

Exploring the current state of fair labour practices in South African organisations

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Keywords

Fair labour practice;
Justice;
employment relations;
fairness;

Abstract

The 1996 Constitution of South Africa (SA) underscores the vital principle of equality, emphasising the importance of providing all individuals with equal opportunities to access the nation's resources. Despite efforts by many organisations in SA to promote labour peace, they still struggle to fully adhere to fair labour practices doctrine in their workplaces. This article explores the current state of fair labour practice in SA organisations. The study employed a qualitative phenomenological research approach grounded in an interpretive paradigm. Ten participants from two South African organisations in Johannesburg were interviewed. Despite previous research indicating that legislation acts as a protective measure against unfair labour practices, this study's findings indicate that unfair practices persist within South African organisations. Therefore, a potential first step in addressing these issues could be the establishment of a Human Resource (HR) department. Based on these findings, the study suggests that employers engage employees in the development of employment policies and procedures to promote fairness within organisations. Additionally, to ensure equitable treatment, it proposes clarifying the role of human resources in upholding fairness and conducting regular workshops, along with establishing a dedicated

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compliance committee. The study also recommends a regular review and revision of policies to ensure alignment with legislative and societal changes.

1. Introduction and background

It is justifiable to argue that the right to employment, which entails providing one's services in return for remuneration, stems from the fundamental right to exist (Conradie, 2016). Among all human entitlements, this right to physical and emotional survival is arguably the most fundamental. Legal regulation is necessary for any connection involving two or more parties in order to maintain equity and safeguard the interests of each party. There is no exception to this in the working relationship between an employer and employee (Budd & Bhave, 2010). Appropriate measures must be in place in order to preserve a labour economy that represents stable labour relations and upholds fair labour practices.

Prior to 1841, the primary regulation of the general employment relationship revolved around principles associated with the Roman-Dutch commercial contract of letting and hiring (Le Roux, 2010). These principles primarily emphasised the commercial aspect of the relationship, with minimal consideration for ensuring fair treatment of workers. According to Le Roux (2010) despite numerous attempts, both legislative and judicial, to regulate the employment relationship since 1841, it was not until 1979 that the notion of "fair labour practices" formally emerged in the South African labour landscape. The idea was incorporated into South African labour law following the recommendations of the Wiehahn Commission.

Section 23 of the Constitution stipulates that everyone is entitled to fair labour practices. The word 'fair labour practices' is not defined in the Constitution. It is purposefully left open-ended to accommodate and balance the evolving rights and interests of both employers and employees (Conradie, 2016). Its interpretation is influenced by labour legislation, common law employment contracts, and constitutional interpretation. However, this flexibility introduces uncertainty (Cohen, 2004). As a result, there have been several investigations about the definition and scope of fair labour practices, as well as the proper venue for addressing such disputes. In the case of *National Entitled Workers' Union (NEWU) v CCMA*, the Labour Court investigates these issues by going into the definition of 'fair labour practices' as defined in the Constitution. An unjust labour practice refers to any unfair action or failure to act occurring between an employer and an employee, encompassing: Unfair

behaviour by the employer concerning the promotion, demotion, or training of an employee, or regarding the provision of benefits to an employee (Cohen, 2004).

1.1 Problem statement

Despite the protection of fair employment practices in the South African Constitution, there is growing concern that many organisations across the country are failing to comply with these legal rights. The legal right to fair working conditions, contained in Section 23 of the Constitution, emphasises the right to fair labour practice and principles such as the freedom to collectively bargain, the right to organise as well as the right to decent remuneration and working conditions. This continued violation of constitutional guarantees raises important questions about the underlying and causal factors behind the apparent failure of South African institutions.

1.1.1 Research question

What is the current state of fair labour practices within South African organisations?

1.1.2 Research objective

To explore the current state of fair labour practices in South African organisations.

2. Literature Review

2.1 The Employment Relationship

The link that permits the exchange of labour for compensation is the employment relationship, which unites employers and employees. In this regard, employers and employees both work towards important objectives. The relationship is influenced by labour markets and laws, and it is frequently governed by a range of contracts, from official union agreements and public service rules to unofficial agreements and understandings between parties (Budd & Bhawe, 2010).

