



International  
Labour  
Office

# Forced labour and human trafficking

**Guidelines for  
labour officers  
in Zambia**

**Special Action  
Programme  
to combat  
Forced Labour**



Special Action Programme  
to combat Forced Labour (SAP-FL)  
[www.ilo.org/forcedlabour](http://www.ilo.org/forcedlabour)

Programme on Promoting the Declaration  
on Fundamental Principles and Rights at Work  
International Labour Office  
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CH-1211 Geneva 22 Switzerland

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# **Forced labour and human trafficking: Guidelines for labour officers in Zambia**

**Special Action Programme  
to combat Forced Labour  
International Labour Office  
2008**

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Designed by Glenn Shaw  
Printed in Switzerland

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## Foreword

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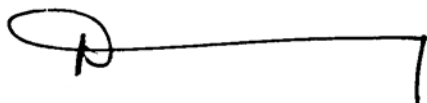
Over recent years, the world media has highlighted the issues of human trafficking and forced labour which has reportedly been on the rise due to increased globalization. In Zambia, these reports have aided Government and its partners, such as the International Labour Organization (ILO), International Organization for Migration (IOM), Employers' and Workers' organizations, and others to intensify work in this area.

A lot has hence been achieved. The introduction in mid 2008 of the anti-human trafficking legislation by the Zambian Parliament, is one of the results of the work that has been done. The anti-trafficking law is intended to reinforce legislation for curbing human trafficking, a vice that in most cases has been seen to result in forced labour.

The subject of forced labour conjures images of banished eighteenth century slavery. Indeed it is an issue that even policy makers have glossed over as having been dealt a blow a long time ago. Forced labour situations are complex. The Zambian Government ratified ILO Forced Labour Convention Number 29 in 1964, but difficulties have been experienced in understanding the problem of forced labour.

To win the war on forced labour, our labour inspectors and other law enforcement officers need the right tools. They need to have a strong grasp of the concepts, and indicators of possible forced labour situation. This is the role that these guidelines will play.

The guidelines were developed by the ILO with input from Government and a wide range of other institutions. I am convinced that this handbook will act as an invaluable resource at this time when it is needed most.



**Ngosa Chisupa**  
Permanent Secretary  
Ministry of Labour and Social Security

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## Preface

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The crimes of forced labour and human trafficking trap at least 12.3 million women, men and children in appalling working conditions across the world. No country is immune. Far from disappearing, new forms are emerging in response to the new challenges and opportunities presented by modern day globalization. They represent the very antithesis of decent work.

Across the world, there has been significant investment in training the police, border control and other law enforcement agencies in ways to address human trafficking. Yet the key role of labour inspectors has all too often been overlooked. Because these are serious criminal offences, States and other actors have given insufficient attention to the use of labour law and justice as an integral component of the law enforcement response.

Yet there are many reasons why - as is already happening in some countries - labour inspectorates need to take these concerns on board, and to consider their particular role in addressing them. First, labour inspectors are well equipped to provide early warning; the early indicators of what may degenerate into forced labour relate to abusive practices such as non-payment of wages, unfair deductions, fraudulent contracts, deceptive recruitment practices and the like. Second, labour inspectors have easier access than police and prosecutors to most workplaces; they can carry out the initial investigations and intelligence gathering on the basis of which criminal prosecutions may later be brought. And third, because of their more conciliatory role than criminal law enforcement, labour inspectors can take effective preventive action through raising awareness of the risks of forced labour and trafficking to employers and workers alike.

The International Labour Organization is working to build and support a global alliance against forced labour, that brings together the ILO's tripartite constituents - governments, employers' and workers' organizations - in concerted action to end these abhorrent practices. The Special Action Programme to combat Forced Labour (SAP-FL) spearheads this work, as part of broader efforts to ensure that all the principles of the ILO Declaration on Fundamental Principles and Rights at Work - freedom of association and the right to collective bargaining, the elimination of forced labour, the abolition of child labour and discrimination at work - are respected everywhere.

These guidelines were developed under a collaborative project on forced labour and trafficking in Zambia, involving the ILO constituents. Initiated at the request of the Ministry of Labour and Social Security in 2007, the project started with a research phase, on the basis of which two sets of guidance materials on forced labour and trafficking have been prepared: a toolkit for trade unions and these guidelines for labour officers.

The guidelines aim to provide information and practical guidance that will allow labour officers to detect possible forced labour and trafficking cases, to take effective preventive action and to assist victims. Labour officers have a crucial role to play in ensuring that forced labour and trafficking practices do not get a foothold in Zambia, as part of broader

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## Preface

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efforts to promote decent work. The Zambia Decent Work Country Programme prioritizes, *inter alia*, the promotion of more and better employment for disadvantaged groups (including youth, women and people with disabilities) and the elimination of the worst forms of child labour. Tackling forced labour and trafficking clearly contributes to both these aims.

We hope that the guidelines can be further developed and improved in subsequent editions, based on users' experience and feedback. And we look forward to further fruitful collaboration with the Ministry of Labour and Social Security and other ILO partners in Zambia in addressing these critical issues.



**Roger Plant**

Head, Special Action Programme to combat Forced Labour  
Programme on Promoting the Declaration  
on Fundamental Principles and Rights at Work

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## Acknowledgements

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These guidelines were developed by the ILO in consultation with labour officers from the Zambian Ministry of Labour and Social Security (MLSS). Thanks are due to them for their participation in the project and for the Ministry's on-going support.

