have narrowed the difference in pay between these small enterprises and the mines.
140. Interview with John Lungu, Kitwe, Aug. 15, 2011.
the presence of a much larger number of low-paid contract workers at several non-CNMC mines and lower productivity and profits at CNMC mines than at other foreign-owned mines in Zambia.

HRW did not take these factors into account when comparing wages at CNMC and other firms. Yet, as MUZ president Charles Mukuka has observed, “It is common knowledge that undertakings

141. CNMC firm operations on Dec. 31, 2011 had 10,716 workers. Contrary to a common assumption, Chinese are only a small proportion: NFCA 3,433 (Chinese 388); CLM 4,889 (Ch 458); CCS 1,995 (Ch 347) and SML 399 (Ch 47); total: Chinese 11.6%; Zambians 89.4%. Yet, 732 of the 1240 Chinese were construction-exploration firm workers who leave on project completion. In mine construction, 15MCC had 1,320 workers (Ch 370; Zm 950) at CLM and 804 workers (Ch 212; Zm 592) at CCS. A mine construction contractor at NFCA, Tongling Zhongdu, had 90 Chinese and 205 Zambians; exploration firm Sinomine Resources had 60 Chinese and 192 Zambians. “Web Proof Information Pack, China Nonferrous Mining Corp. Ltd.,” June 29, 2012: 185, III-148-150, iis.aastocks.com/20120629/001454807-0.pdf. As Zambia’s Minister of Mines pointed out in 2011, “whenever there are big projects being undertaken at any operation, there is an increased number of expatriates.” Zambia Parliament, Debate, May 31, 2011, www.parliament.gov.zm/index.php?option=com_content&task=view&id=1440&Itemid=86&limit=1&limitstart=4. Disregarding construction and exploration firm employees, CNMC employees were 6.3% Chinese (508 of 8,045), in accord with CNMC’s claim that 6.3% (324) of its 5,137 direct employees in Zambia are Chinese and all others Zambians. Ibid: 145, 181, 183. As of June 30, 2012, locals were 94% of all direct CNMC employees in Zambia (6,194 total: 379 Chinese and 5,815 Zambians). See China Nonferrous Mining Corp. Ltd, “2012 Interim Report”: 25, http://m.todayir.com/todayirattachment_hk/chinanonferrous/attachment/2012091417027001001503963_en.pdf. That ratio also accords with local-to-Chinese ratios at large Chinese SOEs operating abroad. See “Getting the Balance Right,” Chinafrica 4 (June 2012) (20:1 local: Chinese ratio at Sinohydro operations in Africa); “Chinese Firms Build Bridges with Communities in Africa,” China Daily (CD), Nov. 3, 2011 (local: Chinese ratio 15:1 at China Road & Bridge Co. in Kenya); “Annual Report 2011,” China National Petroleum Corp., 2012: 16 (non-Chinese 91% in CNPC overseas), www.cnpc.com.cn/en/press/publications/annualreport/2011/. Non-directly employed workers (5,579) at CNMC operations in Zambia are “subcontractors’ employees.” Web Proof: 145. Most have the same conditions as direct CNMC employees or else do mine construction/exploration. Since early 2011, most workers in NFCA’s operations (1,907 [176 Chinese] of 3,433) work for JCHX Mining Construction, a “long-term cooperative partner” of CNMC that does mining at NFCA. “Chambishi Copper Mine in Zambia, Africa (Under Construction),” 2011, www.tjskl.org.cn/products-search/czae9365/chambishi_copper_mine_in_zamibia_africa_under_construction-pz2709502.html. NFCA said then that the transfer of its mining workers to JCHX “was purely administrative and . . . would not in any way disadvantage or alter the status quo of all the employees concerned in terms of conditions of service.” JCHX workers’ permanent and pensionable status seems to have not been affected and they are part of labor contracts covering NFCA employees. “Chambishi Workers End Strike,” Platts Metals Week, Jan. 24, 2011; “18 Miners Accused of Damaging Property at Chinese Nonferrous Metals in Zambia,” SteelGuru, Feb. 22, 2011. In contrast, many contract workers at non-CNMC mining firms do mining, but are paid much less than permanent miners.
or employers have unique productivity and unit cost profiles and their ability to pay differs from employer to employer, due to numerous factors." 142 Even after critiques of its report pointed out these factors, 143 HRW still ignores the presence of large proportions of contract workers at non-CNMC firms who sharply diminish average wages, as well as these firms' much higher levels of productivity and profitability compared to CNMC companies.

1. Making Contract Workers Visible

Zambia’s Vice President stated in 2005 that J&W, the then Swiss owner of Luanshya, was the lowest payer in the copper mining industry. 144 There were structural reasons for that and no one has yet claimed that it reflected stereotypical Swiss financial probity. Luanshya was closed from 2000-2004, and from 2004-2008 financially-strapped J&W imposed a wage freeze. 145 Thus, workers could not progress up the pay scale and their pay was the lowest.

CNMC argues it has not been the lowest payer in Zambia’s copper mining industry and that pay is related to its mines’ circumstances. NFCA’s CEO stated in 2011 that “Our production scale is fifth in the industry and our salaries are at mid-level, corresponding to our position in the industry.” He added that the firm’s average basic pay is about half that of KCM, the highest payer. 146 Former Vice-CEO of CLM GAO Xiang had averred that average basic pay there is about 80% of KCM’s level. 147 CNMC’s assertion that its mines, where 80% of CNMC Zambian employees work, pay 50-


144. “‘Stop Employing Casual Workers,’” TOZ, May 6, 2005.


80% of what is paid at KCM contradicts HRW’s claim of a larger gap based on the companies’ apparent wage scales.

The estimates of CNMC firm workers earning 50-80% of what miners at the highest-paying KCM earn are because, unlike at NFCA and CLM, workers at KCM (and at MCM and other mines, as of 2011, and Lumwana, since 2010)\textsuperscript{148} include many low paid contractors’. NFCA’s CEO and the CLM Vice-CEO have said however that almost all their firms’ workers are permanent.\textsuperscript{149} Comparisons about pay that fail to take into account the large numbers of contract workers at some mines, but not others, are misleading.

\begin{table}[h]
\centering
\caption{Permanent Employees and Contract Workers ("Contractors"), 2009-2011}
\begin{tabular}{|l|c|c|}
\hline
Firms/Mines & Permanents & Contractors & Contractors \%
\hline
\hline
Glencore: MCM & ca. 8,250 (2011) & ca. 8,250 (2011) & 50
\hline
FQM: Kansanshi & ca. 3,000 (2011) & ca. 1,000 (2011) & 25
\hline
\hline
\hline
\end{tabular}
\end{table}

Sources:\textsuperscript{150}


\textsuperscript{149} Except managers above age 50, who had contracts, and builders of new facilities, who no firm regards as permanent. CNMC firms do however hire permanents from among contract workers when mine construction projects are finished. Wang Chunlai and Gao Xiang August 2011 interviews. From 2008, NFCA made the vast majority of its workers permanent. In that year, of 2,062 employees (probably locals only) were permanent; 167 were contract workers. Apotheke, \textit{Foreign Copper}: 41. In October, 2009, it was announced that CLM would hire 2,300-3,000 employees and that all would be “pensionable.” Zambian Parliament, Debate, Oct.1, 2009, www.parliament.gov.zm/index.php?option=com_content&task=view&id=1022&Itemid=86&limit=1&limitstart=2. In early 2010, CLM stated that 2,300 workers were permanent. “Labor Laws should be Reviewed,” \textit{TOZ}, Jan. 8, 2010. The Deputy Minister of Labor noted in 2009 that at CNMC firms “only those that have passed the retirement age of 55 would be engaged on special contracts of between two and three years.” “Chinese Firm to Build $300USm Leach Plant,” DM, Aug. 19, 2009.

Regarding contract worker’s wages, the HRW report (p. 119) states that “government officials and business representatives told [HRW] that the Ministry of Labor outlined in 2008 that subcontractors had to pay salaries that were at least 80% of that paid by the main company to their permanent employees, reducing the previous disparity.” In fact, according to MUZ, while Zambia’s Ministry of Labor did make such a proposal in 2008, the policy was never implemented. In 2012 the then-Minister of Labor “bemoaned the high levels of casualization of labor in mining companies, saying the Ministry of Labor will review labor laws to resolve the problem.”

Even in countries with laws requiring narrow contract-permanent worker pay disparities, the laws may not be enforced. For example, Thailand’s labor code has, since 2008, required firms to pay equal wages to “agency” workers doing the same jobs as permanent workers. The law however has been “severely undermined” by company practice, so much so that Thailand is now a focus of an international confederation of unions’ contract labor project. With casualization so prominent in recent years and a huge gap continuing to be seen between the wages and benefits of permanent

---


and casual workers, the World Bank has come to consider casual employment as part of the informal sector.\textsuperscript{154}

In Zambia, casuals seem to not be deemed as employees under the law\textsuperscript{155} and "little has been done to compel mine owners to engage more permanent employees."\textsuperscript{156} In the 2008 presidential elections, the PF "promised laws that would compel mine owners to respect Zambia's labor laws by hiring workers on a permanent basis, with full benefits."\textsuperscript{157} Casualization in mining continues however under the PF: in 2012, Copperbelt minister Davis Mwila still had to "urge mining firms to employ workers on a permanent basis to ensure development in the country,"\textsuperscript{158} as none of the promised laws were enacted.\textsuperscript{159} The head of the United Mineworkers Union of Zambia stated in 2012 that "There's been too much casualization in our country in all sectors of the economy, and the mining sector is no exception."\textsuperscript{160}

Researchers for a European NGO have stated that "When we visited [Mopani's] Mufulira in 2009 and 2010, the miners confirmed that their wages were still far from sufficient, and that those employed by sub-contractors could be paid as little as half the wages of permanent employees, for the same work."\textsuperscript{161} The Deputy Commissioner of Labor said in 2011 that contract workers may get as little

\begin{thebibliography}{9}
\bibitem{159} Casualization in fact remains common even in the few remaining prominent Zambian parastatals, where some workers have been very long-term casuals and assuredly earn less than the minimum wage. See Zesco Casual Workers Protest," TP, Nov. 20, 2012; "Zesco Casuals Demand Minimum Wage," DM, Nov. 20, 2012.
\bibitem{160} "UMUZ Backs Sata's Call for Permanent Jobs," TP, July 5, 2012.
\bibitem{161} Counter Balance, The Mopani: 17.
\end{thebibliography}
as one-fourth the pay of permanent employees.\(^{162}\) A UK journalist who interviewed MCM miners in 2011 found they were “typically paid” three British pounds per day.\(^{163}\) That is only US$120 (K600,000) a month, too low a figure for regular MCM miners, who earn several times that, but likely the basic salary of contract workers, who constitute half MCM’s workforce. In 2011 also, the Labor Ministry reported “[L]abor offices have recorded a number of reports, especially in areas such as Mopani Copper Mines and Konkola Copper Mines, where several sub-contracted companies have been paying below the Government’s minimum wage requirements,”\(^{164}\) which was then only K419,000 or about $82 a month.\(^{165}\)

When KCM contract workers went on strike in October, 2011, they stated that no contract worker was paid more than K500,000 or about US$100 a month.\(^{166}\) In 2012, striking Kansanshi miners demanded all workers be placed on “permanent and pensionable conditions of service as opposed to working on contract.”\(^{167}\) They added that they were paid between K1 million-5 million monthly, indicating that the contract workers among them were likely receiv-

---

162. Siti interview. Zambia’s minimum wage in 2011 was K419,000. Contract workers paid that made less than one quarter of what most permanent employee miners made.

163. Davies, The Other Face.


165. The minimum wage for the lowest level “general and shop workers,” was increased in July, 2012. The lowest basic minimum wage was upped in January, 2011 from K268,800 to K419,000. There was also several allowances: housing at 30%, i.e. 125,700, transport at K102,000, lunch at K120,000 and subsistence at K195,000, for a total of K961,700. In 2012, the basic minimum wage rose to K700,000, plus housing at 210,000, transport at K102,400, and lunch at 120,000, for a total of K1,132,400, representing a 17.7% increase. “Minimum Wages,” MyWage.org/Zambia, 2011, http://m.mywage.org/zambia/main/salary/minimum-wage/minimum-wage-2011/new-minimum-wage-for-zambian-workers-in-2011; “Domestic Workers in Windfall, Minimum Wage Increased,” DM, July 12, 2012.


167. “Miners Paralyze Kansanshi Ops.” TOZ, Jan. 3, 2012. There were no such demands raised at CNMC firms during Zambia’s strike wave from fall 2011 through winter 2012. For example, the principle demands of miners at NFCA were salaries equal to those paid at KCM, standardization of grading of miners, and the localization of some jobs being done by Chinese. “Government Directs NFCA to Increase Salaries,” TP, Oct. 11, 2011. As discussed herein, the salaries gap with KCM was subsequently narrowed.
ing half or less than half of what permanent employees’ were being paid. CLM’s Deputy CEO and its Zambian Human Resource Manager have both stated that before CNMC got Luanshya in 2009, contract workers there were paid half of what permanent workers made. According to Hamilton Musenga, a longstanding MUZ activist at Luanshya, “the new [CNMC] owners . . . have increased wages, in some cases fourfold . . .”

When it is taken into account that CNMC mines employ only permanent workers and that KCM, MCM and other larger firms employ contract workers who are paid low salaries, the actual wage gap between Chinese-owned firms and these much larger ones diminishes significantly. The HRW report however bases its conclusion on the apparent wage scales differential, ignoring the impact on average basic pay of actual workforce compositions in these firms.

2. Productivity Differences

CNMC’s NFCA and CLM together produced 4.5% of Zambia’s copper output in 2010, but had 10.5% of the foreign-owned mines’ total workforce. Their productivity is significantly lower than industry averages in both Zambia and China.

168. “Strike Halts FQM Copper Production,” DM, Jan. 3, 2012. The strikes also stated that some expatriate managers earned K150-250m a month, i.e. about $30,000-$50,000. Ibid.

169. Gao Xiang interview, Oct. 20, 2011; Chola interview. Permanent workers are largely unionized; contract workers are not. Pay for contract workers may however be specified in union contracts; at NFCA in 2008, basic salary for the lowest paid contract worker was about half that for the lowest paid permanent worker. Apotheker, Foreign Copper: 59.