Employers not only recruit a workforce but also initiate new connections. They often foster close relationships, which evolve over time (Ansah et al., 2018). Effectively managing these relationships is crucial for the success or failure of the organisations. The nature of relationships established within an organisation can have either a positive or negative impact on productivity (Wynter et al., 2019). Strong relationships bolster performance, contribute to employee satisfaction, and enhance productivity. Conversely, weak relationships can result in

decreased performance, heightened tensions, conflicts, inefficiencies, and decreased productivity. To improve performance, it's imperative to prioritise the dynamics of employer-employee relationships in management practices. Additionally, business owners must recognise the human element of their enterprises. (Ansah et al., 2018).

2.2 The impact of workplace inequalities

Work relationships ideally should adhere to the principle of treating employees equally. Workplace diversity has contributed to an uptick in the unequal treatment of employees. Despite the implementation of policies aimed at addressing disparities in the workplace, such inequalities persist, often stemming from personal characteristics such as gender, age, location, religion, sexual orientation, or certain health conditions (Musetsho et al., 2021). Workplace inequality can be described as favouritism or discrimination based on characteristics related to an individual's group, class, or category, which manifests in wage disparities, unfair practices, and opportunities for injustice, particularly in the employment of individuals from diverse ethnic backgrounds (Sharma & Mann, 2020).

Discrimination as a form of unfair labour practice can carry significant repercussions, such as: Lowering employee morale and productivity (Sharma & Mann, 2020). Resulting in legal conflicts, financial penalties, and harm to the employer's reputation. Influencing the general climate of employment relations within the country. When an employee is discriminated against, they typically feel helpless and anxious, which reduces their motivation to complete job obligations. An employee who feels themselves as an outcast because of their religious beliefs or nationality may lose self-esteem and refrain from giving ideas (Tomaskovic-Devey, 2014). This sets off a negative cycle of falling motivation and morale, which can lead to absenteeism, contempt for others' time, and a lack of desire to achieve deadlines. According to Tomaskovic-Devey (2014), employees who feel mistreated are more likely to look for work elsewhere, requiring the organisation to devote more time and money to finding and training new employees. This makes dealing with a new employee's lower production much more difficult.

2.3 The right to fair labour practice

Section 2 of the South African Constitution articulates the fundamental human rights guaranteed to all South African citizens (Ferreira, 2004). In this system, fair labour practices are uniformly guaranteed. For example, employees have a legal right to form and join trade unions. Similarly, each worker has the authority to engage in approved trade union activities,

including exercising the right to strike (Conradie, 2013). Furthermore, in reaction to trade union influence, the constitutional wording specifically states that employers have the freedom to organise and participate in employer organisations. The use of inclusive language in the Bill of Rights is noteworthy, with expressions like 'everyone', 'no one is subject to,' and 'no one may be deprived of' (Mangu, 2020). Conradie (2016) asserts that the most fundamental human right is the entitlement to physical and emotional well-being. In any interpersonal relationship, including employment, regulatory frameworks are indispensable to ensure equity and safeguard individual interests. This principle extends to the employer-employee nexus, underlining the crucial role of labour legislation (Grant & Whitear-Nel, 2013).

The concept of 'fair labour practice' gained significant traction in South Africa's labour discourse since 1979 (Conradie, 2016). While Section 23 of the South African Constitution guarantees the right to fair labour practice to all, the document refrains from offering a precise definition. Le Roux (2012), concurs that attempts at rigidly defining this right are both unnecessary and counterproductive. Fair labour practices are subject to diverse interpretations, accommodating the recognition and balancing of evolving rights and interests of both employers and employees. Influences on this concept encompass labour laws, customary legal principles, employment agreements, and the national Constitution (Conradie, 2013). Various legislative provisions govern the relationship between employers and employees. The incorporation of the Labour Relations Act (LRA) serves as a mechanism to ensure equity and concordance in the employment alliance (Sotshononda, 2019).