The main author was Carron Fox, an ILO consultant in Lusaka, working with Caroline O'Reilly of the ILO Special Action Programme to combat Forced Labour (SAP-FL) in Geneva. Extensive use was made of the SAP-FL publication *"Forced labour and human trafficking: A handbook for labour inspectors"* by Beate Andrees, 2008. The findings of recent research commissioned by ILO, in collaboration with the Ministry of Labour and Social Security, and documented in the report *"Investigating forced labour and trafficking: Do they exist in Zambia?"* (Carron Fox, 2008) are also heavily drawn upon. The hard work of the author and all other contributors is gratefully acknowledged, as is the continued support of the representative of the ILO in Zambia, Gerry Finnegan and his staff in ILO-Lusaka. SAP-FL remains responsible for the content.

The research and production of these guidelines was possible thanks to financial support provided by the governments of Ireland, Sweden and the United Kingdom (DFID) to SAP-FL. Additional contributions were made by the ILO International Programme for the Elimination of Child Labour (IPEC), through the United States Department of Labor and the ILO-Lusaka office's regular budget for technical co-operation. A toolkit on forced labour and trafficking for trade unions in Zambia has been produced under the same project.

This is the first edition of the guidelines. Suggestions from readers and users for improving them are very welcome, and should be sent by email to SAP-FL in Geneva, at: [forcedlabour@ilo.org](mailto:forcedlabour@ilo.org).

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## Acronyms

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<b>C29</b>	<b>ILO Forced Labour Convention, 1930 (No.29)</b>
<b>C105</b>	<b>ILO Abolition of Forced Labour Convention, 1957 (No.105)</b>
<b>DFID</b>	<b>Department for International Development</b>
<b>DR Congo or Congo</b>	<b>Democratic Republic of Congo</b>
<b>HRC</b>	<b>Human Rights Commission</b>
<b>ILO</b>	<b>International Labour Organization/Office</b>
<b>IOM</b>	<b>International Organization for Migration</b>
<b>IPEC</b>	<b>International Programme on the Elimination of Child Labour (of ILO)</b>
<b>MLSS</b>	<b>Zambian Ministry of Labour and Social Security</b>
<b>NGO</b>	<b>Non-Governmental Organization</b>
<b>NRC</b>	<b>National Registration Card</b>
<b>NRM</b>	<b>National Referral Mechanism</b>
<b>SAP-FL</b>	<b>Special Action Programme to combat Forced Labour (of ILO)</b>
<b>UNICEF</b>	<b>United Nations Children's Fund</b>

The exchange rate used throughout this publication is approximately Zambian Kwacha (K)4000 to USD1.

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# Introduction

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The problem of forced labour and trafficking has been recognized the world over, with trafficking often referred to as a contemporary form of slavery. Forced labour, and the often associated 'slave-labour', conjures up images of shackled workers, unable to leave their employment, bonded to an employer and forced to work. However, forced labour can be much more subtle, with freedom of movement restricted by the withholding of wages or identity documentation. These new forms of slavery and human rights abuses must be addressed to ensure that workers' rights are protected, and all workers enjoy decent working conditions. Research undertaken by various organizations, including the ILO in Zambia, has found that forced labour and trafficking are problems that exist in Zambia, and, like elsewhere in the world, preventative and protective action must be taken.

The government of Zambia has ratified the ILO Forced Labour Convention, 1930 (No.29), the Abolition of Forced Labour Convention, 1957 (No.105) and the United Nations 'Palermo' Protocol on 'Trafficking in Persons, 2000. It therefore has an obligation to ensure that no forced labour or trafficking practices are allowed to occur in the country, to ensure that workers are protected and given assistance if they find themselves trapped in forced labour and to take appropriate action against their employers or traffickers. The illegal exaction of forced labour and trafficking in persons are serious crimes which require commensurate penalties.

Zambia has ratified all eight of the ILO fundamental Conventions<sup>1</sup> which concern the four principles of the ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998. These principles are:

- freedom of association and the right to collective bargaining;
- elimination of forced or compulsory labour;
- abolition of child labour;
- freedom from discrimination at work.

Labour officers are tasked with carrying out inspections to ensure the protection of workers' rights, acting on workers' complaints of labour law violation and upholding employment law. There are many reasons why labour officers should be at the forefront of the fight against forced labour and human trafficking:

- Forced labour penetrates mainstream economic sectors through complex supply chains and the irregular movement of people across borders in search of work.
- Forced labour and human trafficking are gross violations of workers' rights. Freedom from forced labour is one of the four fundamental labour rights which labour inspectors everywhere should promote and safeguard.

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<sup>1</sup> The ILO Fundamental Conventions are the following: Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87); Right to Organize and Collective Bargaining Convention, 1949 (No.98); Forced Labour Convention, 1930 (No.29); Abolition of Forced Labour Convention, 1957 (No.105); Minimum Age Convention, 1973 (No.138); Worst Forms of Child Labour Convention, 1999 (No.182); Equal Remuneration Convention, 1951 (No.100) and Discrimination (Employment and Occupation) Convention, 1958 (No.111).

## Introduction


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- Forced labour and human trafficking generate significant profits and are often linked to other illegal activities such as tax evasion and social benefit fraud.
- Regular inspections on health and safety and other employment issues can uncover indicators of possible forced labour. Labour officers can therefore play a key role in the identification of such cases.
- Labour officers can normally enter workplaces that are liable to inspection without a search warrant. They also have a wide range of discretionary measures at their disposal, which makes them an important partner of criminal law enforcement authorities.
- Labour inspectors can help both prevent forced labour and protect its victims. They are an important partner of other government agencies, employers' and workers' organizations, and NGOs that deal with issues of forced labour and trafficking.