Table 3: Productivity and Wages in China, Zambia, NFCA and CLM

<table>
<thead>
<tr>
<th>Country or Company</th>
<th>Copper produced (tons)</th>
<th>No. of Workers</th>
<th>Productivity (ton/person)</th>
<th>Monthly Wage</th>
</tr>
</thead>
<tbody>
<tr>
<td>China (2009)</td>
<td>1,000,000</td>
<td>76,769</td>
<td>13</td>
<td>$398 (average)</td>
</tr>
<tr>
<td>Zambia (2010)</td>
<td>676,198</td>
<td>55,000</td>
<td>12.3</td>
<td>$229-$485 ($334 average)</td>
</tr>
<tr>
<td>NFCA (2011)</td>
<td>23,243</td>
<td>3500</td>
<td>6.6</td>
<td>$229-$485 ($334 average)</td>
</tr>
<tr>
<td>CLM (2011)</td>
<td>18,680</td>
<td>2350 (in mining)</td>
<td>7.9</td>
<td>$358-$712</td>
</tr>
</tbody>
</table>

Sources ¹⁷¹

As Tables 3 and 4 indicate, except for CNMC, other major copper mining firms in Zambia are all near, above, or far above the average in terms of productivity. The two CNMC mines are the only ones far below the average; even more so if one uses the 2010 Zambian government figures of 22,000 tons for NFCA and 10,000 tons for CLM.

Table 4: Productivity in non-CMMC Foreign-owned Copper Mining Firms

<table>
<thead>
<tr>
<th>Firms/Mines 2010</th>
<th>Total Employees</th>
<th>2010 Tons Copper</th>
<th>2010 Tons/Worker</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vedanta: Konkola</td>
<td>20,777</td>
<td>217,000</td>
<td>10.4</td>
</tr>
<tr>
<td>Glencore: Mopani</td>
<td>16,500</td>
<td>198,000</td>
<td>12.0</td>
</tr>
<tr>
<td>Metorex: Chibuluma</td>
<td>843</td>
<td>17,000</td>
<td>20.2</td>
</tr>
<tr>
<td>Equinox: Lumwana</td>
<td>3,800</td>
<td>147,000</td>
<td>38.4</td>
</tr>
<tr>
<td>FQM: Kansanshi</td>
<td>4,000</td>
<td>233,000</td>
<td>58.3</td>
</tr>
</tbody>
</table>

Sources ¹⁷²


In copper mining, differences in the mineral contents level of mining concessions greatly affect productivity. CNMC concessions have a low content, which they have to extract from deep underground. An NFCA engineer told us that “With 1.8% copper content, the former [owner] didn’t think it was worth their while to mine it. 1.8% in Zambia is considered a tail mine. They don’t think it was worth their effort if it’s lower than 3%. Other mines had 4% or 5%.” Mines with lower copper content are more labor intensive, require greater extractive effort and incur higher cost of production. A mining giant had abandoned Chambishi mine and NFCA’s Vice-CEO GAO Xiang commented on how his firm revived it:

Anglo-American had given up on this mine because it couldn’t go further in here. They were very dogmatic and didn’t adapt conventional methods. NFCA found a way to explore this mine by adapting conventional methods to local geological conditions, but it requires labor intensive work underground. We managed to improve the mining efficiency by working harder.”

Besides copper content, the other major factor in productivity is whether a mine is OC or UG. A study of productivity in Australian mining has noted that for its growth, “An increase in the use of open-cut mining has been a key development,” that became economic after the discovery of solvent extraction-electrowinning.
methods of ore extraction, which enabled metal to be produced from lower grades of ore.  

There is a world-wide tendency for highly productive enterprises to pay higher wages than less productive ones. For example, productivity and wages in China and Zambia are very low by the standards of some other copper producing countries. Chilean miners produce about 100 tons each per annum. The same appears to be true in Peru, where at the major Antamina mine in 2010, productivity was also 103 tons per worker, fourteen times the average at CNMC mines. Yet, although the industry average pay for Peruvian miners (including benefits) is some $30 per day; the average pay for the much less productive CNMC miners is not far below at about $23 a day. In 2005, US copper miners produced an average of 150 tons. In 2009, Canada’s Highland Valley Copper (HVC) produced 118,000 tons with 880 employees or 134 tons per worker more than twice the level of productivity of the Canadian-owned Kansanshi mine in Zambia, more than ten times the China or Zambia average, and about eighteen times the average at CNMC mines in Zambia. Basic salaries for HVC miners in 2011 were $5,700 a month or some fourteen times that at CNMC Zambia mines.

---


177. “Mining Industry Woos Five Billion in Past Decade,” TOZ, Mar. 16, 2012. See also What Would it Take: 7 (“In Chile, annual production of copper per worker is almost seven times greater than in Zambia. A difference of this magnitude cannot be explained solely by variables like scale, nature of resources and better equipment”).


Productivity in China’s copper mines is generally a bit higher than in Zambian copper mines, but substantially higher than at CNMC mines in Zambia. If, as HRW alleges, CNMC merely exports to Zambia the labor standards of China, where the more productive mines pay better than less productive ones, CNMC would pay much lower wages in Zambia than it pays in mining in China. CNMC’s salaries in Zambia are however about the same as those paid at copper mines in China (see Table 3).  

3. Profits Large and Small

In late 2010, a Wall Street Journal article observed that “The mining industry is printing money: Citigroup expects it to have aggregate net cash of $70 billion by the end of 2012.” Among the foreign-owned mining enterprises in Zambia however, some firms are printing much more money than others and that affects wage levels. The continuing wage gap reflects sharp differences in profit levels between CNMC mines and the larger foreign-owned mines and that profit levels are correlated with firm size. 

Everywhere in the world, ceteris paribus, large enterprises can and most often do, pay workers much more than substantially smaller enterprises. The size of the enterprise often is a critical factor in both pay and working conditions. The US garment industry is a good example. There were 350,000 US garment workers in the early 2000s, down from a million in 1950. Only 8% have a union

---


contract. In Los Angeles in 1993, some 120,000 garment workers labored in 5,000 factories, an average of 24 workers per factory. By 2005 however, the average Los Angeles garment factory had only 12 workers. Hourly wages in 2008 among workers (legal and underground) in Los Angeles garment shops averaged $3.28. The US’s largest garment factory, American Apparel, with about 5,000 workers, is also in Los Angeles. The firm has 10,000 employees world-wide, 275 stores in 20 countries, and earned $545 million in revenue in 2008. It pays its factory workers $10-12 an hour, yet its owner emphasizes that “American Apparel is not an altruistic company. I believe in capitalism and self-interest.” This self-described “hyper-capitalist” firm pays more because its size permits it to do so. By paying higher than average wages, its owner creates low turnover among the mainly skilled and semi-skilled workers and maintains his enterprise as a non-union shop.

The same logic applies in Zambia’s copper industry. GAO Xiang has stated,

We know that KCM pays more than we do. But to use KCM as the benchmark is like comparing a small-time trader to a billionaire. I remember that in 2005 KCM’s profit was 10 times that of NFCA. KCM’s profit is US$450 million, while NFCA’s is US$45 million. Is their workers’ wages 10 times of our workers?

Zambia’s most productive copper operation in 2010, the Canadian-owned Kansanshi mine, had net sales of $1.66 billion and an operating profit (net sales minus operating expenses, before inter-


194. McElgunn, Canada’s.


196. Ibid.
est and taxes) of $997 million. Higher copper prices in 2011 resulted in Kansanshi paying $611 million in taxes, of which 85% or $519 million was corporate tax. Zambia’s corporate profits tax rate is 30%, based on profits declared after deducting costs, as well as royalties, then paid as 3% of the value of copper ore produced. That implies that Kansanshi’s 2011 operating profit was much higher than the near $1 billion earned in 2010. In contrast to Kansanshi’s high profitability, CNMC’s NFCA reportedly had a 2010 profit of about $40 million. NFCA’s profits began in 2005, seven years after CNMC bought Chambishi mine. The firm stated in 2011 that it had made a total about $200 million in profits over the years, which it had reinvested at Chambishi. Given that productivity at CNMC’s other mine, CLM, is about the same as Chambishi (see Table 3), profits there are likely to be no higher than at NFCA. CLM’s CEO has said production costs at its main (UG) Mine, Baluba, are so high it has been working at a loss, with profits only expected from 2012 onwards from its new OC Mulyashi Mine. In five years of tax-paying till 2011, FQM’s re-


198. “First Quantum Pays more than US$600m in Taxes to Zambia,” Steel Guru, Dec. 6, 2011. FQM said in early 2012 that it produces 700t of copper and has $5m in sales a day, i.e. $7,143 per ton. “Kansanshi in $10m Loss as Strike Bites,” TOZ, Jan. 5, 2012. The cost of production in 2011 was $1.15/lb., i.e. $2,535 a ton; production was about 250,000t. “First Quantum Profit Lifted by Higher Copper Price,” Business Day, May 10, 2011. After a four day strike in 2012, Kansanshi sued the heads of the ZCTU and PF in Solwezi for $20m for allegedly inciting workers to strike, claiming that it lost $5m a day during the strike. “Kansanshi Mining Sues ZCTU and PF Officials over Strike,” TP, Mar. 27, 2012.

199. Zhang Zhe, “Chaoyue zhengyi de Feizhou kaifa: Zhongguo zai Zambiya zhenshi cunzai” (Beyond the controversy of Africa’s Opening up: China’s actual situation in Zambia), Nanfang Zhuomo, Nov. 4, 2010. CNMC has reported that for 2009, it derived from Africa $34.3m of its $696m in revenues; for 2010, it was $22.4m of $1.36b and for 2011, $38.8m of $1.28b. Web Proof Information Pack: 2.

200. Han and Shen, China’s Harsh Squeeze. Profits in relation to taxes are another matter, however. According to Deputy Minister of Finance Miles Sampa, as of 2012 “All mining companies in the country save for First Quantum’s Kansanshi Mines are still recording losses.” “Zambian Revenue from Mines Up by 46 Percent,” SteelGuru, June 6, 2012.

201. Interview, Luo Xing’En, CEO, CLM, Luanshya, August 17, 2012. CNMC has indicated that all the firms it owns in Zambia together made a $118m profit before tax and $103m profit after tax in 2011. CNMC, “Global Offering,” July 25, 2012: 285, 259,
ported total was $1.6 billion;\textsuperscript{202} in about the same period of tax-
paying, CNMC firms’ reported total was $90 million.\textsuperscript{203}

Like other mining companies, CNMC firms have made investments that diminish profits. Investment levels of CNMC firms, in relation to their output, may however have been quite high, however. The observation of a consultancy report on this score may not be far off the mark: “The majority of investments in the copper mining sector originate from the Chinese owned CNMC.”\textsuperscript{204} Major expenses began with the costs of rehabilitating Chambishi Mine, closed for 13 years and flooded before CNMC acquired it. NFCA spent $132 million restoring it.\textsuperscript{205} NUMAW’s president told us in 2008 that “NFCA’s production cost is high, as it had to reconstruct an abandoned mine. In other mines, such as Kansanshi, there is an open pit that is not deep and there is naked copper on the top. NFCA is not making much profit. KCM and Mopani have higher profits.”\textsuperscript{206}

A World Bank analysis involving Zambian copper mining noted that

Production costs can differ significantly between mines, depending on the type of mine and nature of the deposit . . . A mine’s cost production is a function of the resource (the quality of the ore, its depth, etc.) and the extent to which the most accessible resources have been exploited. The depletion of resources at the older mines means that they now need to mine at considerable depth and distance from the mine head, leading to high costs.\textsuperscript{207}

The CNMC mines are old and with relatively low ore quality and, as discussed above, through 2011 CNMC’s Chambishi and Luanshya facilities were both UG mines, while all other firms had either OC or a mix of OC/UG mining operations. Operating costs are significantly higher in UG mines than in OC mines. As a lead-


\textsuperscript{205} Fraser and Lungu, For Whom: 48.

\textsuperscript{206} Interview, Mundia Sikufele, Kitwe, Aug. 27, 2008.

\textsuperscript{207} What would it Take: 2.
ing textbook on mineral processing technology observes, mining costs “vary enormously and are much higher for underground mines than for open pit operations.” On average, UG operations are more than three times the cost of OC operations. The difference in productivity of course negatively impacts profits, which in turn negatively impacts wages.

NFCA also spent $160 million to develop its West Ore Body, commissioned in 2011. By 2012, it had sourced $832 million for its Southeast Ore Body, scheduled for commissioning in 2016 and set to employ 5,000 Zambians. By late 2011, NFCA had spent $500 million on Chambishi’s Multi-Facility Economic Zone (MFEZ).

Altogether, NFCA reckons that it has invested $1.4 billion. In contrast, substantially more productive KCM and MCM did not invest much more (see Table 6). CLM spent $74 million to rehabilitate and refurbish equipment and machinery at Luanya mine, neglected by previous owners and closed after J&W abandoned it in 2008. It is spending $400 million to expand Baluba mine and construct Mulyashi mine and invested $340 million in its smelting facility CCS.

---


Zambia’s Vice President Guy Scott has commented, when discussing the insufficiency of job creation in mining, that “You use these enormous machines in open cast mining to tear the rock of the hole and stick it in a lorry to take it away, 100 tons at a time. It is very automated. Some of it is even run by GPS and all you’ve got is some chap sitting there, reading a comic book, to press the red button should something go awry.” "Guy Scott: Vice President, Zambia," FT Business, This is Africa, Sept. 2012.


211. “NFCA Annual Copper Production Rises,” TP, June 12, 2012.

