

Chambishi Mines/NFC-Africa

Are the Chinese the worst investors?

In conversations about mines privatisation all around the Copperbelt, residents, workers, commuters, Government officials, trade unionists, even the other mining companies all raise the same complaint - 'the Chinese'. In fact, although there are a number of Chinese employers in Zambia, of the major mining houses, only one is owned by a Chinese company: Chambishi Mines is owned by Non-Ferrous Company-Africa (NFC), a Chinese state-owned enterprise. However, partly because they are all state-owned, the Chinese companies in the mining sector are commonly seen as part of one entity. In the 'Chambishi Investment Zone', this includes BGRIMM Explosives, Sino-Metals and a number of other contractors at which there are also a wide range of complaints against management. NFC are commonly claimed to be 'the worst investors', usually one step ahead of 'the Indians' (meaning Binani who took over Luanshya, and then left, and Vedanta, who took on KCM in 2004) on a ladder of shame of abusing the workforce, ignoring local businesses and labour, 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, particularly at Metorex, as described above) are assumed to have a more sympathetic style of management.

The debate is clearly heavily informed by racist assumptions, and mixed in with critique of the employment practices and health and safety failings of particular investors, there are usually plenty of comments on the personal attitudes or habits of Indian and Chinese businessmen, levels of social integration of workers and management in communities on the Copperbelt, and a fair sprinkling of frequently repeated urban myths. The 2006 Presidential campaign reached a fever pitch when Presidential candidate Michael Sata was seen to be mobilising popular sentiments by vehemently criticising Chinese investors, and promising diplomatic confrontation with the Chinese state. Even senior civil servants and Zambian staff working constructively with Chinese management assume that there is something uniquely Chinese about the operations of NFC and plead for lenience and understanding on the basis of 'cultural differences'.

Two major incidents have done the reputation of 'Chinese investors' no good. Most famously, in April 2005 in the single biggest disaster in the history of Zambian mining, there was an explosion at the BGRIMM plant that killed 52 Zambian workers. None of the management or Chinese staff at the plant was injured. Secondly, in 2006, during a two-day wildcat strike over delays in payments to workers at NFC, workers from the mine protested near to the living quarters of Chinese managers. Two of the protestors were shot. Whether the shooting was carried out by NFC managers, security guards or indeed Zambian police has never been cleared up, and no prosecutions have followed. The incident confirmed in the popular imagination the idea that Chinese bosses were uniquely brutal and exploitative, and that the Zambian state's relationship to them was too close. So, is the reputation of NFC as the worst of the privatised companies deserved?

Investment

Before NFC bought the mine, Chambishi Mine had ceased operations, laid off a majority of its workforces and maintained a skeleton staff of just over 100. NFC put up an initial financial investment amounting to \$US 132 million to refurbish the mine and the concentrator. This extended the mine's life and offered hope of jobs to former miners living in the already-depressed Chambishi Township. The mine now employs over 2,100 people.

Employment

The quality of this employment is in question. As already discussed, Chambishi Mines pays the lowest wages of all the mining companies, and employs a tiny share of its workforce on permanent pensionable contracts.

· At the time of writing there were just 52 Zambian unionized employees on permanent contracts. These are former ZCCM employees who were taken on to work at NFCA on the same terms as their old jobs, including representation by MUZ and eligibility for pensions. While their terms and conditions are easily the best available outside of management at NFCA, they are the lowest paid of all the major mining houses. Their numbers are also constantly dwindling as NFCA attempts to move all workers onto fixed-term contracts.

· Of others employed directly by NFCA, 687 are on contracts which vary in duration from 1 to 5 years. The company has attempted to impose on these workers its extremely unpopular, 'scientific encouragement scheme' whereby half of a worker's salary is delivered in a fixed amount and another chunk 'floats' according to management's assessment of the performance of the company overall, the worker's division, and the individual.

· The remaining 100 or so employees taken on directly by NFCA are classified as casual workers. They have no job security and generally poor conditions of employment in comparison with other employees.

· NFCA makes extensive use of subcontracting firms. 1,093 workers are employed indirectly, and come to NFCA via two Chinese subcontracting firms. The draft Environmental Impact Assessment for NFCA claims that "it has been reported that the majority of those working in the underground mine are employed on either temporary contracts or a casual basis, and many receive minimal wages whilst working in difficult conditions. Some casual workers at the underground mine are reported to earn between K120, 000 to K150, 000 per month." (119). This claim is almost beyond belief as it is significantly below the legal minimum wage, and represents just 10% of the Basic Need Basket (120)

· At the other end of the scale, NFCA employs 180 Chinese employees on permanent contracts. Of the senior management team, 11 are Chinese and just one is Zambian.

Clearly a number of these practices are at odds with commitments made by the company in its Development Agreement. For example, NFCA commits in the agreement to, "take all reasonable efforts in its recruitment and employment of employees in its professional, managerial, engineering and scientific grades... to bring to the attention of such qualified Zambians, positions available within NFCA." (121).