These guidelines aim to assist labour officers in Zambia in carrying out their duties. They provide background information on the problem of forced labour and trafficking, how it applies to Zambia and what international conventions and national legislation are in place. The guidelines explain why labour officers should become involved and offer advice on ways to prevent forced labour and trafficking and action to take when problems are identified. The guidelines should assist labour officers in their daily work and act as a point of reference when possible forced labour or trafficking cases come to light.



# Part One



**Forced labour  
and  
human trafficking  
in Zambia**



## Section one: Definitions and background

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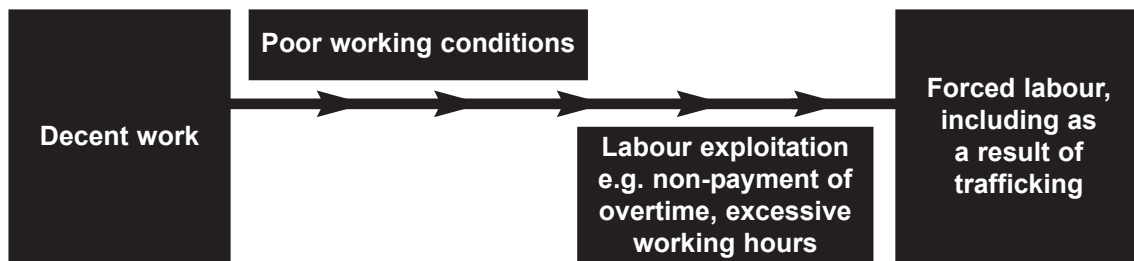
### What is forced labour?

The definition of forced labour comes from the ILO Forced Labour Convention, 1930 (No.29), ratified by Zambia in 1964. Article 2 (1) of the Convention defines forced labour as:

**"All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."**

This definition can cover a range of circumstances in which a person is forced to work against his or her will. For example, someone who voluntarily accepts a job only to find that the job is not what was promised and who is unable to leave because they are threatened by the employer, is in a situation of forced labour. The definition may also apply to a worker who is unable to leave a job because they have not been paid for an extended period, or whose identity documents are withheld by an employer. However, workers who have to remain in a job out of economic necessity (but would be free to leave if they found another job) would not be regarded as being in a forced labour situation.

The following diagram illustrates the continuum from decent work to forced labour. In between these two points, workers may be subjected to poor working conditions and labour exploitation which rarely contravene criminal laws but are illegal under employment laws. Forced labour and trafficking however, constitute criminal acts and are among the most extreme forms of labour abuse that workers can be subjected to.



The following box, adapted from the ILO Global Report of 2005, entitled "*A global alliance against forced labour*", further illustrates the practices which may give rise to a forced labour situation.

Section one: Definitions and background

Lack of consent to work (the 'route' into forced labour)	Menace of a penalty (the means of keeping someone in forced labour)
<ul style="list-style-type: none"> <li>• Birth/descent into 'slave' or bonded status</li> <li>• Physical abduction or kidnapping</li> <li>• Sale of person into the ownership of another</li> <li>• Physical confinement in the work location</li> <li>• Induced indebtedness and debt bondage</li> <li>• Deception or false promises about types and terms of work</li> <li>• Withholding and non-payment of wages</li> <li>• Retention of identity documents or other personal possessions</li> <li>• Human trafficking (usually involves a combination of the above)</li> </ul>	<ul style="list-style-type: none"> <li>• Physical violence against worker or family or close associates</li> <li>• Sexual violence</li> <li>• (Threat of) supernatural retaliation</li> <li>• Deprivation of food, shelter and other necessities</li> <li>• Denunciation to authorities (police, immigration, etc.) and deportation</li> <li>• Dismissal from current employment or exclusion from future employment</li> <li>• Financial penalties, including non-payment of wages</li> <li>• Exclusion from community and social life</li> <li>• Removal of rights and privileges</li> <li>• Shift to even worse job or working conditions</li> </ul>

Convention 29 provides for certain exemptions, as follows:

- (a) any work or service under compulsory military service that is of a purely military character;
- (b) any work or service that forms part of the normal civic obligations of the citizens;
- (c) any work or service exacted from a person as a consequence of a conviction, as long as the person is fully supervised and under the control of the supervisory body, and the said person is not hired to or placed at the disposal of private individuals, companies or associations
- (d) any work or service exacted in response to an emergency that may endanger the existence or the well-being of the whole or part of the population;
- (e) minor communal services which can be considered normal civic obligations, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

## Section one: Definitions and background

According to the ILO a minimum of 12.3 million people are victims of forced labour worldwide.

Of them:

- 7,810,000 (64%) are in forced economic exploitation imposed by private agents
- 2,490,000 (20%) are victims of state or military imposed forced labour
- 1,390,000 (11%) are victims of forced commercial sexual exploitation, and
- 610,000 (5%) are in mixed forms of exploitation.

<b>By region:</b>	<b>Victims</b>
Asia and Pacific	9,490,000
Latin America and Caribbean	1,320,000
Sub-Saharan Africa	660,000
Industrialized countries	360,000
Middle East and North Africa	260,000
Transition countries	210,000

In Sub-Saharan Africa, 80% of forced labour is for economic exploitation, 11% is state-imposed and 8% is forced commercial sexual exploitation.

<b>Type of forced labour</b>	<b>Men and boys (%)</b>	<b>Women and girls (%)</b>
<b>Forced economic exploitation</b>	<b>44</b>	<b>56</b>
<b>Forced sexual exploitation</b>	<b>2</b>	<b>98</b>

Source: ILO: *A global alliance against forced labour* (Geneva, 2005).