212. “NFCA Spends US$500m on MFEZ,” *Metal World*, Jan. 2009: 30. Zambia-China Economic and Trade Co-operation Zone (ZCCZ), a firm allied with CNMC, has said it has expended $130m of buildings, roads, power stations, etc. in the MFEZ. “$130m Pumped into Chambishi Economic Zone,” DM, Dec. 25, 2011. For a brief overview of Zambia’s MFEZ’s, two of which are run by ZCCZ, see OECD Investment Policy Reviews:47

213. NFCA to Invest.

Table 5: Other Foreign-owned Mining Firms 2010 Operating Profits Compared to NFCA’s

<table>
<thead>
<tr>
<th>Company/Mine</th>
<th>2010 Tons CU</th>
<th>CU x NFCA’s CU (24,000)</th>
<th>Operating Profits 2010</th>
<th>Op. Profits x NFCA’s $40m</th>
</tr>
</thead>
<tbody>
<tr>
<td>FQM/Kansanshi</td>
<td>233,000</td>
<td>9.7</td>
<td>$997m</td>
<td>24.9</td>
</tr>
<tr>
<td>Vedanta/KCM</td>
<td>217,000</td>
<td>9.0</td>
<td>$309m</td>
<td>7.7</td>
</tr>
<tr>
<td>Equinox/Lumwana</td>
<td>147,000</td>
<td>3.7</td>
<td>$529m</td>
<td>13.2</td>
</tr>
<tr>
<td>Metorex/Chibuluma</td>
<td>17,000</td>
<td>.71</td>
<td>$47m</td>
<td>1.2</td>
</tr>
</tbody>
</table>

Sources 215

CNMC CEO LUO Tao has said it incurred great costs in restoring Luanshya in one year, at the unions’ request, rather than two years, as planned. 216 MUZ’s President confirmed that “the Chinese owners of Luanshya are speaking truthfully about their need to buy equipment because, while Luanshya was shut down, its equipment was taken by the former owners or vandalized. The new owners had to buy a whole new set of equipment.” 217 The substantial expenditures of CLM may explain why there is no indication that it made a profit in 2010.

Outlays for CNMC mines have been very large compared to those made at the one almost comparably-sized copper mine in Zambia, Chibulumba (see Table 6).

CNMC’s firms play the principle part in making China the third largest investor in Zambia. 218 The company’s investment in

216. Interview, LUO Tao, Beijing, Oct. 18, 2011.
217. Mukuka interview.
Zambia totaled some $2 billion by 2011. Yet, in 2011 CNMC mines produced only about one-sixth the copper produced by KCM, whose investment was not much more than CNMC’s.

Table 6: Foreign Mining Firms: Investment, 2011 CU Prod. & % of 2011 CU Production

<table>
<thead>
<tr>
<th>Company/Mine</th>
<th>Total Investment</th>
<th>2011 Prod.</th>
<th>% Total Prod.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vedanta/KCM</td>
<td>$2b-2.5b</td>
<td>200,000</td>
<td>23.5</td>
</tr>
<tr>
<td>Glencore/MCM</td>
<td>$2b</td>
<td>204,000</td>
<td>24.0</td>
</tr>
<tr>
<td>FQM/Kansanshi</td>
<td>$3b</td>
<td>230,000</td>
<td>27.0</td>
</tr>
<tr>
<td>Equinox, Barrick/Lumwana</td>
<td>ca. $1.5b</td>
<td>152,000</td>
<td>17.9</td>
</tr>
<tr>
<td>Metorex/Chibuluma</td>
<td>$157m (1997-2015)</td>
<td>17,000</td>
<td>2.0</td>
</tr>
<tr>
<td>CNMC/NFCA + CLM</td>
<td>$2b ($2.5b by late 2013)</td>
<td>42,000</td>
<td>5.0</td>
</tr>
</tbody>
</table>

Sources N.B.: Table’s CU production total is 851,000 tons. Zambia’s CU production in 2011 was 869,000 tons, the difference accounted for local SME miners’ production. “Zambia to become World’s Fifth Top Copper Producer by 2015,” TendersInfo, July 11, 2012.


220. The CNMC mines do not even supply most of the Zambian copper imported by China. Even had all the 42,000t it produced in 2011 been sold to China, that would have been less than a third of the 132,162t of Zambian copper imported into China that year. “CNMC Eyes HK Listing for African Copper Assets,” Interfax China, May 15, 2012, www.interfax.cn/node/20237. Of course, it should not be surprising if CNMC did ship much of the copper it produces to China, given that China uses 43% of the world’s copper production. “Global Copper Production under Stress,” Proactive Investors, Nov. 9, 2012.

Some $6 billion in FDI flowed into Zambian mining from 2000-2010,222 only $1 billion of it from the initial privatizations.223 Thus, CNMC’s investment amounted to some one-third of the total FDI in Zambian copper mining, yet CNMC’s mines contributed only about 5% of Zambia’s total copper production. Such disproportions obviously inhibit the payment of wages at the levels of more productive and profitable firms.

4. Other Factors Affecting Wages

There are additional factors that explain the wage gap. Government policy has also been a factor in explaining the wage gap. NUMAW’s Chambishi Mine chairman told us in 2008 that

The Government is responsible for the slow pay rise. It issues a benchmark every year and dictates the percentage of increase, for example 15%. It announced that the inflation rate in 2007 is 9.8%. The government is actually afraid that much of an increase in wages will destabilize the single-digit inflation. The management relies on the government benchmark to negotiate pay raises with workers.224

Indeed, in 2012, MUZ President Munyunyembe confirmed that in the past the MMD government “gave them [mine owners] the right to increase only up to 11 percent . . .”225

After the PF government came to power in 2011, Sata also adopted a policy of calling on companies to not increase salaries at a rate higher than inflation, which in early 2012 was 6.4% per an-

222. OECD Investment Policies Review: 30; Hu interview. CNMC’s $2b investment is a sizeable part of the 2012 $3.4b stock of Chinese investment in Zambia. China/Zambia Economic Relations. The firm projects that by the end of 2013, its $2.5b investment will provide more than 20,000 jobs. Chinese Mining Firm.


Commerce, Trade and Industry Minister Bob Sichinga has stated that “Sata wanted salary increments that did not go beyond inflation levels because that would create cost-push inflation and whatever would be paid to the workers would be washed away.” MUZ President Munyenyembe also stated that the “Government’s stance that the unions and management should use the prevailing inflation rate as the basis for negotiations has complicated the collective bargaining process.” CNMC firms in 2012 went much further than others in defying this policy, apparently in order to meet CNMC’s pledge to narrow the wage gap through that year’s negotiations (see below).

When we asked NFCA CEO WANG Chunlai about his company’s reputation as a low-wage operation, he pointed out that NFCA’s young age and location are also factors:

Wage levels have to do with the scale and age of the enterprise. In terms of scale, we’re ranked number five and in terms of cost of labor, number five or six. With one company, their lowest wage is lower than ours, but their highest wage is higher than ours. This is because salary increases are a cumulative annual percentage. The longer one works, the higher the salary. If you compare us with other companies, if they’ve been around longer, their highest salary will be higher than ours, while the salary for incoming workers will be about the same as ours. Another case involves Kansanshi and Lumwana mines. Their starting salary is higher than ours. It’s a strategic choice


on their part, as they are remote and they need skilled people, so they try to attract them with a higher wage offer. They can afford it. They have attracted a lot of people from NFCA and we’ve already done the training for them. . . A few years ago, we lost a lot of workers; 20% were lost per year. These days it’s rather stable.\textsuperscript{229}

Wang put it that CLM’s pay is higher than at NFCA, despite CLM’s higher costs of production, because CLM “is an older enterprise and was taken over, so there are workers who have accumulated a lot of years. Their salary is higher because CLM acquired these workers, but the starting pay is about the same as [NFCA].”\textsuperscript{230}

HRW noted the relatively low wages at Chambishi Copper Smelter (CCS), a CNMC joint venture with Yunnan Copper Corp. and an independently registered firm. We asked about wages when we interviewed a CCS human resources employee in 2010 and were told that

The average basic wage in 2009 was K600,000, not including a 30% housing allowance, transportation, gratuity, etc. There was a 12% increase this year [2010] at CCS, so the present average basic was is now K672,000. The workers can also earn overtime (time and half ordinary overtime; double on Sundays), a production bonus (up to K200,000). If you add up all of these, the average wage is 1 million-1.1 million. This is still 1 million lower than at other companies, including NFCA. The reason wages are lower is because the nature of the company is different from the mining companies: other firms are mining companies, but ours is a processing company. The level of profit of the

\textsuperscript{229.} Wang Chunlai interview. His comparison is in “Zhongse Zanbiya bagong shijian,” \textit{Xin shiji}, Nov. 5, 2011. A survey of 129 miners employed in Zambia at five Chinese-owned firms (NFCA, CLM, JCHX, 15 MCC and Jinchuan) and 84 at three non-Chinese firms (identified as Swedish, South African and Indian) found that “an individual employed by a Chinese employer has a wage approximately 44 percent lower than an individual employed by another foreign employer.” The samples, chosen by MUZ and several employers, were not random however. Of the non-Chinese firms, it may also be only the “Indian” one (seemingly, KCM) that can be compared to the Chinese-owned firms. The Swedish and South African firms may be Sandvik and Africa Rainbow Minerals – Copper. If so, they did not have operating mines and had only small workforces at the time of the survey. Louis Granath and Marika Larsson, “Chinese Foreign Direct Investment in the Zambian Mining Sector,” Unpub’d Bachelor’s Thesis, Department of Economics, University of Gothenburg, 2012: 48, \url{https://gupea.ub.gu.se/bitstream/2077/}/. . . //gupea_2077_31773_1.pdf.

\textsuperscript{230.} Wang Chunlai interview.
mines is directly linked to the [market] price, whereas our profits come only from a processing fee, which is US$100 a ton. Since we don’t have our own mines, we buy copper concentrate from KCM, Mopani, NFCA, etc. and earn a gross profit of $100 a ton. The scale of production is different as well.\(^{231}\)

A group of CCS Chinese employees affirmed in 2011 that pay is affected by CCS not having its own mine, unlike KCM and MCM, whose production is more than sufficient to feed those firms’ smelters. The 40,000 ton production at CNMC-owned mines is insufficient to feed CCS, which opened with a 150,000 ton per year capacity and is expanding to 250,000 ton. CCS thus must continue to seek to process, for a small fee, copper from the larger firms’ mines.\(^{232}\) CCS Acting Managing Director Yang Xinguo stated that in 2011 “the company experienced a shortage of raw materials which were in erratic supply from the mining companies,” that it “was also considering putting up a mine which could supply the smelter with raw materials unlike the current situation where it depended largely on other mining firms” and that it would have to work with small-scale miners.\(^{233}\)

MUZ stated in August, 2011 that CNMC intended to reach the “industry standard” in salaries in 2012, although that does not necessarily mean a uniform standard, as all countries have a range of mining wages. Basic wages of US underground miners in 2010, for example, ranged from $15-$37 an hour.\(^{234}\) CNMC’s CEO said that “Our production is about a third of KCM’s and their mines are better than ours. We are willing to be a high paying employer, but it must be reasonable, gradual and correspond to our level of development.”\(^{235}\)

In October, 2011, LU Shaye, Director-General of African Affairs at China’s Ministry of Foreign Affairs commented on general salaries at Chinese enterprises on the continent and the salary demands of miners’ in Zambia specifically. He noted that “The local

---

231. Interview, CCS employee, Hong Kong, May 4, 2010.
235. Luo Tao interview.
employees working in Chinese enterprises get lower salaries than those working in the western companies” and attributed that to “different national conditions. Because the salaries of Chinese employees are lower than the employees of Western companies.” He also related the salary levels in Zambia and China:

In some cases, the salary paid by Chinese companies in Africa for local employees is even higher than our domestic workers of the same industry . . . [T]he local employees in the Chinese-funded enterprises in Zambia went on strike to demand [a] wage rise. The salary and benefits of local employees in the Chinese enterprises in Zambia were more than 3 million kwacha, equivalent to $700 to $800. They required an additional 2 million kwacha salary rise, equivalent to an increase of about $400. $700 to $800 is equivalent to 4,500 to 5,000 yuan. The minimum wage of Shanghai, the most developed city in China, is 1,100 yuan. The average wage of construction workers in Shanghai, Guangzhou and other developed cities in the east of China is just over 2,000 yuan. The wage of manufacturing workers is between 2,000 to 3,000 yuan. What does 4,000 yuan a month mean? It is the wage of an ordinary white-collar in China. $700 to $800 plus an additional $400 is as much as what I earn. This is the wage of a local Zambian miner. Is it realistic? Improving workers’ income is justified around the world. It is the high moral ground. But any government must take into account the level of their economic development and their own actual situation. They cannot go beyond reality; otherwise it will scare off investors. They cannot achieve their economic development.236

Lu’s view is not that Zambian workers’ salaries must be no higher than what equivalent workers in China receive because that is the proper reference point for Chinese firms. Rather, it is that if Zambians are more highly paid than Chinese for equivalent work, Zambia will not attract FDI as China has done, thereby limiting Zambia’s development. The Director-General of African Affairs thus articulated the sole element of the putative “Chinese model” that Chinese officials actually endorse:

236. The Records.
According to Chinese experience, it is important to attract foreign investors in order to gain knowledge. Foreign investment is attracted by favorable investment climates with competitive advantages, such as low labor costs and sympathetic tax laws, for example. Many Chinese investors in Africa complain about the poor investment climate due to the relative high wages, bad infrastructure and strict labor and environmental laws. Chinese investors and government representatives alike try to convince African governments that it is not yet the time for strengthening labor and environmental laws. They argue that Africa needs to temporarily compromise on these issues in order to attract the much needed financial and technological capital from abroad.\(^\text{237}\)

Lu’s argument, which jibes with all investors’ short-term profit interests, is not that Chinese firms should export China’s labor practices or even wage standards to the world. Officials and managers do not hold to that, but know local practices must be taken into account. Rather, the argument — disputable wherever investors realize large profits through high commodity prices — is that developing countries should self-limit wages to attract investment, a position that Zambia’s political elites and even union leaders share.\(^\text{238}\)

In late 2011, CNMC Zambia head TAO Xinghu stated that a 25% raise was reasonable,\(^\text{239}\) but in early 2012, NFCA and SML agreed to much larger wage hikes that lessened the gap with other foreign-owned firms, which agreed to much smaller increases. Because CLM gave a much lower wage increase than NFCA, the gap between the two firms was also largely narrowed.