Employees retain the right to raise grievances regarding unfair treatment either with the Commission for Conciliation, Mediation and Arbitration (CCMA) or the bargaining council (Sotshononda, 2019). Nonetheless, there exists a designated timeframe for addressing claims concerning unfair labour practices. Should an employee or group of employees wish to address issues of fairness with the CCMA, they must do so within 90 days from the moment they become aware of the employer's unjust actions or behaviour. It is crucial to note that alternatives exist beyond this specified timeframe (CCMA, 2022). If any party involved feels dissatisfied with the outcome of the CCMA, they have the right to seek a review of the matter in the labour court (Sotshononda, 2019). Section 193(4) of the Labour Relations Act (LRA) authorizes the CCMA to make determinations concerning fair labour practices during arbitration. Consequently, arbitrators possess the authority to make just and equitable decisions on cases involving unfair labour practices brought before them. Precedents set in

cases such as *Boxer Superstores*, *Mthatha vs Mbenya*, *Murray vs Minister of Defence*, and *Tsika vs Buffalo City Municipality* affirm that employers are obligated to ensure fairness in their employment agreements as part of their broader responsibilities to their employees. Breaching the terms of the employment contract would constitute a violation of the employee's constitutional right to fair labour practices.

2.4 Fairness in Disciplinary Actions and Dismissals

The South African legislation requires that substantive and procedural fairness must be followed in all organisations in order to meet the requirements of the labour laws specifically the Labour relations Act. This aspect of fairness establishes that any decision that relates to disciplinary or dismissal made by the employer towards an employee must be for a particular lawful reason, and one that can be proven (Grogan, 2014). Procedural fairness entails a situation where the employee is informed of the accusations made against them, afforded an opportunity to state their case, allowed to be represented by fellow employee or by a shop steward, and the final decision to be made based on impartiality and the employee has to be informed about their right to appeal (Conradie, 2013).

3. Research Methodology

This article employed a qualitative research methodology to effectively address the research question. The study utilised an exploratory and descriptive research design. Qualitative research methods were utilised for both data collection and analysis. While various research strategies exist within qualitative research, this article specifically utilised phenomenology to thoroughly examine the phenomenon from multiple perspectives. The research was carried out in Johannesburg, involving participants from two companies. Due to the sensitivity of the topic, the participating organisations allowed only a handful of participants from each company. A total sample of 10 participants was drawn from a population of 212 and semi-structured interviews were conducted to gather data from the participants.

4. Research findings

Table 1 Sample Profile

Participants	Gender	Tenure	Organisational Level	Educational Level	Unfair Labour practice Experience
Rep1	M	23	Middle	Higher	Yes

				Certificate	
Rep2	M	7	Junior	Matric	No
Rep3	F	4	Non Management	Diploma	Yes
Rep4	F	18	Junior	Matric	No
Rep5	M	3	Junior	Higher Certificate	No
Rep6	M	4	Middle	Higher Certificate	Yes
Rep7	F	11	Non Management	Matric	Yes
Rep8	M	3	Junior	Higher Certificate	No
Rep9	M	3	Top	Masters Degree	No
Rep10	F	7	Middle	Honours Degree	No

Source: Author's fieldwork

As aforementioned, this study is focused on exploring the current state of fair labour practices in South African Organisations. Below is the discussion of findings, starting with the role of Human Resources (HR) in ensuring fair labour practices in the organisations.

4.1.1 The role of HR in ensuring fair labour practices in organisations.

The Constitution, the LRA and the BCEA establish the framework for all labour laws in South Africa. The objective behind establishing these laws is to guarantee fairness within organisations and provide employees with equal opportunities. The essential framework for labour legislation in South Africa is established by the country's labour laws and their subsequent amendments. These laws not only provide a comprehensive guide for employers and employees but also serve as a foundation for labour regulations in the country. According to the Constitution, every worker in South Africa is entitled to fair labour practices. Fair

labour practice is further outlined in Section 185 of the LRA, which states that ‘*every employee has the right not to be subjected to an unfair labour practice*’.