### What is human trafficking?

The definition of trafficking is contained in the United Nations Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention on Trans-national Organized Crime, 2000 (commonly referred to as the 'Palermo Protocol'). Zambia acceded to the Protocol in 2005.

Section one: Definitions and background

"'Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."

"The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth."

Thus, trafficking involves the **act** of moving someone, the **means** of deception or coercion and the **end** result of putting them into forced labour or similar forms of exploitation. The definition relies on being able to prove the intention of the 'trafficker' to exploit the person as an end result of the trafficking process. However, where children aged less than 18 years old are concerned, there is no need to prove the use of deception or coercion in this process. The mere fact of moving a child into prostitution or forced labour exploitation constitutes a trafficking offence, even if the child was aware of the fate that awaited them. Child trafficking is a worst form of child labour under ILO Convention 182 (see later section).

The definition is rather complex but can be broken down into the following elements:

**Trafficking of adults<sup>2</sup>**

Process/ Activities	+	Ways/ Means	+	Goal/ Purpose
Recruitment or Transportation or Transfer or Harbouring or Receiving	<b>A N D</b>	Threat or Coercion or Abduction or Fraud or Deception or Abuse of power or vulnerability	<b>A N D</b>	Prostitution or Pornography or Sexual exploitation or Forced labour or Involuntary servitude or Debt bondage or Slavery/similar practices

2. Based on a diagram taken from the International Trade Union Confederation: *Mini-action guide on forced labour* (Brussels, forthcoming).

**Trafficking of children, aged less than 18 years**

Process/ Activities	+	Ways/ Means	+	Goal/ Purpose
<p>Recruitment or Transportation or Transfer or Harbouring or Receiving</p>	<p><b>A N D</b></p>	<p>Not applicable, but must involve an intention by a third party to exploit the child's labour</p>	<p><b>A N D</b></p>	<p>Exploitative child labour, including:</p> <ul style="list-style-type: none"> <li>• All forms of slavery and practices similar to slavery;</li> <li>• Prostitution and pornography;</li> <li>• Illicit activities</li> <li>• Hazardous child labour;</li> <li>• Other child labour that contravenes national minimum age legislation</li> </ul>

Not all forced labour is a result of human trafficking. However, almost all cases of human trafficking result in forced labour (an exception being trafficking for the removal of organs). From an ILO point of view, it is important to distinguish between, on the one hand, forced labour where forms of coercion and deception are used to recruit and retain a worker against their free will, and, on the other, sub-standard working conditions. The lack of viable economic alternatives can oblige people to stay in an exploitative work situation but does not in itself constitute forced labour. However, if a recruiter or employer deliberately takes advantage of a lack of alternatives to exploit the worker, this may constitute abuse of a position of vulnerability as specified in the Palermo Protocol. External constraints that can have an impact on free consent by the worker should therefore be taken into account when assessing whether or not a situation amounts to trafficking for forced labour.

According to the ILO, at least 2.45 million people are in forced labour as a result of trafficking. In Asia, Latin America and Sub-Saharan Africa, only 20% of those in forced labour are victims of trafficking. However, in industrialized countries, the Middle East and North Africa, trafficking accounts for 75% of those in forced labour. Of those trafficked into forced labour, 43% are trafficked for commercial sexual exploitation, 32% for economic exploitation and 25% for mixed or undetermined reasons.

Source: ILO: *A global alliance against forced labour* (Geneva, 2005).

### The worst forms of child labour, including forced labour<sup>3</sup>

Forced labour, trafficking and prostitution of children qualify as 'worst forms' of child labour, under the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), which was ratified by Zambia in 2001. This Convention sets out forms of child labour that under no circumstances should be tolerated, and which should immediately be abolished. This applies to all children under 18 years of age. The forms of child labour covered are (Article 1):

- (a) All forms of slavery and practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

The first three categories are 'unconditional worst forms', meaning that under no circumstances should children ever be engaged in them. For the fourth category, hazardous work, it is up to national governments to determine what types of work are qualified as hazardous. Forced labour and trafficking of children is thus clearly outlawed in subparagraph (a).

Not all work performed by children constitutes child labour in violation of ILO Conventions on the subject. Some work by children is acceptable if it is appropriate for their age and stage of development, and does not interfere with their education, well-being and physical and emotional development. The ILO Minimum Age Convention, 1973 (No.138) sets out the parameters for determining what type of work a child should be allowed to undertake and at what age. It was ratified by Zambia in 1976.

#### Convention 138 states:

**Article 2:** The minimum age for admission to employment specified by the Member country should not be less than the age of completion of compulsory schooling and not less than 15 years of age. However, under certain circumstances, a minimum age of 14 years may be applied.

**Article 3:** The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons ('hazardous work') shall not be less than 18 years.

**Article 7:** A child is allowed to carry out 'light work' if they are aged 13 years or above. Light work constitutes work that is not harmful to the child's health or development and does not stop them attending school or a vocational training programme.

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3. This toolkit does not focus in detail on child labour, forced child labour and child trafficking, which are dealt with in other available ILO resources.



## Section one: Definitions and background

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It is very important to recognize that not all child labour is forced labour. Some children undertake work of their own free choice. For it to qualify as forced (child) labour, there must normally be evidence of involuntariness and menace of a penalty, the same as with adults. The 'unconditional worst forms' of child labour are likely, in many or indeed most cases, to involve an element of force and coercion. For hazardous work, the situation may be less clear cut and require further investigation. And as mentioned above, there is in any case no need to show that force, deception etc are used in a case of child trafficking. ILO estimates that between 40 and 50% of all forced labour involves children aged less than 18 years.