---


239. Private communication to the authors from a Chinese journalist, December 23, 2011.
<table>
<thead>
<tr>
<th>Company</th>
<th>2012%</th>
<th>2013%</th>
</tr>
</thead>
<tbody>
<tr>
<td>NFCA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CNMC Luanshya</td>
<td>16</td>
<td>14</td>
</tr>
<tr>
<td>SML</td>
<td>100-150</td>
<td></td>
</tr>
<tr>
<td>CCS</td>
<td>25</td>
<td></td>
</tr>
<tr>
<td>Konkola Copper Mine</td>
<td>17</td>
<td>7.5</td>
</tr>
<tr>
<td>Mopani Copper Mine</td>
<td>17</td>
<td>10</td>
</tr>
<tr>
<td>Lumwana Mine</td>
<td>18</td>
<td>10</td>
</tr>
<tr>
<td>Kansanshi Mine</td>
<td>12</td>
<td>13</td>
</tr>
<tr>
<td>Chibuluma Mine</td>
<td>17</td>
<td>11.5</td>
</tr>
</tbody>
</table>

Sources

The 2012 salary increases meant that the lowest-paid NFCA workers would earn almost three-fourths the salary of the lowest-paid permanent worker at the much more profitable KCM and a significantly higher percentage compared to KCM's overall workforce. The proportion of CLM-to-KCM salaries should remain about the same, i.e. about 80%, according to CLM. That being said, it should also be noted that among all the foreign-owned copper mine that raised wages in 2012, only those provided by NFCA, CCS and SML represent substantial increases in dollar terms. As a blogger on a mining journal website explained in March, 2012, in reference to one firm's offer of a 17% pay increase:

The 17% increase being talked about is in Zambian Kwacha, the country's currency. The exchange rate when the last increase was given stood at 4500 Kwacha per dollar. The Kwacha is now trading at 5260 Kwacha per US Dollar, a 16.8% reduction of income due to exchange losses. Kansanshi, by offering less than this figure, will actually have a wage bill lower than that of January 2011. This less than 17% offer is being made against the country's inflation of circa 9%. In short the Zambian worker at Kansanshi is earning less than they did in 2011.241

Based on the salary tables in their respective 2012 collective agreements with the union and announced 2013 salary increases for CLM of 14% and KCM of 7.5%, the lowest-paid CLM miner should be receiving about 82% of the salary of the lowest-paid KCM miner.242

As to one part of the mining workforce moreover, the pay at CNMC mines may now be roughly compared with that of other foreign-owned mines. A 2012 study states that "Chinese wages for skilled labor are comparable to other mines in Zambia, and the Chinese owned Luanshya mine even pays better than the Swiss/Canadian owned Mopani mine."243

---

242. The lowest-paid KCM miner's 2013 basic wage - in rebased kwachas denominated at one one-thousandth of old kwachas - should be some KR 3,284 (about US$630); the lowest-paid CLM miner should earn some KR 2,682 (about US$518). The authors retain the basic wage rate tables of the 2012 collective agreements between MUZ and NUMAW and CLM and KCM.
C. Hours

The HRW report states (p. 3) that “Most miners at Sino Metals and CCS reportedly work 12-hour shifts, compared to the eight-hour shifts outlined in Zambian law and standard in every other copper mining and processing operation in the country.” Its author has written that “Several Chinese-run copper mining companies require miners to work brutally long hours – 72-hour work week for some, 365 days without a off day for others . . .”\(^\text{244}\)

Western media have expectedly played up this “cruel Chinese” theme. It is sweepingly inaccurate: the HRW report itself (p. 4) states only that “Miners in certain departments at Sino Metals work 72-hour weeks without sufficient overtime, while those in other departments work 365 days a year . . .” The report (p. 78) is unclear on how many SML workers have had long hours, which affected workers in only some departments of one of the smaller CNMC firms,\(^\text{245}\) not “several” firms and not most CNMC workers, 80% of whom work regular 8-hour shifts in the Luanshya and Chambishi mines. There are also 12-hour shifts at CCS. A CCS employee has explained that

The frontline workers have two night shifts, two day shifts and two days off. Thus they work 48 hours a week and 20-21 days a month. That means there’s eight hours of overtime a week. A minority of workers might take a turn to have 60 hours a week. Chinese staff get only one day off per week. The reason for doing 12-hour shifts is for the sake of the smooth operation of the kinds of machines that we currently have. As CCS is a new plant, most local employees cannot yet independently operate the machines. So there are still Chinese at each shift, overseeing the operations. Zambian workers prefer to work 8-hour shifts. The management has considered it, but it would be possible only when local workers have adequate skill for independent operation. So the management is pushing for localization of skills.\(^\text{246}\)


\(^{245}\) SML’s 400 employees work in 14 departments, which in late 2011 ranged in size from 3 to 101 persons. Technical Assessment Report: III-150.

\(^{246}\) E-mail from CCS employee to authors, Nov. 14, 2011.
In smelters in Zambia (MCM Mufulira) and Australia (Mt. Isa Smelter) that use the same ISASMELT technology that CCS uses, employees also work 12-hour shifts.\(^{247}\)

The hours that Zambian miners work do not confirm the contrast HRW has created between Chinese work-'til-you-drop bosses and more enlightened managers of Western-based firms. In 2007, KCM miners reported that they worked more than 8 hours, often up to 12 hours, without overtime pay.\(^{248}\) In 2008, a Zambian seeking employment at Chambishi stated that “his countrymen prefer to be employed by the NFCA rather than other foreign companies. They say they would rather work the 8 hours demanded of them by NFCA than the 12 hours which is commonplace in other companies.”\(^{249}\)

In 2008 as well, the managing director of Lumwana mine stated that miners there work 12-hour shifts and that “if the company had its way, it would have wanted the workers to work for more than 12 hours, but it was mindful not to go against labor laws of the country.” This contradiction could be resolved however by having the miners work overtime.\(^{250}\) In 2009, KCM miners worked four 12-hour days, then two days off.\(^{251}\) In 2010, a permanent employee miner at Lumwana mine said that she and her colleagues work four 12-hour day shifts, then four 12-hour night shifts, followed by four days off. She noted that in earlier years, they worked 10-hour or even 8-hour shifts, but hours increased because “in the operations and production phase, we are facing a lot of pressure.”\(^{252}\) In 2012, striking miners at Kansanshi demanded that their 12-hours shifts be cut to 8 hours.\(^{253}\)

---


249. “China in Zambia: from Comrades to Capitalists?” World News Review, October, 2008, http://new-review.blogspot.com_10_01_archive.html. It was reported in 2005 that Chibuluma miners worked 48 hours a week, but the length of shifts, i.e. four 12-hour or six 8-hours, was not specified. Muneku, South African: 277.


253. Miners Paralyze.
A 2011 UK newspaper account of MCM noted that miners there “toil six-and-a-half days a week in the rock underneath Mufu­lira,” i.e. more hours per week than do NFCA or CLM underground miners and, in effect, up to 365 days a year. Presumably, thousands of miners at MCM work that schedule, while workers at CNMC SML who HRW said work every day are far fewer, since SML only has about 400 employees and HRW only claims that workers in some departments do so. Media reports about the HRW study nevertheless have quite predictably asserted that long shifts are a general practice of Chinese-owned mining firms in Zambia — and Chinese-owned mining firms alone — while the HRW report itself tells readers that they should infer something from it about Chinese practices in Africa generally. Unsurprisingly, neither the media nor HRW have noted that from 2012, all employees at Sino Metals work 8-hour days and have at least one day off a week.

D. Job Security

The HRW report terms CNMC a good investor, but bad employer; yet job security is a key part of employment and, while CNMC firms are still behind the “industry standard” of pay, they do better in job security. There were 63,000 workers in Zambia’s copper mines when the financial crisis hit in late 2008. By spring, 2009, 30% (19,000 workers) were laid off, but only by non-CNMC firms. The industry had about 20,000 permanent employee miners before the layoffs began and nearly half were laid-off. After the recovery, some firms did not hire back many workers they laid


off: KCM had 11,978 of its own employees in 2008, but 9,696 in 2010.\textsuperscript{258} In 2008, MCM had 10,000 of its own employees and 10,000 contract workers, but by May, 2009 it pared down to 7,500 permanent employees; in 2011 it had 16,500 total, evenly divided between permanent and contract workers.\textsuperscript{259}

In early 2009, CNMC adopted a “three not’s” (san bu) policy: to not lay off workers, not cut back on planned investment, and not hesitate to make new investments. A study notes that

In Zambia, the Chinese mine [NFCA] showed a countercyclical expansion, with acquisition and re-capitalization of a new mine and continuing investment in the MFEZ. The Chinese mine did not cut production, investment, development projects and was also the only one, with the South African mine, not to retrench workers.\textsuperscript{260}

In Zambia, each miner, on average, is reckoned to support at least five family members.\textsuperscript{261} The study points out that the three not’s also benefited CNMC firm suppliers, whose presence challenge[s] the expectation that the Chinese mine would operate as an enclave . . . . Mine development was undertaken by Chinese firms, but the bulk of extractive operations relied on a diversified basis of local, regional and foreign suppliers . . . [C]ounter cyclical investment to expand mining and refining capacity meant that pressure to cut costs, experienced by other mining companies, did not play a major role in the Chinese supply chain.”\textsuperscript{262}

CNMC firms, unlike other foreign investors, not cutting back on purchases presumably helped to maintain the livelihood of Zambian suppliers. Beyond miners, their family members, suppliers and their dependents, the livelihood of additional Zambians’ were probably protected by the three not’s policy, as a study has shown that in

\textsuperscript{258} “KCM Employees Reduced,” TOZ, June 1, 2011.
\textsuperscript{259} Zambian Parliament, Committee: 18; “Copper Mine Pares More Jobs,” TOZ, May 6, 2009; Davies, The Other Face.
\textsuperscript{260} Fessahaie, Development: 26; See also “Chibuluma to Keep Workers,” TOZ, Dec. 19, 2008.
\textsuperscript{262} Fessahaie, Development: 60.
South Africa, where mining directly employs 500,000 people, 
"every mining job represents 26 livelihoods." 263 

The three not’s idea was CNMC’s, but was adopted by China’s 
Ministry of Commerce, despite a potential for great losses. 264 
It perhaps reflects a conclusion drawn in a 2009 study of Chinese investment in Zambia: 

Historically, western FDIs in Zambia have come from pri-

cately owned corporations which are focused on profit maxi-

mization, generally with relatively short-time hori-

zons. By contrast, recent Chinese FDI comes from firms, 
which are either wholly- or partially state owned and are 
are driven by broader objectives than merely profit 
maximization. 265

From 2012 moreover, all NFCA and CLM workers are permanent 
employees, while contract workers are still used in KCM and 
MCM. 266

To the extent that “good employers” exist at all in Zambian 
mining, CNMC was a good employer by not laying off workers 
when almost all other firms did so. In fact, it hired more when CLM 
amquired Luanshya during the financial crisis. 267 
In contrast, when 
Luanshya’s Swiss former owner, J&W (Enya), acquired Luanshya 
in 2004, it re-hired only 1,000 of the 4,000 workers who had been 
employed there previously. 268 
It then contracted mining development to a South African firm that hired over 1,000 workers at half


264. Luo Tao interview.


266. Wang Chunlai and Gao Xiang August 2011 interviews. Heavy use of contract workers is widespread in mining: in Peru — the world’s second largest copper producer — in 2008 there were 85,000 miners, but only 16,000 permanent workers, while in the early 1990s, almost all miners had been permanent. ICEM has observed that “many employers are using contract and agency labor [CAL] as precisely one of the ways to avoid a high unionization rate [and] that many CAL workers have been dismissed as soon as they joined a union... ICEM, “Contract and Agency Labor Campaign, .ppt, 2009, www.tucrivers.org/.

267. CLM constituted its Zambian workforce by hiring 1,448 workers laid off by the previous owner, 661 former contractor’s workers and 341 from the open market. 
“Luanshya Copper Mines has Produced Copper Valued at $12m Since Inception,” TP, Apr. 13, 2010.

the regular wage. After taking over, CLM got rid of the contractor and made the 1,000 workers into CLM’s own employees, doubling their salaries.\(^{269}\) In November 2011, Albidon Ltd., 51% of which is owned by Chinese SOE Jinchuan, indefinitely suspended operations at its Munali nickel mine in Zambia, due to a sharp decline in global nickel prices and technical difficulties. Despite having to shut down production, it agreed however to continue to pay full salaries to its 200 or so workers.\(^{270}\) It did so until at least the end of 2012 and thereafter it continued with corporate social responsibility projects, including building schools and hospitals.\(^{271}\)

E. Unions

The HRW report notes that MUZ complains it is excluded from CNMC’s two processing plants, SML and CCS. It implies that MUZ was shut out due to its militancy,\(^ {272}\) as well perhaps because of its connection with the PF\(^ {273}\) and that MUZ’s exclusion is a human rights violation. Senior Asia Researcher HRW Phelim Kine reportedly said “the Zambian miners were severely discouraged from associating with one of the two national unions, thereby depriving the miners of the right to associate.”\(^ {274}\) Yet, in 2011, at all four CNMC firms, at least one major union was present, while at CLM and NFCA, where four-fifths of CNMC firm workers are employed, the two unions, MUZ and NUMAW, bargained jointly with employers. In 2012, both unions were also present and recognized at SML.

At the main Zambian copper mines, 50-70% of the workforce is said to be unionized,\(^ {275}\) but when contract workers are taken into

\(^{269}\) Gao Xiang interview. Luanshya MUZ branch chairman Stanislas Mwinbe confirmed this information.

\(^{270}\) “Albidon Suspends Operations at Munali Nickel Indefinitely,” ZW, Nov. 11, 2011.


\(^{272}\) Implications that MUZ is militant are problematic. It often urges striking miners to return to work. See, e.g., “Striking Copper Miners Threaten Zambia’s Production,” Deutsche Presse Agentur, Jan. 4, 2012; “‘There’s Need to Address Mine Workers Stoppages,’” TOZ, Oct. 19, 2011.

\(^{273}\) Since soon after PF became significant in Copperbelt, MUZ has denied that it has worked with the PF against the MMD and has affirmed its “non-partisan approach to politics.” MUZ Denies Undermining MMD,” TOZ, Mar. 18, 2003. NUMAW has defended the PF government and criticized opposition leaders. “NUMAW Calls for Constructive Opposition Parties,” TP, July 12, 2012.

\(^{274}\) Lynch, Labor Abuses.