Social impacts of privatisation around Chambishi
The communities around the mine include very high shares of retrenched former miners, with almost zero formal sector employment in many locations, and the population surviving almost exclusively through subsistence agriculture. Given the wages on offer, many of those working in the mines will also be looking for other means of supporting themselves and their families. The large numbers of people attempting to farm has led to communities being driven to living on and farming land owned by the mines, to which they have no secure tenure. As a result of the overwhelming poverty of the Chambishi area, the company's draft Environmental Impact Assessment reports that, "All the clinics in Chambishi Township have reported an increase in nutritional defects and incidents of preventable diseases, including sexually transmitted infections since privatisation. This has been attributed to the increasing poverty levels in the township, one consequence of which has been an increase in prostitution." (122).



Health provision

Since privatisation, retrenched ZCCM mine workers and their families, who would also previously have had access to mine hospitals, have found it difficult to access health care, facing higher fees. For the 52 unionised employees on old ZCCM terms of service, hospital provision is, as it was previously and is for unionised workers in all of the other mines, free to all dependents. However workers on fixed-term contracts are allowed to nominate just one family member for health care, which, until this year, was automatically a registered wife – the worker may now nominate one person of their choice. NFCA is the only mining company that denies all dependents health care. Zambian average family size is 6. In other words, NFCA will provide no free healthcare to the children of their employees. It is far from clear that in this situation NFCA is operating within the terms of its Development Agreement. This states that: "NFCA shall: provide the Social Services to all employees of NFCA and the Registered Dependents of such employees entitled to benefit therefrom... NFCA agrees to continue to employ the same registration practice for determining the eligibility of dependents to qualify as Registered Dependents as the practice for determining the same which was in place at the date of this Agreement." (123) As discussed further below, if NFCA is attempting to justify this practice, it is likely to be on the (legally false) basis that it's contracted workers are not 'employees'.

Preventative health care

ZCCM had a complex preventative health system, focused on malaria, TB and AIDS. NFCA has made little effort to reproduce this system. The company did not engage in anti-malarial spraying until 2006, relying on the neighbouring company, Chambishi Metals Plc, to spray many of the relevant areas for NFCA employees, covering the area within a 10km radius of the Chambishi Mine Township as part of the nationwide "Roll Back Malaria" program. NFCA has also singularly failed to develop an HIV-AIDS policy. The companies' Human Resources Manager claims that there may be such a policy on the way. "The HIV-AIDS pandemic. Now that is the talk of the day but we have had no policy here. Right now we are building up a policy and beginning with some activities towards that because that affects not only the workers but the community from where these guys are coming from. So, we are building up something and really by the end of the year we should have a lot of activities going on in as far as HIV-AIDS is concerned. A lot of organisations have come in. The union. CHEP was involved at some time. Currently there isn't a specific budget, but currently what we are doing is looking at activities and looking at what it would cost." (124) NFCA has now owned the mine for eight years and the same has been true for much of that time: policies are 'in development' on a wide range of issues, including those legally mandated in the Development Agreement.

State of the townships

At privatisation ZCCM sold the mine houses that it used to look after and rent to its employees to the people who lived in them – often as part of their retrenchment package. However, without a livelihood, many of these unemployed former miners have been unable to maintain the houses, and have decided that the only way to secure an income is either to move into one room of the house and rent the rest, or to move out entirely and to rent the house while living in a shanty town or squatter camp. This has led to the growth of informal settlements and great crowding of accommodation in Chambishi Township. ZCCM provided treated water to Chambishi Township. Sewage and domestic waste from the township was dealt with by Kalulushi Municipal Council. However, the Council was 75% dependent on ZCCM for finance. At privatisation, this revenue was withdrawn and, with mainly unemployed and very poor residents in the town, the company struggles to collect user fees. Services are frequently suspended and the private company running the system has no finances for investment in mending infrastructure.

Corporate resistance to regulation and inappropriate relations with Government One of the major concerns about NFCA expressed by local people, in bars and on buses across the Copperbelt, is the idea that the company is able to operate with impunity because of the closeness of its relationship, or at least the Chinese state's relationship, with the Zambian Government. This relationship was alluded to openly by a number of informants, both representing the Government and the company.

For example, staff at Mines Safety Department revealed that early in the life of the mine they proposed to suspend operations at the mine on safety grounds. Our informant reported that his boss replied, "Don't. I will fire you. What you should do is work with these people. They have got a different culture." (125). The same informant accepted that, following a lot of problems in the early years, including over lack of safety clothing and the use of shift bosses without English language skills, the situation has improved somewhat.