### Migration, smuggling and trafficking

Migrants move from their place of origin for various reasons. Some are forced to move in order to survive conflicts or natural disasters, while others move to find better lives and economic opportunities. Regular (legal) and irregular (illegal) channels are used. People migrating for economic reasons often require help to arrange their journey or to find work at their destination. For many, finding ways to enter another country is difficult and assistance is sought from intermediaries. Some intermediaries or agents are legitimate, providing the migrant, in return for a fee, with the necessary documentation to cross the border legally. Smugglers, on the other hand, facilitate illegal border crossing. They may simply take payment for the services provided and leave the migrants to their own devices. But in other cases the smuggler may then place the migrants in a forced labour situation (demanding, for example, the repayment of inflated travel and related costs through excessive wage deductions), or be part of a network that intends to exploit the migrants' labour at the point of destination. In such circumstances, we can talk of trafficking. In yet other scenarios, migrants may travel independently to look for work but, desperate for employment, end up accepting work that amounts to forced labour. This would not (necessarily) be classified as a case of trafficking as there was no deception, coercion or abuse during the movement process.

### Informal sector and links to forced labour and trafficking

The informal economy refers to that part of a country's economic activity which is not fully regulated, and whose workers are therefore not recognized or protected under the legal or regulatory frameworks. The term 'informal economy' is used to denote the expanding and increasingly diverse group of enterprises and workers operating informally in both urban and rural areas in all parts of the world. "They include own account workers in survival-type activities, such as street vendors, shoe shiners, garbage collectors and scrap-and-rag pickers; paid domestic workers employed by households; homeworkers and workers in sweat-shops who are 'disguised wage workers' in production chains; and the self-employed in micro-enterprises operating on their own or with contributing family workers or sometimes apprentices/employees."<sup>4</sup>

Workers in the informal economy - lacking legal and social protections - are characterised by a high degree of vulnerability which makes them particularly susceptible to forced

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4. ILO: *Decent work and the informal economy*, International Labour Conference, Report VI, 90th Session 2002, Report VI, Geneva.

## Section one: Definitions and background

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labour and trafficking and other forms of exploitation. However, enterprises operating in the informal economy most often produce goods and services that are legal, so should not be confused with criminal or underground activities. The term 'undeclared work' is often used interchangeably with 'illegal work' (especially in developed countries), even though the activity itself may in fact be legal i.e. not criminal.

The 2005 *Zambian Labour Force Survey* found that the vast majority - 88% - of the total labour force is employed in the informal economy. Ninety eight per cent of those employed in rural areas are in the informal economy compared to 65% of those employed in urban areas. Many of the sectors in which forced labour and trafficking are known to exist in Zambia are informal, in part at least - domestic work, agriculture and construction are examples.

Identifying and combating forced labour in the informal economy requires a concerted effort on the part of all stakeholders. An important prerequisite is to hire and train a sufficient number of labour inspectors to monitor both formal and informal economies. Labour inspectors can also strengthen their outreach into the informal economy by developing partnerships with community-based and other organizations e.g. trade unions, employers' organizations and private auditors.

### **Control of illegal employment**

Most countries assign labour inspectorates the task of supervising the legality of employment and prosecuting violations, including both clandestine workers and migrant workers in an irregular situation. More and more countries have reinforced penalties against employers who use illegal labour. The treatment of irregular migrant workers is an emotive issue that poses many challenges to policy-makers and law enforcement authorities. The informal economy often acts as an important pull factor for irregular immigration.

The ILO Committee of Experts on the Application of Conventions and Recommendations recalled, in its 2006 *General Survey on Labour Inspection*, that the primary duty of labour inspectors is to protect workers and not to enforce immigration law. It also noted that workers residing illegally in a country are often doubly penalized: in addition to losing their job they also face the threat of expulsion. Labour inspectors should therefore focus on the abusive working conditions to which irregular workers are often subjected, and they should ensure that all workers benefit from statutory rights arising from the employment relationship, whatever their immigration status. In practice, however, penalties against employers who use irregular migrant workers are often too low to act as an effective deterrent, and the migrant workers themselves face difficulties claiming their rights.

## Section two: Forced labour and trafficking in Zambia

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### Labour exploitation and forced labour

Research conducted by ILO in Zambia in 2007/2008 examined labour-related complaints filed at the MLSS and Human Rights Commission, in order to assess whether there was evidence of labour exploitation, forced labour or trafficking. It is often very difficult to tell whether a case is one of forced labour or one of severe labour exploitation. While there are indicators to assist in this identification, lack of detailed information sometimes makes it impossible to be certain.

The information on exploitative and forced labour practices in Zambia was collected by five research assistants: four based within MLSS offices<sup>5</sup> and one in the Human Rights Commission. The four researchers in the MLSS offices were all labour officers. A total of 1542 cases were recorded. Of these, 65% of the complainants to the MLSS and HRC were individual males. Eleven per cent of complainants to MLSS and 19% to HRC were female. Groups also complained, but these were recorded as one complaint although in one case the group consisted of 80 people. The large discrepancy between the number of males and females complaining cannot be explained by the data but may be due to men feeling more confident about being able to complain.

Thirty-two per cent of the HRC complainants<sup>6</sup> were aged between 30 - 39 years, 19% aged between 40 - 49 and 17% between 20 - 29 years. The majority of the complainants were Zambians. Fewer than ten cases concerned other nationalities (British, Ethiopian, Indian, Malawian and Zimbabwean for example). The labour office in Chipata believes that many of the agricultural complaints originate from Malawians who, fearing deportation, state that they are Zambian. The nationality of the employer was rarely recorded.