\(^{275}\) Apotheker, Foreign Copper: 43. Of 47,836 employees at 13 Zambian mining companies surveyed in 2007, including all foreign-owned copper mining firms (45,844
account, the percentage may be much lower, as at Kansanshi, where in 2011 two-thirds of the permanent employees, but only a fourth of the total workforce appeared to be unionized.\textsuperscript{276} Unionization of contract workers is exceedingly difficult, due to the fragmentation of contractors’ workforces. For example, in 2010, KCM had contracted with 43 companies, including such foreign ones as U&M of Brazil and Moolmans of South Africa. According to the MUZ, such short tenure agreements were “meant to kill the union movement at the country’s largest mining units.”\textsuperscript{277} To the extent that contractor’s workers may be unionized, they may not be in either MUZ or NUMAW, but rather the Mine Contractors and Allied Workers Union of Zambia (MCAWUZ), a little-known organization of unknown strength.\textsuperscript{278}

By 2008, 70\% of NFCA workers were unionized.\textsuperscript{279} In NFCA, NUMAW is stronger, with 1000-plus members in August 2011, while MUZ had 400-plus. At CLM, MUZ had 1,100 members in August, 2012; while NUMAW had 1,346 members. MUZ is also recognized at 15 MCC, a CNMC company that has constructed the new Muliyashi mine for CLM.\textsuperscript{280} Both unions have staunch PF supporters among their leaders.\textsuperscript{281}

On the relationship between MUZ and CCS, a CCS employee told us in 2010 that “NUMAW is present, not MUZ. MUZ will

\begin{footnotesize}
\begin{enumerate}
\item Ngosa and van Alstine, \textit{Seeking Benefits}: 7.
\item “KCM Degrading Employment through Sub-Contracting,” \textit{TP}, Aug. 6, 2010.
\item See “KCM Contractor Recalls 1,200 Retrenched Workers,” \textit{TOZ}, Jan. 21, 2012; “200 Moolmans Workers Lose Jobs,” \textit{TOZ}, Dec. 12, 2011. The union seems to have first appeared in 2010 or 2011; it is unclear whether it represents workers at contractor firms employed outside of KCM.
\item Apotheker, \textit{Foreign Copper}: 53.
\item Mukuka interview; Interview, Adam Zulu, CLM worker, NUMAW national Vice-President, Aug. 17, 2012.
\item Some NUMAW leaders support PF; some MUZ leaders do not. Alex Mwale, NFCA NUMAW branch chairman, is a local PF politician. Interview, Chingola, Aug. 20, 2011. Stanislas Mwimbe, an MUZ branch chairman at CLM, was said in 2010 to have been a supporter of the (then-ruling) Movement for Multiparty Democracy (MMD). “MUZ Warns MMD over Failure to Address Miners’ Concerns,” \textit{TP}, Apr. 30, 2010. MUZ leaders, including the former MUZ president and present (PF) Deputy Minister of Labor Rayford Mbulu, have praised the MMD government for its actions relating to miners and economic development. See, e.g., “Banda’s Handling of Mining Sector Hurdles Cheer MUZ,” \textit{TOZ}, Dec. 15, 2008; NGP Receives Kudos for Acknowledging Economic Developments, \textit{TOZ}, July, 13, 2011; “Liato Slams Job Casualisation,” Apr. 28, 2010.
\end{enumerate}
\end{footnotesize}
probably be present eventually, but as of now they don’t follow the national legal procedure to establish themselves at CCS, yet complain that they’ve been shut out.” The CCS employee said in 2011 that contrary to HRW’s assertion, CCS is not aware of any court order that requires it to recognize MUZ.

The issue of a court order and the reason why MUZ was recognized by NFCA, CLM and 15 MCC, but not by Sino Metals and CCS, requires further investigation. It would however have been odd for Sino-Metals and CCS to display anti-MUZ animus when NFCA, CLM and 15 MCC do not. Sino-Metals, CCS, and 15 MCC, while distinct legal entities, are directed by NFCA and “At CLM, both NUMAW and MUZ operate freely, whereas at NFCA, MUZ has operated a branch office since 2006, with NUMAW establishing its own branch office soon after the union’s creation in 2003.”

There seems no basis then to imply that CNMC companies are hostile to MUZ for political reasons; neither is MUZ particularly hostile to CNMC: the MUZ branch chairman at CLM told us that “When Chinese came [to take over Luanshya], it was at a time of anti-Chinese sentiment. The union supported it [CNMC].”

What has most devastated union activism in Zambia’s mining sector is not CNMC, but the sharp decline in membership due to retrenchment at non-CNMC firms during the financial crisis. MUZ’s membership dropped from 26,000 before the crisis to 12,000

282. Interview, CCS employee, Hong Kong, May 4, 2010. Another human relations CCS employee stated in 2012 that MUZ still had not met legal criteria for recognition. When MUZ applied for recognition, most workers listed were still NUMAW members. Zambian law provides that a worker must give 3 months notice to quit a union. Interview, Irene Tembo, Assistant HR Manager CCS, Chambishi. August 15, 2012.

283. CCS employee e-mail to authors, Nov. 14, 2011. MUZ President Rayford Mbulu told us in an Aug. 28, 2008 interview in Kitwe that MUZ had taken Sino-Metals to court and that MUZ had 400-plus members at NFCA.

284. MUZ, despite not being formally recognized by CCS management, may still have input to the annual wage negotiations there. See “Chambishi Smelter Workers Strike,” Metals Week, Mar. 28, 2011 (“The secretary of the National Union of Miners and Allied Workers, Goodwill Kaluba, recently said that unions including the Mine-workers Union of Zambia had concluded negotiations with all the mining companies, which included the Chambishi Copper Smelter”).


287. Mwinbe interview.
in August 2011. Sino-Metals and CCS are moreover not the only mining entities where there has been only one union. Chibuluma has only MUZ. Interestingly, that has been seen as an aid to organizing: interviewees at Chibuluma have explained that because “the mine has only one union, the MUZ, therefore the membership is easier to mobilize for anything, as opposed to the situation in other mines were there is more than one union.”

The multiplicity of unions in Zambia has in fact been the result of an effort to weaken trade unions, which played a key role in the struggle against the decades-long presidency of Kenneth Kaunda (in power 1964-1991), which included the establishment of the MMD. In 1990, in an effort to derail the movement against him, Kaunda put in place a new Industrial Relations Act, designed to “liberalize” and thereby divide the labor movement. The Zambia Congress of Trade Unions (ZCTU), led by Frederick Chiluba, opposed the Act. But after the MMD won the 1991 elections and Chiluba became Zambia’s president, he endorsed the International Monetary Fund’s neo-liberalizing structural adjustment program (SAP) and carried out privatization that weakened the labor movement. SAPs led to changes that have produced a decline in formal-sector employment, more cutthroat competition, the increasing mobility of labor and capital, and the growing casualization of labor. Whereas Zambia was formerly considered a middle-income developing country in the 1970s, it now qualifies ... for Heavily Indebted Poor Country (HIPC) debt relief.

Moreover, “paradoxically, Zambian interest groups had real influence under the former one-party structures and this influence was

288. Mukuka interview. NUMAW, historically the smaller union, also has 12,000 members. Kaluba interview.


reduced as a result of the combined processes of political and economic liberalization.”

When some unions opposed the SAP, Chiluba “promptly distanced himself from the trade unions and began a regime of anti-labor policies that ultimately led to the division of the once solid ZCTU.” This “state-ordered split” was fostered by the “right” of workers in an enterprise to be represented by more than one union. As unions fought each other and were used for leaders’ personal advancement, they experienced “a massive membership loss.”

Union membership declined to about 250,000 members by 2000, consistent with the decline in formal-sector employment from about 750,000 workers in the 1970s to 478,000 workers by 2000. In the important copper sector, union membership dropped precipitously from 62,000 in 1990 to 25,000 in 1999 due to mine closures and job losses.

Since then, as a ZCTU official has noted, the “proliferation of unions in Zambia, a country where barely 15 percent of regularly employed workers are unionized” has continued, as “A union leader who loses an election can sometimes leave with his supporters and set up another union to keep himself in a job,” while unions are seen by some of their leaders “as a stepping stone to political advancement.” MUZ president Chishimba Nkole stated in 2012 that “the proliferation of trade unions must be discouraged because it weakens their ability to effectively represent workers. ‘This system of forming many unions is not good at all. It is not healthy for the sector. It weakens us at the end of the day.’”

Zambia’s leading political parties, the main union federation and a human rights group have all stated that having one union per workplace or even one per industry is advantageous to workers. The (MMD) Minister of Labor, speaking in parliament in 2011 on

294. Pitcher: 143.
having more than one union at mining firms, said “we are focusing on supporting the most representative group as a way of ensuring that no confusion is created...,” indicating a policy of not requiring recognition of more than one union.\footnote{Debate, Mar. 22, 2011, www.parliament.gov.zm/index.php?option=com_content &task=view&id=1410&Itemid=86&limit=1&limitstart=1.} The subsequent PF Minister of Labor has extended that policy to whole industries.\footnote{“Shamenda Warns Companies Flouting Labor Laws,” DM, Nov. 28, 2011 (“On concerns by the public over many labor unions [the Minister of Labor] urged that each sector should have a big union for easy bargaining with employers”).} ZCTU head Leonard Hikaumba has called on unions to merge, as “‘sometimes there is divided attention to issues where unions in the same sector consider themselves as rivals’” and “multiple unions in the same sector are leading to compromised an ineffective negotiations...”\footnote{“ZCTU Ponders Merger of Same Sector Unions,” DM, Feb. 17, 2012.} ZCTU General-Secretary Roy Mwaba has said that while freedom of association is a constitutional right, it is being abused by the proliferation of trades unions and that “We need to have one union for each sector.”\footnote{“Trade Union Fragmentation Worries ZCTU,” DM, Nov. 8, 2012.} Zambia’s Democratic Governance and Human Rights Advocates leader Gerald Mutelo has said that “Having one union will represent the workers effectively.”\footnote{“Splinter Unions Setback to Bargaining Power,” TOZ, Dec. 29, 2011.}

Conversely, from the standpoint of mining management, having only one union carries disadvantages, including the inability to play unions off against each other or at least gain leverage due to union leaderships warring with each other. Where a second union is present, but not recognized, non-recognition of that second union may limit the bosses’ ability to reach an agreement when workers strike. For example, in 2012 there was a five week-long, violent strike at the (white) South African Impala Platinum (Implats) Mine. The Nation Union of Miners (NUM) represented 70% of the workforce, some 17,000 miners. During the strike, the rival Association of Mineworkers and Construction Union (AMCU), which was seeking recognition without any formal process having taken place, recruited NUM strikers to join it and organized rock drill operators (RDOs) to attack NUM members who wanted to return to work. Implats management expressed its frustration at not being able to talk with AMCU because NUM was the only recognized union at its operation.\footnote{“Implats Strike Escalates,” Mineweb, Feb. 2, 2012; “Implats Gets New CEO, but Workers Stay Away,” CAJ News, Jan. 31, 2012, http://cajnewsagency.com/index.php/investing/375-implats-gets-new-ceo-but-workers-stay-away. The strike was ille-
While workers are entitled under Zambian law to set up more than one union in a workplace, it hardly amounts to a human rights violation if they have only one union, provided it represents their interests. In practical terms in fact, workers may find their rights violated when the presence of more than one union divides the workforce. That is what happened when three unions at KCM were involved in negotiating the 2013 contract. The result was a pay rise of 7.5%, by far the lowest rise among the mines that year. MUZ Secretary General Joseph Chewe observed that “[t]here was no unity among ourselves as union. We had some union officials who were pushing their own agendas.”

The US-based HRW must be aware that the principle of “exclusive representation” applies in unionized workplaces. An economics textbook has explained that the NLRA [National Labor Relations Act] provides that only one union can represent the employees in a bargaining unit. If workers in a unit decide to organize and are successful in convincing the majority of employees who vote in the election to support the union, that union becomes the exclusive representative for those employees. No other union can represent any other workers in that unit. In addition, the union that wins that election acquires the responsibility to represent all employees in that unit, not just the employees who voted for the union.

Rather than amounting to a “labor abuse,” US unions have seen exclusive representation as augmenting their power to achieve labor rights. An opposing argument can be made: that the presence of more than one union produces competition that usefully drives up bargaining demands, but that involves a political question, not a right.

gal and Implats fired 17,200 workers. When the strike ended, it agreed to take back only 15,000. Among the 2,200 not rehired were the “perpetrators of the violence.” “Implats Says Strike Over, Mining to Resume March 5,” Miningm, Feb. 29, 2012, www.miningmx.com/news/platinum_group_metals/Implats-says-strike-over-mining-to-resume-March-5.htm

303. KCM Workers.


dom to join other unions, but they have no “right” to be represented by them. As for CNMC miners in Zambia, they are almost all permanent employees, and thus they are not “barred from joining a trade union at pain of dismissal,” as contract workers, at MCM for example, have attested is the case for them.\textsuperscript{306}

HRW evidently made no effort to determine whether the absence of MUZ at SML and CCS had any practical effect on the workers situation. Needless to say, HRW has not publicly noted that since 2012, MUZ and NUMAW have jointly bargained collectively at Sino Metals.\textsuperscript{307} It is thus likely that HRW raised the issue of dual union representation at CCS and Sino-Metals as merely an additional way to claim that CNMC is “the worst.” That approach parallels what its report does with regard to wages. Although the report is supposed to have been written in order to pressure the Chinese government to have its SOE mitigate labor abuses,\textsuperscript{308} the report’s author has stated that “our report never makes a call to the Chinese companies to increase wages.”\textsuperscript{309} That must mean that HRW does not consider that lower than average wages at CNMC firms amount to a labor rights abuse. The inclusion of an elaborate, albeit wholly misleading, discussion of wages in the report is thus little more than another way to frame CNMC as “the worst.”