When exploring the current state of fair labour practices in South African organisations, the role of the HR department in ensuring fair labour practice in the organisation emerged as the primary theme. The investigation indicated that HR professionals play a fundamental role in ensuring there is fair labour practice in the organisation. This position is supported by Bisharat et al. (2016) who argued that it is the responsibility of the HR department to promote and foster fairness and justice for every employee in an organisation. According to Bisharat et al. (2016), HR practices can be classified into four main groups: recruitment methods, training and development, reward systems, and employee performance appraisals. HR management practices, including HR planning, teamwork, compensation, training and development, employee security, and performance appraisals, play a crucial role in improving a company's business performance, encompassing factors, such as employees' productivity, product quality, and flexibility (Lee & Lee, 2007). The majority of participants noted that HR staff members are those who have the responsibility of ensuring fair labour practices, as well as ensuring that organisations have the right policies and procedures. This was the view of **Rep1** when he remarked:

HR is taking a lead in making sure that any employee in the company knows very well what they are entitled to in terms of the benefits, their rights at the workplace and in terms of all that is required by an employee. For example, we all know about our benefits, and we are being informed in the contract prior to joining the organisation.

It was also expressed by some of the participants during the interviews that the HR department is the driving force of the labour laws in organisations. This is because of the knowledge they are expected to have regarding labour laws in their work roles. The findings revealed that HR professionals should mediate between the employer and the employees and should not be accustomed to taking the employer's side. Furthermore, it was found that HR professionals tend to support the employer on issues, thereby making employees to be more vulnerable in the workplace. This view was supported by **Rep4** who argued that:

Human Resource need to find ways to be there for employees as much as they are there for the employer. Right now, I feel like the HR personnel is on the employer's side.

In line with the above, **Rep7** asserted:

I believe that fairness is a role that needs to be played by the HR or equipped by HR although employees can also have their private unions if they feel that they are treated unfairly.

Rep1 also added that HR has taken over the responsibility of developing everyone in the company. In his words:

HR has started from the grassroot to develop everyone.

One of the participants further explained that HR should never be placed in a position where they need to take sides and that HR's responsibility is to mediate between the employer and the employee. In this regard **Rep5** remarked:

They need to make sure that every employee is treated fairly and according to the labour laws. So, HR professionals are the people working directly with the employees, which makes it their responsibility to ensure that the employees are treated fairly.

Rep7 shared similar sentiments with **Rep5** and stated:

HR is supposed to be the mediator between the employee and the employer.

In a similar way, **Rep2** remarked:

HR represents the employer and therefore, they have to follow the rules that are given by the Department of Labour to ensure that the employees are treated fairly and work in a healthy environment.

Rep4 believes that HR needs to stop taking the employer's side. HR has the responsibility to take care of both the employer and the employees and make sure that both parties are treated fairly in the organisation. In her words:

Human Resource needs to find ways to be there for employees as much as they are there for the employer. Right now, I feel like the HR personnel is on the employer's side.

Employees rely on HR to ensure that the right policies that protect both the company and the employees are applied in the organisations. According to the responses from the participants, HR professionals are expected to know the labour laws and apply them in the organisations. The biggest challenge that we have with HR professional is that at the end of the day, they

too are regarded as employees and unfortunately this prevents them from being objective as they are susceptible to leaning more towards the employer than the employees in an organisation.

4.1.2 The terms and conditions of employment

According to Loots (2011) the legislation administering the labour relationship mirrors the level of the government's contribution towards how work is conducted and the terms and conditions of the employment relationship. To ensure fairness, employees must possess a thorough understanding of the terms and conditions governing their employment from the onset. According to the current study, it has been revealed that employees who possess knowledge about the terms and conditions of their employment are capable of achieving success in their respective roles. In agreement with this **Rep10** stated:

...employees know and understand the terms and conditions of employment and like I said they are provided with the training they need to be successful in their jobs.