### The public sector

In total, 27% of all complaints (87) collected by the HRC involved the government.<sup>7</sup> These complaints related to a wide range of government departments, with the Ministry of Education being the target of the highest number of complaints (20%). The military, including the army and air force, received nine complaints or 10% of all complaints. These complaints predominantly related to unfair dismissal for various reasons.

Reasons for public sector complaints were not as varied as those recorded in the private sector. While exploitation takes place - notably unpaid wages and non-payment of terminal benefits - this does not appear to be vindictive, but a result of administrative breakdown.

Each complainant may have multiple problems, accounting for there being more complaints than the number of complainants. In total, 105 separate incidents were recorded. Fifty-two of these (50%) stemmed from unpaid dues. The second highest number of complaints (15%), related to unfair dismissal, followed by non-payment of wages at 8%.

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5. The labour officers were based in Chipata, Kitwe, Livingstone and Lusaka.

6. The MLSS does not systematically record the age of the complainant. However, since 2008 a form has been developed to enable systematic recording of all data.

7. The MLSS does not regularly receive complaints from the public sector as public sector workers are advised to complain to their union. A total of 23 public sector complaints were received by MLSS, reflecting similar complaints to those received by the HRC.

## Section two: Forced labour and trafficking in Zambia

The public official moved between various stations but never received a settling-in allowance, subsistence, or other allowances. His property was lost and damaged during moves. He is now retired and wants his retirement package. He started work in 1977 and retired in 2004.

### The private sector

In total, complaints were recorded in 21 employment sectors. The highest number of complaints received by sector was as follows:

Sector	MLSS	Sector	MLSS
Hospitality & tourism	172 14%	Security	40 17%
Retail & trading	153 13%	Transport	24 10%
Construction	129 11%	Agriculture	20 8%

The research found that some provinces recorded high numbers of complaints for a particular sector predominant in that region. For example, Kitwe recorded 35% of its cases in the mining sector, while Chipata recorded no cases for mining but both domestic work and agricultural work accounted for 17% of cases.

### Reasons for complaints

The top three reasons for complaints were as follows:

Reason	MLSS	Reason	HRC <sup>8</sup>
Non-payment of wages	525 34%	Non-payment of dues	121 28%
Non-payment of dues	460 29%	Non-payment wages	67 16%
Poor working conditions	103 7%	Unfair/unlawful dismissal	50 12%

While the majority of the cases certainly demonstrated exploitation, and in many instances severe exploitation, a number contained indicators that pointed to forced labour and trafficking. These cases tended to be related to unpaid wages; threats of dismissal, or dismissal after complaining; deception about the nature of the work; withholding of documentation; low wages; transportation; non-repatriation and trafficking, and poor conditions of service. In the example of unpaid wages some workers were not paid for months, and in a few instances, years. Workers whose wages are not paid are pushed into having to decide whether to stay with the company in the hope of being paid or to leave to try to find paying work elsewhere. They are often forced to stay in a job they no longer wish to do because leaving would result in the forfeiture of wages. This dilemma is used by employers to extract free labour from their workers.

8. The types of complaints received by HRC differ slightly to those received by MLSS as they tend to be from workers who feel that their human rights have been violated, or who have already been to MLSS and having received no response, take their complaint to HRC.

## Section two: Forced labour and trafficking in Zambia

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A worker was contracted by two foreign nationals and a Zambian to undertake a construction job. It was agreed that he would be paid K450,000 per month, plus night allowance and K15,000 for every Sunday worked. He worked for three months and when he completed he asked for his payment. He was told there was no money for him. When he pushed further, he was beaten and tortured.

A worker was employed as a shop assistant. He alleged that his employer had not paid him for four months on the grounds of shortages. He also said that the employer constantly threatened him with dismissal if he reported the matter.

The withholding of identity documentation can be an indicator of forced labour. In the research, it was found to be common for some workers, and domestic workers in particular, to have their National Registration Cards (NRC) withheld by their employers as a means to ensure that the worker does not steal. In a few cases the worker was unable to retrieve his/her NRC but in the majority of cases the card was freely available and therefore did not give rise to a forced labour situation. However, forced labour could be taking place in relation to the withholding of miners' health certificates. Mine workers are only allowed to work in a mine if they have a valid certificate of health, which is paid for by the employer. In a number of cases, the contractor hiring the worker withheld the certificate to stop the worker finding work elsewhere. This occurs even in cases where the contractor is not currently providing the worker with work but retains the certificate, and therefore the worker, until a new contract is secured. Rather paradoxically, this appears to amount to a case of 'forced unemployment' rather than 'forced labour'.

A group of male workers reported that upon returning to work after an industrial break, their employer informed them they no longer had tender in the mines and refused to give them their silicosis certificates. This meant that they could not find jobs elsewhere so that the employer could take them back on when he obtained another tender. The workers also had to wait one year for their unpaid leave days.

The recording of complaints revealed three sectors whose workers are particularly vulnerable to exploitation due either to the informal nature of the work or to the 'triangular' nature of the employee-employer relationship. In the latter case, workers hired by mining contractors are vulnerable to exploitation as they are not directly hired by the company they are working for. Numerous complaints were made about contractors not paying workers. This evidence backed up initial MLSS concerns that 'labour brokers' are in fact exploiting workers.

A group of workers had not been paid for four months. When the employer was brought to task, he accepted the claims but claimed that he had himself not been paid by the principal employer. When the employees insisted that the matter be followed up, labour office enquiries showed that the principal employer had indeed been paid for the work.

## Section two: Forced labour and trafficking in Zambia

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Domestic and agricultural workers were also shown to be suffering exploitation, very often in the form of unpaid wages.