### III. METHODOLOGICAL CONFUSIONS

The main method used in the HRW study is interviews, with 95 miners from four CNMC operations and 48 from non-Chinese owned copper mining firms. On its face that is a sound way to learn about specific labor abuses that workers have experienced or wit-

\textsuperscript{306} Davies, The Other Face. The percentage of union contract workers at Zambian mines is unclear. Muneku, South African Multinationals in Zambia: 272, indicates that 350 of the 400 Chibuluma permanent workers — but no contract workers — were unionized. A study, discussing Chibuluma contract workers, related that “Even though the law does not restrict trade union from organizing and representing casual employees the sub- contractor that normally engage these casual employees often intimidate and warn them from associating with unions.” Oupa Bodibe, “The Extent and Effects of Casualization in Southern Africa,” National Labor & Economic Institute, 2006: 131, www.sarpn.org/documents/.../Effects_Casualisation_Nov2006.pdf.

\textsuperscript{307} Kalasa interview.


\textsuperscript{309} Email message from Matt Wells to YAN Hairong, Dec. 16, 2011.
The method becomes dubious however, where it is used to draw conclusions that cannot be inferred from the interviewee’s direct observations. Thus, the report asserts (p. 3) that “nearly all Zambian workers and union officials who spoke to Human Rights Watch said the Chinese copper operations were the country’s worst when it comes to health and safety.” It then implies that these statements show that Chinese copper operations are the worst in Zambia on safety. Such an inference however is empirically in error and violates the basic logic of social science and law, the disciplines in which studies of human rights are grounded. There are at least six reasons why the comparisons made by HRW’s interviewees are likely to be little or no value.

First, national and mine branch-level union leaders do not generally hold that CNMC firms have the worst safety practices. MUZ President Munyenyembe rejected that notion and union leaders we interviewed all recognized that mine safety deficiencies generally exist. Given the fatalities in Zambia’s largest, non-Chinese-owned, mines, these leaders’ observations could hardly have been different. That at least some Zambian union leaders now see Chinese as unexceptional copper mining bosses partly results from CNMC’s adaption to local standards, but also shows that these leaders, if not HRW, have broken with anti-Chinese discourse.

Second, because CNMC firm miners do not necessarily know the conditions at other mines, they cannot judge how their employer’s operations compare. They may not even generally know about conditions where they work, as each operation has several departments, several shifts, etc. HRW interviewed 95 CNMC-firm employees in a 6,000-plus workforce; yet without a random sample it cannot be determined whether these employees’ experiences are even representative of those in their own firms. It also cannot be assumed that CNMC-firm interviewees have a basis to compare CNMC practices with those at other mines. Even if only interviews and not a survey were possible and even if all interviewees agreed that “the Chinese are the worst,” that would still be conjecture, given that they have no comprehensive and current understanding of conditions at both their own mine and other mines.310

Third, even miners who work at a CNMC-owned operation, but formerly worked at other mines, may not make sound compari-

310. Union activists who formerly worked at another firm may not necessarily see their current CNMC employer as worse. Alex Mwale worked for KCM and then NFCA and told us KCM is the worst employer.
sions. Safety conditions vary over time. A worker’s observations of safety practices at KCM in 2008 and then at NFCA in 2011 is not an adequate comparison. That requires knowing safety practices at NFCA and KCM in 2008 and at NFCA and KCM in 2011.\footnote{311} There may also be a selection bias where such interviewees are concerned. Safety conditions for contract workers are much worse than for permanent employees.\footnote{312} As a Zambian analyst has noted

A large contributor to a poor safety environment is casualization — the situation in which a dual labor market develops: a core of permanent workers with a periphery of workers on fixed-term contracts, or contracted as self-employed individuals. Casualization diminishes safety in two ways. First, it provides the employer the incentive to undertake dangerous and reckless mining activities because the contracted labor is not fully tied to the mining company. The expected cost to the employer when something goes wrong is therefore diminished ... Secondly, casual labor by its nature is less tied to the firm and therefore has minimal incentive to undertake mining activities that are safe for all employees in the long term. The most common accident in mines is “rock fall.” These usually happens by casual laborers going mad developing [new seams] and leaving people exposed without support in roof sheets. Most of the development work in mining is done by casual laborers.\footnote{313}

Many who labor at non-CNMC firms are contract workers, yet HRW does not tell readers whether the interviewees who worked at a non-CNMC firm before moving to a CNMC firm were contract workers. The interviewees who worked at both CNMC and non-CNMC mining facilities were very likely from among the skilled, permanent workers who had been employed by KCM or MCM and

\footnote{311} In social science parlance, such a comparison involves drawing diachronic inferences from synchronic data. Many studies have shown that witness testimony is also fragile and vulnerable to contamination, the more so as time passes. See Laura Beil, “The Certainty of Memory has its Day in Court,” NYT, Nov. 29, 2011.

\footnote{312} MCM workers in 2005 blamed surging fatalities on increased use of contract workers, who lack the skills of permanent employees. The Mines Minister noted that “The victims of accidents, the vast majority are employees of contractors.” A union president said contractors recruit untrained workers off the streets and send them underground the next day. “Zambia’s Miners Paying the Price,” DJN, Dec. 10, 2005.

were hired by CNMC companies after they were laid off by those other firms during the 2008-2009 financial crisis. Few, if any, would have formerly been among the less-skilled contract workers found at some non-CNMC firms, as CNMC firms could in 2008-2009 pick from the sudden supply of more-skilled, ex-permanent workers. The HRW interviewees thus probably experienced the better safety conditions of permanent employees at their old employers and not the worse safety conditions that the many contract workers experience. Their experiences thus cannot be seen as representative of workers at non-CNMC firms and they cannot speak authoritatively about how safety at CNMC firms compares to safety at their former, non-Chinese-owned places of employment.

Fourth, as we have shown, it is much more difficult to make a UG mine safe than an OC one. All CNMC miners worked underground as of 2011, but less than half of minders at other foreign-owned mines did so. Even if the non-CNMC interviewees were representative of their workforces (which they are not), most would have worked in conditions necessarily safer, because they are above ground, than those worked by CNMC miners, who work underground. That they are necessarily safer has nothing to do with the comparative safety practices of the non-CNMC mine bosses; it has to do with safety differences that are globally attributable to the UG and OC mining configurations.

Fifth, HRW has stated that as to statistical surveys, "it does not deploy that methodology anywhere in the 90 countries where we do research. We rely on interviews with victims, eyewitnesses, and other knowledgeable parties to provide evidence of human rights abuse." Interviews can be useful for investigating specific incidents of abuse, but cannot be relied on to draw general conclusions with comparative implications about the extent of abuse because they may reflect a form of bias known in social science as selection on the dependent variable; for example, seeking to learn the extent of safety violations by searching out those who have experienced them. No general conclusions about the overall situation in CNMC firms or how conditions there compare with other mines can be drawn from such attestations. Those objectives can however be achieved with random sample survey data.

314. Interview, Gabriel Maseko, Head of Industrial Relations, CLM, Aug. 13, 2012.
In fact, Swedish researchers Louise Granath and Marika Larsson surveyed, in 2012, 129 NFCA, CLM, JCHX, 15 MCC and Jinchuan miners asked questions about safety (availability of PPE and after-accident emergency care), as well as whether the miners were satisfied with their working conditions. Regression analysis to determine the relationship between the responses to the safety and satisfaction questions was carried out in light of the HRW claim of discontent about safety conditions at Chinese-owned mines. The researchers expected that safety would have a statistically significant impact on miner satisfaction, but it did not. They reported the "unexpected outcome" that "there is a lack of empirical evidence that the issues concerning safety records are of major importance for whether employees with Chinese employers are satisfied with their working conditions or not." Granath and Larsson concluded that "one explanation to this unexpected result might be that the issue about safety record is more concerned in media than among the employees." 316

Granath and Larson’s result of accords with what union officials have told us: safety is not a sufficiently important issue at CNMC-owned facilities to be a subject of collective bargaining. The key factor for the surveyed workers' satisfaction was instead wages. If the workers do not regard safety conditions as impinging significantly on their satisfaction with overall working conditions, then it might be queried how safety conditions at CNMC mines rise to the level of a human rights violation.

Sixth, where workers are racist or have an unconscious racial animus ("implicit discrimination" in the psychological literature) against employers, they may not accurately depict even conditions they say they experienced or observed. Studies show that racial prejudice and racialized discourse shape attitudes and distort evaluations on a wide range of issues. 317 Prejudice may affect even the perceptions of those with the most incentives to be objective. 318

318. For example, referees in professional sports. For an overview of the literature see Jordan Bass, et al., "Racial Bias in NBA Referees: a Test of Line Movement," pres-
Bias also affects memories; for example, prejudiced witnesses may have a greater “perceptual memory trace” of wrongful acts when the perpetrator of those acts is from a racial group against which the witness is biased.319 Thus, in the existing racially-charged atmosphere, Zambian miners may have a greater perceptual memory trace of wrongdoings when the firm owners are Chinese than when they are not. A direct example of the interaction between prejudice and accuracy is the anti-Jewish discourse spread by politicians and media among white miners in South Africa a century ago. Many adopted it, affecting their ability to objectively evaluate the actions of Jewish mine owners.320

One way in which such prejudice is stirred is by media signaling of ethnicity. For example, two US scholars asked a 2009 survey of Americans “How much to blame were the Jews for the financial crisis?” A quarter of respondents placed moderate or higher blame on “the Jews,” with the proportion much higher among the lower-educated. They also presented to different groups of respondents the same news report, but which either signaled or did not mention that Bernie Madoff, a financier convicted in a well-known fraud scandal, is Jewish. The researchers then asked respondents their view of government tax breaks to big business to spur job creation. Those who were primed about Madoff’s ethnicity were twice as likely to oppose the tax breaks, as those who were not.321 In Zambia, where a misdeed is allegedly committed by a Chinese, the media never fail to mention the supposed perpetrator’s ethnicity.


which they often do not do with regard to the misdeeds of other foreigners.\textsuperscript{322}

Views of conditions at firms about which pervasive negative racial and political discourse exists, as it does as to CNMC and “the Chinese” in Zambia, are thus bound to be skewed. Miners of the kind HRW interviewed have been the main targets for mobilization by the PF, which fanned anti-Chinese sentiment from 2005 onwards to bolster its electoral chances.\textsuperscript{323} Analysts have noted that “The PF enjoys overwhelming support on the Copperbelt Province, where it secured a large majority in the [2006 and 2008] presidential elections” and that “Sata won by a huge margin [in 2011] in the Copperbelt Province, where he has enjoyed unwavering support since the 2006 polls.”\textsuperscript{324} They have also noted that mobilization is relatively easy there and found that many CNMC firm miners “hate the Chinese.”\textsuperscript{325} In 2011, “The China Non-Ferrous Metals Mining Corporation . . . became the maligned face of Chinese investment dur-
ing a bitter election campaign.” In the view of Chinese officials, Sata carried out “vitriolic attacks against the Chinese in his election campaign messages.” Analysts have argued that “anti-Chinese rhetoric was key to the victory of former opposition leader Michael Sata in the 2011 Presidential elections.” After the elections, Chinese reportedly felt the need to ask the new government for protection, but anti-Chinese incitement by officials continues.

Even Zambia’s Vice-President Guy Scott has acknowledged “anti-Chinese resentment among the unemployed and others” that has included “mild intimidation” and “manifests itself as anti-orientalism,” so much so that “the Catholic church has had to send elsewhere, priests from the Philippines who had been working in Zambia.” Workers at CNMC enterprises have shown through their use of anti-Chinese slogans that they are influenced by the PF and Western anti-Chinese discourse. During strikes at NFCA, CCS and the private, ethnic Chinese-owned Collum Coal Mine (CCM), there has also been violence and threats against Chinese, with mining firms and local police responding with violence of their


331. Zambia’s Test.

own to workers’ beatings, stone throwing, and arson. It is not rare for Zambians to perceive that their countrymen who work for Chinese firms are mostly anti-Chinese.

Miners and Zambians more generally may also have a general prejudice against Chinese and favor whites in mining. A long-serving Zambian political leader and enterprise manager told us in a 2008 interview that

The hollowness of knowledge about China and the Chinese opens the door to demagoguery about them in Zambia. The messages coming out of Washington, London and Paris about the Chinese presence in Africa has led to the cultivation of prejudices against the Chinese among some Africans who identify with the West. This kind of prejudice is also cultivated by political forces in Zambia. The focus on the Chinese-owned mine has actually shielded the other foreign-owned miners from criticism. There is a prejudice in Zambia with regard to Indian and Chinese mine owners, because Indians are seen only as shopkeepers and Chinese are not seen as knowing anything about mining. Only whites are viewed as having mining expertise.

The HRW report’s attempt to establish that the Chinese are the worst in Zambian copper mining resembles an analysis produced by a Russian anti-Czarist militant — a human rights advocate of the day — about reasons for the 1881 anti-Jewish pogroms. His interpretation was that it “was an expression of the people’s anger over being exploited. The Jewish exploiters were more crafty than the non-Jewish ones.” The HRW report draws readers to similar conclusions: that Zambian miners attack Chinese as the

333. Mwale interview (threats and violence during strikes at NFCA). We discuss anti-Chinese violence during strikes and protests at NFCA, CCM, and a KCM construction site in “Bashing the Chinese.”


worst exploiters because they actually are and that Chinese copper mining managers craftily attempt to cover up non-serious injuries in the mines, while non-Chinese (mainly white) owners do not.\textsuperscript{337} Yet, under conditions of racial prejudice, it is questionable whether workers may even reliably attest to their own experiences; or attest to whether conditions at CNMC facilities are indeed the worst.

IV. CONTEXTUALIZING THE CLAIM

The HRW report offered an explanation as to why a Chinese firm is the worst Zambian copper mining in terms of labor rights: Chinese insist on bringing their own labor practices from China, which include trivializing safety and paying super-low wages. We have shown that each of the claims that “Chinese are the worst” is empirically inaccurate and are often based on methodology not in keeping with the logic of social scientific and legal analysis. By the same token, an explanation of why HRW chose to focus on CNMC in Zambia is needed.

Labor abuse in Zambian mining, while deplorable, is not an outstanding human rights issue in the context of Africa. Like other parts of the world, the continent experiences massive violations and HRW has a guideline: “We respond to emergencies, but we also challenge entrenched, longstanding, or steadily deteriorating human rights problems.”\textsuperscript{338} There is no emergency in Zambian mining. Conditions at CNMC firms have seen modest improvement, as


\textsuperscript{338} HRW, “Our Research Methodology,” www.hrw.org/node/75141
unions leaders cited above. The Chief of Research and Planning of Zambia’s Human Rights Commission has also observed that rights violation “problems are not exclusive to Chinese companies: ‘Several investors, whether from Europe, America, China, and even some Zambians, often don’t adhere to Zambia’s labor laws.’”339 There has also been no shortage of critical studies and reportage about labor conditions in Chinese-owned mines in Zambia.340 In fact, that story has been the centerpiece of media attention about China-in-Africa since 2005, largely because of the PF’s anti-Chinese incitement.