Rep1 shared the same view as **Rep10** and observed that,

Employee in the company knows very well what they are entitled to in terms of the benefits, their rights at the workplace and in terms of all that is required by an employee.

In addition, **Rep1** explained:

We all know about our benefits, and we are informed in the contract prior to joining the organisation.

Another participant maintained that the organisation makes use of labour laws in compiling their policies and procedures. In his words, **Rep2** remarked:

The organisation uses the labour laws to ensure fair labour practice and making sure that the employees know their rights.

According to the literature, the BCEA is responsible for monitoring employment terms and conditions. This document establishes principles that employers must follow, guaranteeing fair and equitable contract conditions that do not put employees at a disadvantage. Many participants voiced their concerns about the lack of fairness in certain employment terms and conditions in their organisation, which ultimately puts employees at a disadvantage. Concurring with the above stance, **Rep3** remarked:

There is no fairness in terms of working conditions. Matters are dealt on a personal level for example: promotions, leave, salaries.

According to **Rep6**:

Due to the employer looking at the best interests of the company and bypassing employees' rights, which most times amount to unfair labour practices.

Similarly, **Rep4** remarked:

The organisation does not prioritise employees by workshopping policies and practices, so employees end up not knowing what is considered right and wrong.

In the same way, **Rep2** remarked:

There is no fairness in terms of working conditions. Matters are dealt on a personal level for example: promotions, leave, salaries.

When asked for clarity what she meant by 'things are dealt with at a personal level', **Rep3** responded by saying:

Some managers use how they feel about some employees to make decisions. If they do not like you then you are less likely to be treated fairly.

1.1.1. 4.1.3 Fairness and unfairness in the organisation

According to the LRA and the ILO (2002), unfair labour practices pertain to employers' unjust actions or omissions towards employees that include unfair discrimination based on any arbitrary factor. These practices include unjust procedures, such as biased promotion policies, the unjust demotion of employees without valid reasons, discriminatory training policies, or unjust employee benefits. Unfair practices also encompass the wrongful suspension of employees or employers' refusal to reinstate or rehire an employee as per the employment agreement. Although the right to fair labour practice is guaranteed in the Constitution, it remains a relatively novel concept (Conradie, 2016). In this light, half of the participants believed that there is fair labour practice in the organisations they work for. In agreement with that **Rep8** stated:

I believe everyone is treated fairly and situations are handled in the correct manner.

In concurrence with **Rep 8**, **Rep10** noted:

Employees know and understand the terms and conditions of employment and like I said they are provided with the training they need to be successful in their jobs.

Even though some participants believe that fairness exists in their organisation, other participants indicated that fairness is lacking in the organisations they work for. **Rep9** remarked:

Fairness is in a dismal state. Internal guidelines are not being followed at all.

The participants who stated that there is fairness in their organisations have also noted that there are areas where there is a lack. One of the participants who believed that there is fair labour practice in the organisation where he works, also observed that unfair labour practice exists in other areas of the business. In the participants words:

*If maybe there is a hearing here in the company and then maybe I am at fault as an employee, I will not have representation and the employer will have the company lawyer to represent the company. That for me shows that there is no fairness (**Rep2**).*

Interestingly, according to Chibuzo (2019), justice is contingent upon the factual and circumstantial intricacies of a specific case, necessitating an objective evaluation. The development of the BCEA by the South African government demonstrates their commitment to safeguarding employees' rights regarding their terms and conditions of employment as stated in their contracts (Levy, 1992). The South African government developed the BCEA and ensured that this included the protection of employees relating to terms and conditions of employment provided for in their employment contracts (Sebola, 2014). The study's current findings indicated that even though we have labour laws that act as guiding principles to provide the employees with employment rights, most employees are not aware of what they are entitled to and thus remain prone to being victims of unfair labour practice as observed by **Rep1** in his statement below:

...employees are mostly subjected to abuse or unfair labour practices, working long hours, getting paid below the minimum wage as stipulated, working without getting annual leave. Some of them are not even aware that they are entitled to workers' rights.