Similarly, NFC staff report that, despite having had some difficulties with immigration regulations due to their overuse of expatriate staff, the company had found ways around the system. "Sometimes immigration have accused us of interfering with their operations where for example you are denied a work permit, and instead of pursuing it with them, you go around a bit and ask a top Government official. And you find that the person you are dealing with is not directly in that Ministry, but it works. So it is just identifying who can help us. Most likely we go down to the PS, even the Minister, within the same Department. But sometimes, there has been a diversion where you can even go to the Vice-President for example. They might see, this investor, this is a serious investor, and perhaps we need to assist them."



Union busting

NFCA's draft Environmental Impact Assessment report claims that a condition of the massive number of temporary contracts at NFCA is that the employee is not a union member (127). This represents a clear breach of the Industrial and Labour Relations Act and ILO conventions to which Zambia is a signatory. The two unions that operate in the mine have made repeated efforts to secure wider union membership and to represent contract workers at the mines. The company has repeatedly refused the request for what should be the non-negotiable legal rights of employees. In the negotiations for 2004 to 2005 collective agreement, MUZ proposed to management that employees on contract be engaged on a permanent and pensionable basis. This idea was resisted by the management who have always wanted all employees to be engaged on contract. When MUZ suggested an improvement to the severance package from 1 month pay to 3 months pay for each year worked for the employees on permanent and pensionable conditions, the management position was that: "Management would accept the union's proposal on condition that all employees signed fixed term contracts." (128). This attitude amounts to blackmail – to win an improvement in terms and conditions, you must give up your pension and employment security.

Attempts at Government regulation of the situation have thus far proved ineffective. However, reacting to union complaints about the difficulties faced in organising at Chambishi and other sites the Labour Commissioner Mr Siasimuna issued a circular on 26th May 2005 entitled "Rights of Employees in Respect of Trade Union Membership". Months later, as if the circular did not exist, the management of NFCA refused to allow MUZ to represent the fixed term employees in the negotiations for the collective agreement for the period 2006 to 2007.

NFCA Management are clear that part of the reason they bend the rules is that they are not enforced and the company believes that it can get away with challenging Government policies: "Really there is no price to pay, it is true. Let me give you an example, the Government has been talking about casualisation for a long time – 'don't do it, no casualisation'. We have had even visits here and Government official comes and says, 'no you are not supposed to engage casual workers'.

We have had letters being written from the Labour Ministry to say, 'you can't do this, you are not supposed to be doing such things'. But at the same time, the law is there that you can do it. So this person says, 'No. After all, we are not breaking the law because, there it is. That is one way. Then the other way is perception and interpretation of the law'. So the laws must be clear so where we have labour laws we must all be able to read them and understand them.' (129).

Perhaps unsurprisingly, the Zambian Government seems to be tiring of the embarrassments caused by NFCA. Without mentioning NFCA by name, the Permanent Secretary of the Ministry of Mines noted, "We have very good rapport with mining companies. They are very understanding. We work with them, and there is an excellent relationship. But there are one or two who tend to step outside the normal and we notice that we call them and talk to them. I won't mention this one particular company. The Head of State has called them and talked to them. And we believe that a new chapter has been created - the problems that people were seeing will be a thing of the past. But if they deliberately continue to put the Government in ridicule, then they will be sorry for themselves. They won't say that we didn't talk to them. No Government on earth would wish to have such a situation where it is put into ridicule by the behavior of one particular company." (130).

Solutions to most of the problems discussed are proposed as elements of the NFCA Environmental Management Plan, currently in draft form, and available for public comment on the ECZ website. The document is brutally honest about the wide range of problems at NFCA, identifying a crisis in the companies' working practices on environment, employment and provision of social services, listing the problems the company is causing, giving detail of their negative impacts on local communities and proposing a timetable, lasting to July 2008, for the implementation of explicit policies and monitoring mechanisms in every one of the fields described above. The baseline commitment in the plan is that the company will at least come into compliance with the national legal framework and the commitments made within the Development Plan on employment and health and safety law. However, in other areas, the remedial action proposed will provide scant excitement for local communities hoping to see an end to years of delay and obfuscation. The Plan proposes a series of exercises in the preparation of paper policies, an area in which the company has excelled in delay and failure. On employment, for example, the plan notes that, "Casualisation of workforce" is creating "Job insecurity. Lack of worker representation. Low wages and poor conditions of service. Reduced opportunities for local economy to benefit from increased buying power of mine employees." However, its hazy proposed solution is, "Review employment policy and practices" by July 2007 and "Conduct salary review for permanent, contract and casual labour to ensure that salaries and wages comply with accepted national standards" (131). How effective the process of implementing the EMP and making it bite will be seems likely to depend on political and social factors.

The Government does have levers that it can pull to increase pressure on the company. It does not seem to have used many of them yet, but since the election, things may have changed. At the same time, President Mwanawasa returned from the November 2006 China-Africa Summit in Beijing, to announce a new package of aid and development assistance to Zambia from China. Included was the possibility that, of the three to five new 'economic co-operation zones' that China plans to establish in Africa in the next three years, one of them may be the area around Chambishi Mine (132).