Several factors may explain HRW’s focus on the major Chinese investor in Zambia. The report’s author has provided one explanation: that it was issued because “we have faced constant questions from African human rights allies, policy makers, and media for our opinion from a human rights viewpoint on China’s growing investment in Africa.”341 Such queries themselves however smack of “racial profiling” a form of policing that links criminality and other malpractices with a specific race, ethnicity or national origin.

If indeed, HRW decided to investigate Chinese mining in Zambia based on “constant questions” about “China’s growing investment in Africa,” it did so in contravention of the approach HRW normally takes in selecting its investigation subjects. Asked, in a 2012 interview, “how do you select those samples or cases for your Human Rights Watch report[s]?,” HRW Executive Director Kenneth Roth responded that “In any given country, the researcher will begin by consulting with local groups, What do you see as the most serious problems? What do you see as the problems that we’re


341. E-mail from Matt Wells to Yan Hairong, Nov. 25, 2011.
most able to do something about? We’ll put together a list.” No one who knows Zambia would conclude that its major human rights problem is labor practices that affect one-tenth of one percent of the workforce and in the industry with among the best-paid workers to boot. Everyone who knows Zambia would also know that anyone who made such a claim would likely do so for political reasons, i.e. as part of the opposition’s anti-Chinese mobilization that is ongoing in Zambia.

Given that HRW eschewed its normal approach to selecting investigations in taking up the case of CNMC in Zambia, it may well have done so as part of a political agenda. In the same interview, HRW’s Executive Director also asserted that “One of the things we found was that China had so much economic clout in Zambia that the Zambian government was reluctant to enforce its own laws on worker rights. It just feared China was too powerful a player. And you did find that the Chinese supervisors were mistreating the workers in a way that an ordinary mine or factory in Zambia wouldn’t have been allowed, but that went on in the Chinese-owned mine because Zambia feared the repercussions of criticizing the Chinese company.” The HRW report however does not show that Zambia’s government “feared the repercussions of criticizing the Chinese company,” nor is there any evidence for such “fear” elsewhere. It would be surprising if there were such fears, as CNMC is responsible for only one-twentieth of total production and is a much smaller player in the Zambian copper mining industry than most other foreign investors. Moreover, from 2012 onwards, the PF, a party now in power that has never shrunk from strongly attacking “the Chinese,” has not criticized CNMC. Indeed, some top Zambian officials have praised it, as did Finance Minister Alexander Chikwanda — and this despite HRW’s assertion that CNMC “still lags behind” other foreign investors in labor rights. HRW’s invention of the Zambian government’s fear of China also jibes with a political agenda.

A focus that includes Chinese-owned business in Africa would not entail racial profiling. The queries to it reported by HRW and the HRW report itself however single out Chinese firms by reporting on malpractices at such enterprises, while neither similarly investigating wrongdoing at non-Chinese-owned operations nor

comprehensively evaluating how differences between the situations of Chinese-owned firms and other companies may account for varying levels of safety, pay, etc.

The HRW report posed the wrong question to begin with. In law and social science, the proverb expressed by the renowned American novelist Thomas Pynchon applies: "If they can get you asking the wrong questions, they don't have to worry about the answers." In politics, if you ask the wrong question, there may be more consequences — in this case a predictable heightening of anti-Chinese sentiment, and not just anti-Chinese government, as neither the media nor the public evidently distinguishes the Chinese people from the Chinese state.

By singling out companies based on nationality, HRW approached its Zambia study differently from how other NGOs have done firm-level studies of foreign copper mining companies there. NGOs that studied KCM did so “because of its sheer size.” Their report shows that development of Zambia copper mining has disadvantaged, rather than benefited society at large. They did not focus on KCM because it is UK-based or ethnic Indian-owned; neither did they critically distinguish KCM from other firms. A study of MCM’s misbehavior, while specific, questions “the link between development and mining in general,” makes nothing of the fact that MCM is a Swiss citizen or that its top officers are whites and points out that MCM is “far from a stand-alone case.”

346. Undermining Development?
347. Counter Balance, The Mopani. A study of corporate social responsibility (including labor practices) in 2008, at NFCA and then Swiss-owned Luanshya, concluded “In the perception of the employees interviewed at both mines, their employers fail in all elements of CSR,” although perceptions at Luanshya were better on some points. Apotheker, Foreign Copper: 91. There was however no anti-Swiss agitation in Zambia, then or now.
ies of mining firms operating outside Zambia also do not focus on their nationalities or rank their labor practices among peers. For example, a global union group’s report on labor abuses and other activities in Africa of Rio Tinto, the world’s fourth largest mining company, ignores its citizenship and leaders’ nationalities. It does not compare its record to that of other giant firms such as BHP Billiton, Freeport McMoRan, etc.\textsuperscript{348}

HRW however constructed a binary of CNMC, as a Chinese firm, versus the rest.\textsuperscript{349} Despite its focus on one company, the report (p. 13) is self-described as “a useful magnifying lens into Chinese labor practices in Africa.” It thus tries to turn that Chinese firm into a strikingly negative example of investment in Africa.

HRW decided that its first study of Chinese investment in Africa would be about an SOE that has had some problematic labor practices, but is also a unique object of racialized media attacks that portray its activities in Zambia as exemplifying malpractices by Chinese investors throughout Africa. It was thus predictable that media reports about HRW’s study would pour oil on the fire. They immediately did so;\textsuperscript{350} so much so that China’s media-savvy ambassador to Zambia commented that in the Western media, “if you have not written something bad about China in a given day, then you have not done your job.”\textsuperscript{351}

HRW’s other studies of abuses in African mining are two implicating Zimbabwe’s government — a target of Western sanctions — plus one, issued after HRW’s report on CNMC, on the non-con-


\textsuperscript{349} States may be responsible for extra-territorial violations by their corporations of international human rights, but non-state-owned firms also may be required to respect human rights. See Alice de Jonge, \textit{Transnational Corporations and International Law: Accountability in the Global Business Environment} (Cheltenham: Edward Elgar, 2011): 47-51. There is thus no need to single out SOEs in reporting on corporate rights violations.


\textsuperscript{351} Steven Myula and Anthony Mukwita, “We are Here to Stay: China,” DM, Nov. 10, 2011.
Controversial topic of child miners in Mali. Another factor explaining HRW's choice to report on CNMC thus may be ideological: a need to produce studies that accord with mainstream Western views of countries, such as China, that have authoritarian regimes, and concomitant positive views of the West. Such an approach is likely prevalent among HRW’s almost wholly Western base of financial support (see below) and belies the claim that the liberal discourse of human rights is based on apolitical moralism, as in fact the discourse is deeply immersed in politics. HRW itself is imbricated with liberalist Western political and media forces and mutual antagonism with the Chinese state. The latter is evidenced, on HRW’s side, by its webpage entry of reports on “China and Tibet,” a classification that implies that Tibet is not part of China, even though neither the United Nations nor any state regards Tibet as independent. In separating China and Tibet, HRW follows a practice unique to the US government. Needless to say, HRW does not have such categories of reports as “Canada and Quebec,” “Britain and Scotland,” or “Spain and Catalonia,” although substantial popular support for independence can be confirmed in those places.

Its immersion in US political culture may also explain why, despite its report’s fatal empirical and methodological flaws, and despite some regarding it as “discredited and [having many


355. See, e.g. “The President’s Meeting with His Holiness the XIVth Dalai Lama,” The White House Blog (President Obama “Reiterat[es] the U.S. policy that Tibet is a part of the People’s Republic of China and the United States does not support independence for Tibet”), www.whitehouse.gov/blog/2011/07/17/president-s-meeting-his-holiness-xiv-dalai-lama.

shortcomings, HRW has said it will wholly “stand by our report.” Indeed, a year after the report was issued its author claimed that CNMC’s goodwill in Zambia is being lost through its labor record and that “it still lags behind on . . . key areas of safety in comparison to other companies.” US political actors habitually “stand by” whatever they have done and eschew apologies, regardless of the consequences of their actions. Many months after its issuance, Western media continue to publicize the report and HRW continues to ignore its predictable reinforcement of anti-Chinese racism. Its refusal to recognize that the conclusions drawn in its report are misplaced stands in sharp contrast to the reaction of other NGOs when significant flaws in their studies have been adduced.

HRW is close to being wholly Western-funded: of donations to HRW, “almost 75 percent comes from North America and about 25 percent from Western Europe.” It issues reports about human rights violations by natural and corporate citizens of a range of countries. HRW rightly focuses much attention on Chinese government rights violations, but seldom probes the actions of Western

governments per se, even though the latter have conducted many wars and occupations of developing countries, supported many rights-abusing regimes, and structured the world's highly unequal neoliberal economic dispensation. A political agenda is likely reflected in HRW's failure to attribute large-scale human rights violations to Western governments per se, while singling out as an exemplary violator of African labor rights a Chinese SOE whose violations are far from large-scale. HRW's conclusion that "the Chinese companies [are] the biggest violator of workers' rights among Zambian copper industry employers" (p. 22) in effect expands its negative appraisals of human rights inside China to include Chinese state human rights practices abroad.

US media and other US human rights NGOs have expectedly followed HRW's approach. *Time* magazine, for example claimed that "The Sino-Zambian relationship is a microcosm of China's engagement with the entire continent." Soon after the HRW report was issued, the webpage of New York-based Freedom House, 80% of whose funds in 2007 were derived from the US government, featured an article by one of the organization's academic advisors in which he urged Sata's government to protect the rights of Zambian workers, "especially those employed in the growing number of Chinese-owned mines and related industries," which he claimed "bear the attitudes and standards that prevail in the Chinese labor mar-

364. From 1991-2011, HRW issued 60 reports on China. These generally deal with conduct attributable to the government itself. Although Western governments have recently waged many wars, HRW reports usually limits its criticisms to individual politicians and rarely attributes rights violations to Western governments per se, even though there is a close connection between wars and human rights violations. See Chandra Lekha Sriram, et al., *War, Conflict and Human Rights: Theory and Practice* (London: Routledge, 2010).


ket,” where the “Communist Party has assiduously suppressed even the most basic of labor rights.”

Labor rights abuses affect millions in Africa. CNMC in Zambia only employs about 6,000 people, one-tenth of the country’s mine workers, little more than 1% of formal sector workers, and less than one tenth of 1% of Zambia’s workforce. Even in terms of Chinese-generated employment for Zambians, the CNMC workforce does not play an overwhelming role, as Chinese investment in Zambia is reckoned to have created 50,000 local jobs.

Labor rights violations are almost certainly more common outside mining than inside it and conditions at smaller, less-profitable Zambian-owned firms are often worse than those in foreign-owned ones. For example, the fatality rate for artisanal (“illegal”)...
miners in Zambia is much higher than that for workers in foreign-owned copper mines. From the founding in 2008 of the Federation of Small-Scale Miners Associations of Zambia, through late 2011, 231 of FSSMAZ's 4,300 members have died in mine collapses. Zambia has some 180 informal mines, all of them Zambian-owned, where most miners work manually. They earn wages as low as $40 a month and unionization is very difficult.

HRW recognizes that labor conditions at CNMC firms are improving, yet there is no evidence of improvements among firms in Zambia generally. Instead, conditions in mining communities deteriorated after privatization of state-owned Zambian Consolidated Copper Mine's (ZCCM) assets with "a 1999 survey of the local community on the privatization of ZCCM... show[ing] that for the majority of Zambia, the sale of ZCCM has brought hardship and a decline in economic and social development." Since then, labor conditions in the privatized firms that make up much of Zambia's formal sector have deteriorated. Moreover, as an elaborate study of the effects of the privatization of mining in Zambia has stated, lower gainful employment of the mineworkers, the degrading of the conditions of employment of mineworkers, and the substitution of local capacities to the mines with foreign capacities undermined rather than promoted local capacities.

It is not malpractices in mining arising from privatization that concern HRW, but only those it says are due to a Chinese state presence, even though privatization has been the major obstacle to


Zambian miners’ demand for equal pay for equal work across the board. That aspiration cannot be realized while varied conditions impel uneven cost/benefit analyses by different companies. Industry-wide coordination and, through it, the realization of worker aspirations for equal pay for equal work can occur only with a much higher level of public ownership than now exists in Zambia mines, yet both of Zambia’s major parties oppose it.378

HRW’s study of CNMC labor practices in Zambia cannot tell us anything generalizable about Chinese investments in Africa or even in Zambia. It instead reinforces the skewed Western China-in-Africa discourse and creates a new set of negative conclusions by the media about China and “the Chinese.”

V. CONCLUSION: WHY “THE CHINESE ARE THE WORST”

In 2012, as the Eurozone financial crisis reached a peak, politicians such as German Chancellor Angela Merkel were discursively dividing Europe into two classes of “fiscally virtuous and industrious northern Europeans and profligate and indolent southern Europeans.”379 Greece was labeled “the worst” example of fiscal indiscipline. Greeks were commonly portrayed by northern European media as tax evaders, anti-business, lazy and corrupt. Harvard University Professor of Public Policy Richard Parker challenged these “moralizing clichés.” While acknowledging Greece’s problematic debt levels, he noted that Greece’s taxes are a third of the GDP, about Europe’s average; Greece has more small entrepreneurs per capita than any other European country; the Greek government workforce is around 20% of the total labor force, again Europe’s average; and corruption in Greece is not generalized, but largely concentrated in the health care sector.380

Two factors may explain these inaccurate stereotypes of Greeks and southern Europeans generally. They allow center-right northern European governments to denigrate the center-left politics more prevalent in southern Europe. They also reflect longstanding northern European racism against southern Europeans. For example, when a cruise ship ran aground in the Mediterranean in early 2012, a leading German newsweekly’s columnist commented “Hand to heart: is anyone surprised that the captain of the Costa Concordia is Italian? Can you imagine a German pulling a hit-and-run stunt like that, or a British captain?”