The EEA provides a guideline to employers to ensure that there is no unfair discrimination in the workplace (Grogan, 2014). The regulations in this Act provide rules that the employer should follow to ensure that the organisation does not unfairly discriminate against internal employees, as well as external job applicants (Van Niekerk, 2019). This was also in line with **Rep2's** remark below:

The company adheres to labour laws to make sure that it is fair to everyone, in terms of their race and gender and everyone is treated equally regardless of colour and gender.

Furthermore, the current study's findings revealed when employees regard an organisation is upholding all elements of fairness. According to the responses from the participants, policies play a fundamental role in ensuring that there is fair labour practice in an organisation. Organisations are expected to practice and provide fairness in their policies and practices (Conradie, 2016). Some of the participants expressed that employees should become involved in the development of policies and procedures to ensure that these benefit both the employer and employees.

When there is peace in the organisation. where the employee and the employers respect one another, this can be identified by employees working together with management in creating employment policies that will benefit both employers and employees and also making use of labour laws, as well as the constitution (Rep3).

An organisation is deemed to uphold or adhere to all aspects of fairness when it prohibits any form of unjust discrimination in the workplace and ensures that all employees have an equal opportunity and receive equitable treatment (ILO, 2021). **Rep7** supported this and remarked:

When there is peace in the organisation and the employer gets along with the employee. When there is pure equality, and no one brings personal matters into the organisation.

Similarly, **Rep10** was in agreement and said:

An organisation that follows processes in the same way regardless of the employees' level, what applies to one, applies to all.

The findings revealed that unfair labour practice still exists in the South African organisations. Furthermore, organisations should allow HR professionals to find legal ways to ensure that there is fair labour practice. It is also important that the organisation's terms and conditions are fair and that employees are made aware of these so that they can become more productive and successful in their roles.

4.2 Limitations of the study

This study centered on examining the prevailing status of fair labour practices within two specific South African organisations situated in the Gauteng province. Hence, the findings

derived from this research cannot be extrapolated to encompass all organisations across South Africa. Furthermore, the research targeted a subset of employees within the organisations, rather than involving the entire workforce. Due to the qualitative nature of the study, only a limited number of participants, specifically ten employees from the two selected organisations, were included. The sensitivity surrounding the research topic posed challenges in securing willing participation from organisations. Moreover, with organisations shifts towards hybrid and remote work arrangements, logistical hurdles arose in scheduling interviews, resulting in frequent rescheduling of appointments. Additionally, the delicate nature of the topic prompted some participants to be cautious and strategic in their responses during the interview process.

5. Recommendations

To ensure that South African organisations consistently exercise fair labour practices and to proffer mechanisms that government can use to raise awareness in South African workplaces, the following recommendations are proposed.

5.1 Effective communication

Effective communication is essential when it comes to fostering a harmonious working environment and creating a culture that promotes trust, transparency, and fair labour practices in organisations. Effective communication should be used at all times by both the employer and the employees as it involves employers, as well as employees sharing information openly and honestly. The employer needs to distribute information equally in the organisation. Effective communication will enable employees to express themselves clearly and openly. This will ultimately reduce the feeling of being unfairly treated by the employer. Effective communication in the workplace will encourage employees to provide feedback, as well as express their concerns, which will be beneficial for the organisation to make improvements where necessary. Employees are more likely to believe that an organisation is fair when the employer takes their input into consideration. Effective communication has a direct impact on performance management as the employer must clearly communicate expectations to the employee. In this way, the employee will be aware of what is expected of them and have a greater chance of becoming successful in their role. Effective communication enables the advancement of workplace fairness.

5.2 The distinct responsibility of HR professionals in guaranteeing equity within the organisation.

Human resource professionals hold a crucial position in upholding equitable labor practices within the organisation. It's imperative for both employers and employees to comprehend the roles and responsibilities of HR professionals within the organisation's framework. Such clarity fosters trust among employees towards HR and promotes comfort in addressing concerns with them. Consequently, HR acts as a mediator between employers and employees, ensuring fairness and facilitating fair labour practices within the organisation.