An Ethiopian woman worked as a domestic servant for 11 years in Addis Ababa, before moving with her employer to Egypt and then Lusaka. The employer's wife died after giving birth and the servant continued looking after the four children. When they came to Zambia, she was promised it would only be for one year and that she would be paid \$250 per month. When she lodged her complaint, she had in fact been in Lusaka for five years and had never received any salary. Each time she questioned the employer, she was promised her salary. The nationality of the employer is unknown.

The research also found that Malawian workers coming to Zambia for seasonal work in agriculture were not being paid at the end of the season. Their illegal working status in Zambia was thought to be behind this as the migrants were often too scared to complain to the labour office for fear of deportation.

### **Recruitment agencies and links to labour exploitation and forced labour**

Recruitment agencies represent a critical link in the employment relationship, where abuses can occur which may lead to trafficking and/or forced labour. Equally, where effectively regulated and functioning correctly, such agencies provide a valuable contribution to a well-functioning labour market.

Research on private recruitment agencies commissioned by the ILO and MLSS in Zambia found that existing legislation and policies do not adequately regulate the operations of private recruitment agencies.<sup>9</sup> This is acknowledged by the MLSS who revoked all licenses issued to recruitment agencies in early 2006, although the ban was lifted in November 2007. Many of the registered agencies were no longer in operation at the time of the research. The study uncovered problems with contracts signed by some workers employed through recruitment agencies, including unfair wage deductions.

Weak records mean that very little is known about the number of agencies operating and in which occupations and sectors. The study found that there are two types of agencies. The first type performs the role of intermediary between employer and jobseeker. These agencies do not maintain an employment agreement/contract with the worker. The second is the labour broker and involves a commercial agreement between an agency and the employer, whereby the former recruits certain categories of labour to be contracted to the latter. Under this arrangement the agency recruits jobseekers and enters into individual contracts with them (and is supposed to take full responsibility for them). However, in this 'triangular' relationship the worker may lose out as neither the employer nor the agency agrees to pay benefits such as redundancy pay or other terminal benefits, compensation for accidental injury, or sick leave. This system has been prevalent in the mining industry in Zambia.

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9. Mutesa, F & Matenga, C: *Private recruitment agencies and their practices in Zambia* (Lusaka, Ministry of Labour and Social Security/ILO, 2008).

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Legislation governing recruitment agencies is inconsistent on the issue of fee-charging and so agencies apply different practices.<sup>10</sup> Most commonly, the employer is charged either a flat fee (in the case of maids being employed through a maid centre for example), or a one-off 20% fee (based on each worker's first month's salary). Some agencies did charge jobseekers fees for applications/registration, training and placement. In the case of at least one maid centre, the employer was charged K50,000, to be paid out of the maid's first month's salary, effectively meaning that the maid was paying for the placement.

The research found no registered agencies specifically focused on overseas employment. Four out of 12 agencies interviewed said that they had once or twice been involved in recruitment for the overseas market. In two cases involving domestic workers, maid centres had provided maids to Zambians living in South Africa. A guest from the United Kingdom who had stayed at a guest house operated by a maid centre, travelled back with a maid.

Nine Zambians were going to go to Malaysia to work as timber cutters on a plantation. While the application forms were sent via the internet, the Malaysian High Commission in Harare confirmed the company's legality and advised the agency not to comply with its demand that the jobseekers pay a registration fee. The agency in Zambia was also advised on the correct procedures by labour officers. Nine workers were subsequently sent, two were returned immediately as they were found not to be healthy enough for the strenuous work, and a third returned after his wife died in Zambia. This third returnee reported to the agency that the workers were working under hard conditions and were only to be paid after completing the three month probationary period. The fate of the six remaining workers is unknown as the company terminated its contract with the agency. However, it transpired that medical checks had not been carried out as specified by the law; the employer failed to provide a security bond to deal with unforeseen eventualities and the agency had difficulties receiving its commission due to company claims that it had only supplied nine and not the requested 26 workers.

It proved very difficult for the researchers to investigate the operations of agencies that place dubious or vague adverts in the national press, because they refused to be interviewed. One conclusion of the study was that: "Some of the agencies are just quick-money schemes run by fraudsters who defraud unsuspecting citizens of large sums of money on the pretext of finding them employment abroad. The above experiences are an indication that some illegal recruitment is going on unabated. Further, the numerous advertisements for overseas employment and/or educational scholarships in the print media and the internet are an attestation to the existence of illegal recruitment. The fate of such migrant workers from Zambia recruited through illegal agencies is not well known or documented."

The Ministry of Labour and Social Security is working to regulate recruitment agencies and recently instructed all agencies to reapply for their licenses. Within this new framework, labour officers have a key role to play in carrying out inspections prior to the issuing

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10. The ILO Private Employment Agencies Convention, 1997 (No.181) states that agencies shall not charge, directly or indirectly, in whole or in part, any fees or costs to workers (Article 7.1). Zambia has not yet ratified this Convention.

## Section two: Forced labour and trafficking in Zambia

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of licenses, and to carry out regular monitoring once licences are issued to ensure that the activities of the agency are legitimate. Inspectors also have a role in monitoring workers' placements; providing advice and assistance with contracts and following up any complaints workers have with agencies. In most cases, once the recruitment agency has placed the worker, the relationship is over and the contract is between the worker and the new employer. As well as supporting individual workers, labour officers can also assist at a policy level by ensuring that the codes of practices that govern employment agencies are fair to jobseekers, particularly in relation to fee-charging.