Whether or not HRW’s report originated under similar biases, it was predictable that it would play into them. HRW could instead have undertaken studies of more significant violations of labor rights and other human rights violations created by foreign investors in Africa’s mining sectors. Studies of mine labor conditions elsewhere in Africa or even in Zambia generally would reveal much more intensive rights violations than those at CNMC firms. The share of Chinese firms’ in non-African investment in Africa generally and African mining specifically is, after all, nowhere near as large as is commonly conceived. China is not the major foreign investor in Africa and by some measures is not even a major one. A 2011 study by the African Development Bank (AfDB), OECD UNDP and UNECA of FDI flows to selected African countries from 2005-2010 found that 43.7% was from EU countries and 37.4% was from the US. China’s share was only 0.9%. An econometric study of Chinese OFDI for 1991-2008 revealed that Chinese firms are in fact not metals-seekers, in the way they are motivated to seek fuels.

A 2011 UN study observed

---


Chinese mining investments abroad are small relative to those from other countries. Less than 1 percent of total world mine production outside China is controlled by Chinese companies . . . Most investments have been in Australia, with very few in operating African mines . . . The number of investment projects in Africa indicates a growing Chinese presence, but progress is often slow. Chinese firms have yet to acquire the experience of large projects that many companies from industrialized countries have. 384

Table 8: Stock of Investment in African Mining by Country

<table>
<thead>
<tr>
<th>Country of Firms</th>
<th>Date</th>
<th>Investment Stock (Billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>End of 2009</td>
<td>$2.9</td>
</tr>
<tr>
<td>Canada</td>
<td>2011</td>
<td>$32</td>
</tr>
<tr>
<td>US</td>
<td>End of 2009</td>
<td>$25</td>
</tr>
<tr>
<td>Australia</td>
<td>2011</td>
<td>$20</td>
</tr>
<tr>
<td>France</td>
<td>End of 2009</td>
<td>$18</td>
</tr>
<tr>
<td>Brazil</td>
<td>2012</td>
<td>$7.7 (Vale firm alone)</td>
</tr>
</tbody>
</table>

Canadian mining firms are in first place in African mining investment; their $32 billion in place by 2011 compares with the $39 billion stock of Chinese global OFDI in mining at the end of 2009. 386 The centrality of Canadian firms in exploiting African minerals is to be expected: the Canadian stock exchanges "are home to

384. ECA, Minerals and Africa’s Development: 36-37. Africa accounted for 14.6% of global mining project investment in 2009, a bit less than Oceania and only about half of what Latin America drew. Ibid: 33.


58% of the world’s public mining companies and raise 60% of the world’s mining capital.”387 There are some 185 Canadian headquartered firms with mining projects in Africa.388 By 2007, 17% of Canadian mining firms’ cumulative assets outside Canada were in 35 states in Africa and, apart from South Africa, “Canada dominates the rest of the continent.”389 In 2010, one-tenth of Canadian mining investments in Africa was in Zambia.390 Contrary to common assumption, the activities of Canadian firms are also no less problematic than those of other countries.391 Nor are the activities of Canadian mining firms in Africa purely private:

The growth in African mining operation is partly attributed to interventions by the Canadian government such as fiscal measures favoring mining interests, particularly in the internationalization of mining and exploration by the Juniors. Export Development Canada (EDC) facilitates outward investment and in 2007, supported projects totaling $22 billion worth of exports and investments in Canadian companies in the extractive sector.392

Studying labor matters at Canadian firms in African mining, using a comparative perspective, would thus likely contribute more to mitigating abuses than singling out Chinese-owned copper mining firms in Zambia. Unlike the HRW report’s contribution to anti-Sinicism, it also would not contribute to anti-Canadian sentiment in the world, as none exists. The same might be said of the mining operations of Australian mining firms.

Comparative study of labor rights violations requires empirical and methodological soundness, but also avoidance of condemnations that lead to aspersions cast on the behavior of any nationality. Martin Luther King once responded to claims that Jewish landlords and shopkeepers exploit African-Americans by stating that “The Jewish landlord or shopkeeper is not operating on the basis of Jew-

389. AU & UNECA, Exploiting: 17.
392. AU and UNECA, Exploiting: 18.
ish ethics; he is operating on the basis of a marginal businessman" and the solution "is for all people to condemn injustice wherever it exists." Dr. King understood that structural, not cultural factors created the exploitation at issue.

Given the context of anti-Chinese agitation in Zambia and the skewed China-in-Africa discourse, HRW could have studied rights violations in Zambian mining generally, to "condemn injustice wherever it exists," instead of singling out a Chinese firm. A study of that kind would likely have found that violations are common in mining. Indeed, a committee of the Zambian parliament, composed of ruling and opposition party members, did just that in 2010. It researched the question of "The impact of the extractive industries on the Zambian economy in the post-privatization era: a case of mining." The committee visited two foreign-owned copper mining firms (MCM and Chibuluma), two emerald mines, one zinc and one nickel mine. As to labor matters, it said of these mines that workers complained of poor working conditions, no salary structure, intimidation, lack of training programmes, lack of research and an increase in the number of foreign workers . . . [T]he lowest paid worker on average was paid about K1 million . . . [A]ll workers were on contract for periods ranging from one to four years, and not all workers were entitled to gratuity . . . [Since privatization], the quality of jobs has gone down. There are also cases of mines employing more unskilled or semi-skilled foreign workers, unfavorable contract conditions, lack of skills transfer and other forms of training, intimidation and lack of respect of labor laws. Poor conditions of service are the other major problem for those working for contractors in addition to some having no union representation.

An example of a comparatively-grounded, non-racial profiling study that involves a Chinese mining firm abroad and that has some parallels with the case of CNMC in Zambia appeared in 2012. Two US scholars compared Shougang Hierro Peru’s iron ore mining facilities, owned since 1992 by a subsidiary of a Chinese central-government SOE Shougang Group, with similar-sized foreign- and domestic-owned mining firms in Peru.

Shougang is the only Chinese mining firm in Peru large enough to allow for study. It has the worst reputation among mining companies as to labor practices, especially safety and wages. The study found however that “Shougang does not stand out for labor violations.” As to safety, it has a significantly higher rate of serious accidents, but not fatalities, so that “Shougang does not appear to be the outlier that its reputation would suggest.” While “Shougang’s wages are lower than its counterparts . . . this differential is both smaller and less central to worker welfare than others suggested.” When benefits are added in, Shougang may pay its workers about the same as most other firms. Shougang moreover uses fewer contract workers, who generally earn only half of what directly-employed workers earn, so that “Given Shougang’s lower use of contractors, its average wage for indirect and direct workers combined may exceed those of Antamina and Yancocha.” Peruvian mining’s two best paying firms. The Peruvian subsidiary of US-based firm Doe Run “performed worse than Shougang on almost every indicator of labor standards.”

HRW’s fixation on CNMC operations in Zambia exceeds that of the US State Department in its 2010 US report on human rights in Zambia. Its section dealing with workers’ rights is by no means even-handed: its examples of labor abusers are confined to a small, private, Chinese-owned coal mine and a Chinese employer of two household workers. The State Department report said nothing however about CNMC firms, even though they are the largest Chinese-owned employers in Zambia. The State Department’s 2011 report on human rights in Zambia however devotes a third of the section on acceptable conditions of work to the HRW report, with the remainder merely describing relevant Zambian labor laws. Thus, the US government in effect adopts the HRW reports and, like HRW, singles out Chinese mines as the only nationality-focused example of unacceptable conditions of work.

397. US State Dep’t, “Country Reports on Human Rights Practices for 2011: Zambia,” 2012, http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186255#wrapper. In another section, the State Dep’t report also claimed that “Asians and South Asians continued to be brought to and through Zambia for forced labor in the mining and construction industries. An increasing number of Chinese and Indian men recruited to work in Chinese or Indian owned mines in the Copperbelt region were reportedly kept in conditions of forced labor by mining compa-
The HRW study appears to apply to one Chinese SOE in Africa the inaccurate claims set out in a 2006 statement on “China’s Exportation of Labor Practices to Africa,” by the International Trade Union Confederation (ITUC) Hong Kong Liaison Office (ILHO). Like the HRW report, the ILHO statement focuses on health and safety, wages and workers’ right to join a union. The ITUC’s fixation with labor practices of Chinese firms in Africa has continued: examples it gave of violations of trade union rights in Zambia in 2008 were almost exclusively about Chinese-owned mining firms; the one exception was an Indian-owned construction firm. The HRW study also accords with the PF’s 2005-2011 anti-Chinese campaign. Its findings fit in with the racial hierarchy pronounced in 2006 by Guy Scott, a white farmer, deputy PF leader, and now Vice-President of Zambia: whites are better than Indians and “the Chinese are the worst.” This racialist view is embedded in some miners. For example, NUMAW’s chairman at NFCA told us that “Chinese, sorry, are not good investors, but white people are very good.” He added that “In China, you have too many people, so if someone dies, you don’t care” and that white South African investment in Chibuluma mine was good, but that the ethnic Indi-
ans who own KCM, “are very different from white people” and “brought a lot of the Indians who are now walking our streets.”

Like HRW, PF leader Michael Sata said in 2008 that “safety standards at Chinese-run mines and factories were miserable,” but never produced evidence for his claim. If, however, PF leaders were convinced that safety at Chinese-run mines was worse than at other mines, they had a mechanism for determining whether that was so. In 2009, the Zambian parliament’s Committee on Government Assurances carried out tours to investigate safety levels in copper mines. The Committee was chaired by Chisimba Kambwili, PF MP from Roan Constituency, where the Luanshya Copper Mine had recently been acquired by CNMC. By then, CNMC’s Chambishi Mine had been fully operational for six years. Kambwili is the most vituperative critic of “the Chinese” in Zambian politics. The Committee inspected four mines (MCM, KCM, Lumwana and Kansanshi), but despite the PF’s supposed concern about safety in Chinese-owned mines, toured no CNMC facility. After undertaking firm-conducted guided tours and being assured by executives that all was well, Kambwili said the Committee was satisfied that adequate safety measures were in place.

Empowering “vehement and systematic anti-Chinese rhetoric” Sata told Reuters newswire in 2010 that “Chinese and other Asian mining firms in Zambia are creating ‘slave labor’ conditions.” HRW’s conclusions equally echo unsupported claims by arch-China bashers, such as Peter Navarro and Greg Autry, who have written that “Regarding worker health and safety, there is nothing but fear and loathing in the factories and mines that Chinese bosses run in Africa and Latin America. For just as in China, it is a tale of long hours, low pay, unsafe working conditions, and incredibly abusive bosses . . .”

401. Mwale interview.
406. Peter Navarro and Greg Autry, Death by China: Confronting the Dragon – a Global Call to Action (New York, Prentice Hall, 2011): 102. Their assertion was accom-
There are however PF leaders whose brief seemingly does not extend to racially profiling investors and who affirm that labor abuses are common among mining firms in Zambia and Africa. Wynter Kabimba, a lawyer, PF Secretary General, and now Zambia’s Minister of Justice, spoke in 2007 on a panel at a meeting of the Economics Association of Zambia (EAZ), the premier group of analysts of economic affairs in the country. Kabimba spoke to the question of whether it matters where foreign investment comes from. He stated that most analyses he had read “concluded that the foreign investors in Africa paid low wages and contributed to environmental degradation and corruption” but, referring to mining, “He added that there was no distinction between the behavior and practices of European, American and Chinese foreign investors” and concluded that “the excitement about Chinese investments in Zambia was misplaced.” Another panelist, ZCTU President Leonard Hikaumba, expressed a similar view: “In his experience, Chinese investors were not exceptional in offering poor conditions of service. Zambian employers were probably worse in their disregard for labor and employment regulations and destruction of the environment.” Moderator Muna Hantuba, CEO of Aflife, a major local financial firm, also questioned “whether Zambian employers behaved better towards their employees” than Chinese investors.

If CNMC is not “the worst employer,” it does not mean that conditions at CNMC facilities should not be improved, especially salaries and safety. China’s ambassador “has directed Chinese investors who engage local workers to pay them in accordance with Zambia’s labor laws” and said that his government will “sternly ‘deal’ with Chinese companies ... if they ‘flouted’ Zambian laws and abused workers ... because we do not want one single company to be responsible for damaging the international image of China.” He has urged the Zambian government to “prosecute and

---

407. “What we have learned from Foreign Investment: Does it Matter Where it comes from?” EAZ, Proceedings of Monthly Meeting, Nov. 22, 2007 (photocopy in possession of authors): 2-4. About 90% of gemstone mining, for example, is controlled by Zambian firms. Zambian Parliament, Committee: 22. There are also Zambian-owned industrial companies. For example, during a 2012 strike at a (white) Zambian-owned cement plant, the United Mineworkers of Zambia revealed that the lowest-paid among the more than 600 workers received K900,000 ($180) a month and the highest K1.8m. “Zambezi Portland Workers Protest,” TOZ, July 21, 2012.
jail the particular offender . . . ," but has also argued that Chinese
mining firms were not Zambia’s best or worst payers.408

All of Zambia’s foreign-owned mining firms exploit labor, re-
sources and environment. Working lifetime wages are so low that
within six months of retirement, according to an NGO’s report,
miners are reduced to beggars,409 unlike their counterparts at mines
in the West owned by the same companies. On the wages they re-
ceive, most Zambian miners are poorly housed in hugely underser-
ved communities. As a Zambian commentator put it, “Towns
housing the mines are in ruins, infrastructure is in a dilapidated
state and the local people are living in abject poverty yet on a daily
basis their land produces millions of dollars.”410 Improvements
across the board are called for, but that is less likely when attention
is focused exclusively on Chinese firms as “the worst.” The other
improvement to be sought is in the quality of analysis of human
rights deficiencies. There is a need for empirical accuracy, for appli-
cation of basic methodological principles, and, most of all, for es-
chewing political bias that contributes to the deepening of racism.

408. “Envoy Tells Chinese to Pay Fair Wage,” DM, July 27, 2012; Myula and
Mukwita, We are Here.

409. See Apotheker, Foreign Copper: 61, quoting “Annual report Caritas Ndola
2007”.

410. Choolwe Muzyambe, “Rich Zambia, Poor Zambians,” Tumfweko, Nov. 14,