5.3 Refresher policy workshops

Training and educating employees about the existing policies and the updates, will go a long way to improving awareness of fairness in the workplace. In addition to having a good reason for the policy updates, the employer must ensure that these are in accordance with the South African labour laws. A useful technique employers can use to ensure employees understand policies can be by means of role plays, which can display examples of how the policies have changed and been updated. When workshopping policies, it is crucial that employers explain to the employees the consequences of non-compliance. The employers can also use the opportunity provided by holding policy workshops, to collect feedback regarding the policy by considering the necessity for policy changes. This will help ensure that organisations adopt fair practices in reviewing and updating of their policies.

5.4 Establishment of a compliance team

To monitor compliance, the employer can establish a compliance team that focuses on checking whether the policies and procedures that have been put in place are compliant with the labour laws. To obtain an objective judgement, the compliance team should be diverse. There should be a mix of blue-collar and white-collar employees along with subject matter experts. It is important for the compliance team to review and update policies on a regular basis. Whenever issues of unfair labour practices and non-compliance arise, the compliance team can be consulted to conduct an internal investigation. In addition to explaining the consequences of non-compliance to the organisation, the team should also explain why compliance is important to every member of the organisation.

5.5 Training and skills development

For employees to be successful at performing their duties in their respective positions in the organisations, they need to be trained. This will assist the employees in knowing exactly what

is expected of them and how they can contribute to the success of the organisation. In addition to training employees, it is important for organisations to consider developing the skills of their employees so that they can take advantage of opportunities that arise in the organisation. This will also help organisations to enhance fair labour practices when it comes to promotions.

5.6 Continuous revision of policies based on amendments to legislation.

South African legislation is continuously being improved and updated; thus it is important for employers to stay up to date with the amendments to the South African legislation as this will have a direct impact on policies and procedures in organisations. Employers need to review their current policies to ensure that they are aligned with the updated labour legislation. Amending policies will assist in improving fair labour practices in organisations. Employees should be made aware of all the changes that are made with regard to policies in the workplace. It would be advisable for the employer to keep the employees' acknowledgment of the new policies as a reference in the event of a dispute. Policies play a fundamental role in ensuring that there is fair labour practice in organisations.

6. Conclusion

This article has examined the current state of fair labour practices in South African organisation. the article employed qualitative research design to collect data. The study highlighted the crucial role of HR professionals in fostering fair labour practices within South African organisations. HR emerged as pivotal in shaping organisational fairness by ensuring employees' familiarity with company regulations, rights, and benefits. Furthermore, HR is seen as instrumental in mediating conflicts and upholding compliance with labour laws. While some participants commended their organisations for transparent terms and conditions of employment and adherence to labour laws, others lamented perceived gaps, such as inadequate awareness and biases in decision-making. Despite efforts toward fairness, participants acknowledged the existence of both fair and unfair practices within their organisations. These findings accentuate the multifaceted nature of achieving fairness and the ongoing necessity for organisations to address challenges and nurture a culture of equity. Finally, the recommendations for ensuring fair labour practices are stated. Should the proposed recommendations be given serious consideration, the state of fair labour practice in South Africa will undergo a transformative and positive change.

References

- Ansah, R. H., Osei, J., Sorooshian, S., & Aikhuele, D. O. (2018, October). Importance of employer-employee relationship towards the growth of a business. ResearchGate; unknown.
https://www.researchgate.net/publication/327963541_Importance_of_employer-employee_relationship_towards_the_growth_of_a_business
- Bisharat, H., Obeidat, B., Alrowwad, A., Tarhini, A., & Mukattash, I. (2016). The Effect of Human Resource Management Practices on Organizational Commitment in Chain Pharmacies in Jordan. *International Journal of Business and Management*, 12. 50.
- Budd, J. W., & Bhava, D. (2010). The Employment Relationship. *The SAGE Handbook of Human Resource Management*, 51–70.
- Chibuzo, O, 2019. The Concept Of Fair Labour Practice and Its Applicability in Nigeria. *Patreli Partners Ligal Practitioners and Arbitrators*, pp. 1-4..
- Cohen, T. (2004). Understanding Fair Labour Practices – NEWU v CCMA. *South African Journal on Human Rights*, 20(3), 482–490.
<https://doi.org/10.1080/19962126.2004.11864831>
- Commission For Conciliation, Mediation Arbitration. (2022). Referring a Dispute CCMA. Retrieved 2022–02-17, from <https://www.ccma.org.za/Advice/Referringa-Dispute>.
- Conradie, M. (2013). A Critical Analysis of The Right to Fair Labour Practice. *A Journal of Legal History*, 163-204.
- Conradie, M. (2016). The constitutional right to fair labour practices: a consideration of the influence and continued importance of the historical regulation of (un)fair labour practices pre-1977. *A Journal of Legal History*, 22(2), 163-204.
- Ferreira, G. (2004). The Commission for Conciliation, Mediation and Arbitration : its effectiveness in dispute resolution in labour relations: review article. *Politeia*, 23(2), 73-85.
- Grant, B., & Whitear-Nel, N. (2013). Can an employee claim damages as a result of a breach of an implied contractual term that he will not be unfairly dismissed? South African Maritime Safety Authority vs McKenzie: note. *South African Law Journal*, 130(2), 309-317.

- Grogan, J. (2014). *Workplace Law*. Cape Town: Juta & Co.
- International Labour Organisation (ILO). (2021). International Labour Organisation. <https://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm>
- Le Roux, R. (2010). The Evolution of the Contract of Employment in South Africa. *Industrial Law Journal*, 39(2), 139–165. <https://doi.org/10.1093/indlaw/dwq002>
- Le Roux, R. (2012). The new unfair labour practice. *Juta's Law Journals*, 41-57.
- Lee, Y., & Lee, S. (2007). Capabilities, processes, and performance of knowledge management: A structural approach. *Human Factors and Ergonomics in Manufacturing & Service Industrie*, 17, 21 - 41.
- Levy, A. (1992). *Rights at Work: A guide for employees*. Kenwyn: Juta & Co.
- Loots, B.E. (2011). *Public employment and the relationship between labour and administrative law*.
- Mangu, A.M. (2020). Foreigners' Rights to Work and Fair Labour Practices in South Africa: a review of the South African Labour Legislation and Jurisprudence. *Southern African Public Law*, 1-15.
- Mojapelo Mogohloro RAGUEL, & Odeku, K. O. (2023). Critical analysis of the failure of labour law to adequately protect atypical workers and its impact on human rights and fair labour practice. *Juridical Tribune*, 13(1). <https://doi.org/10.24818/tbj/2023/13/1.05>
- Musetsho, M., Isac, N., & Dobrin, C. (2021). Gender Inequalities in the Workplace: Case Study of South Africa. *Management and Economics Review*, 6(1).
- Sebola, M. (2014). The Effects of the Basic Conditions of Employment, Act no. 97 on Domestic Workers in South Africa. *Mediterranean Journal of Social Sciences*, 123-129.
- Sharma, S., & Mann, N. (2020). Workplace Discrimination. *Five Generations and Only One Workforce*, 1–18. <https://doi.org/10.4018/978-1-7998-0437-6.ch001>
- Sotshononda, N. (2019). Perspectives on protective promotion as a remedy to unfair labour practices. *Acta Commercii*, 19(1), 1–6.
- Tomaskovic-Devey, D. (2014). The Relational Generation of Workplace Inequalities. *Social Currents*, 1(1), 51–73. <https://doi.org/10.1177/2329496513514032>
- Van Niekerk, A. (2019). *Law@Work*. Durban: LexisNexis.

Wynter, D., El, M., Afi, Y., & Wiggins. (2019). *Exploring The Link Between Employer-Employee Relationships and Employee Productivity A Dissertation Study Presented By.*
<https://Repository.Library.Northeastern.Edu/Files/Neu:M044v724x/Fulltext.Pdf>