### Human trafficking in Zambia

Trafficking of humans for sexual and labour exploitation is acknowledged to be taking place in Zambia. Zambia is recognized as a country of origin, transit and destination for women and children trafficked for forced labour and sexual exploitation by the US Department of State.<sup>11/12</sup> It is bordered by seven countries and this makes it a target for traffickers wishing to move people easily through and between neighbouring countries. Research carried out by the International Organization for Migration into trafficking in southern Africa, also found that Zambia is a country of destination.<sup>13</sup>

The first recognized human trafficking case took place in 2000, involving an Australian national arrested at the Zambia/Zimbabwe border taking out five Zambian girls aged between 14 and 16. The girls were destined for Australia where they were told they would be 'dancing queens'.<sup>14</sup> Despite some evidence, including a video of the girls naked, that the Australian was trafficking them, weak legislation and a strong defence resulted in an acquittal. The five girls were hostile witnesses as they still wished to go to Australia and earn the US\$500 per week that they had been promised.<sup>15</sup>

The first case of trafficking prosecuted in Zambia related to a man selling his son.

"A 43-year old Serenje man has been sentenced to 20 years imprisonment with hard labour for attempting to sell his 10 year old son last year. The man, Christopher Malama, was arrested in March 2006 when he tried to sell his son for K850,000 to a local businessman. Malama, a farmer, appeared before Kabwe High Court judge, Reuben Mwape, yesterday.

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11. Zambia is classified in 2008 as a Tier 2 Watch List country. Tier 2 countries are countries whose governments do not fully comply with the US Government's minimum standards for the elimination of trafficking but are making significant efforts to bring themselves into compliance with those standards. Zambia was placed on the watch list in 2008 because, according to the US State Department, it failed to provide evidence of increasing its efforts to combat severe forms of trafficking over the previous year.

12. US State Department: *Trafficking in persons report - 2008*, <http://www.state.gov/g/tip>.

13. International Organization for Migration: *Seduction, sale and slavery: Trafficking in women and children for sexual exploitation in southern Africa* (Pretoria, 2003).

14. The girls had been told they would be doing traditional African dancing in Australia. The defence in the court case said that the videos of the naked girls were of them doing traditional African dancing.

15. *Blind cry from human trafficking*, <http://www.changemakers.net>.



## Section two: Forced labour and trafficking in Zambia

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He was committed to the High Court by the subordinate court in Serenje for the offence of selling or trafficking in children contrary to section 143 of the Penal Code, Chapter 87 of the Laws of Zambia.

Particulars of the offence were that between March 13 and 17, 2006, in Serenje, Malama did traffic in Boyd Malama (his son) by way of selling him to a local businessman. Malama offered his son for sale at K850,000 cash or goods worth that amount."<sup>16</sup>

According to ILO research on forced labour, trafficking and migration conducted in 2007-08, the victims of trafficking are mainly women and children, although men are also sometimes vulnerable.<sup>17</sup> The traffickers come from a cross-section of society (family members, relatives, friends, church organizations, truck drivers, owners of bars and tourism enterprises); they can be male and female; Zambian and non-Zambian.

The main reasons for people migrating or becoming vulnerable to trafficking are:

- search for better economic or employment opportunities;
- the search for better living conditions;
- lack of local economic opportunities;
- poverty;
- ignorance;
- a desire to pursue education/studies, and
- joining family members who had already migrated abroad.

For those migrating into Zambia, the reasons include:

- investment and job opportunities;
- trading;
- tourism;
- prevailing peace;
- relaxed laws, and
- running away from a bad economic situation in neighbouring countries.

For Zambians migrating out of Zambia, professionals leave to work as nurses, doctors, and teachers while non-professionals leave and find work as babysitters, cleaners, carers, waitresses and prostitutes. For those migrating within Zambia, domestic work, agriculture, mining and other labour intensive work are the main purposes. For non-Zambians migrating to Zambia, the research respondents generalized that Zimbabwean women work mainly as traders and prostitutes; the Congolese as traders and smugglers of essential goods; Malawians as agricultural workers, and West Africans as gemstone miners.

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16. *Father jailed for selling his son*, *Zambian Daily Mail*, also available at, [www.zamnet.zm](http://www.zamnet.zm).

17. Fox, C: *Investigating forced labour and trafficking: Do they exist in Zambia?* (Lusaka, ILO, 2008).

## Section two: Forced labour and trafficking in Zambia

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In relation to trafficking, prostitution, agricultural work, construction and retail are all believed to be sectors of exploitation of trafficked victims. Some cases that were documented during the research are presented below.

A young lady was in college doing her first year. She had an aunt in Italy with whom she communicated. Her aunt lured her with a picture of a good life in Italy, stating that she was well off and had a good job. The aunt talked to the girl's mother and was given consent to come and collect the girl after promising her parents that she would take her to a very good university.

After three days in Italy, the girl's aunt asked her whether she knew what she did for a living. The girl said "no". The girl reminded the aunt that she had promised to take her to university. Instead the aunt introduced the girl to prostitution. The girl was given fancy clothes for prostitution and was told that if she did not do it, she would starve. When the men started visiting her she resisted. The aunt started to beat her and threatened that she would die. The girl managed to escape to the embassy and was brought back to Zambia.

In Livingstone, a 21 year old lady and her friend living in one of the compounds were trafficked to Namibia along the Zambezi River where they laboured under slave-like conditions in the fishing industry. She had to run away from the situation after enduring it for nearly a year. She was paid K50,000 per month. She said: "Sometimes we would not be given food. Sometimes you come from the bush where we were sent to do some work, you would find that they already had food and nothing would be left for us."

A 25 year old man was deceived into going to work in his mother's cousin's ('uncle') store in another part of the same province. The man was promised K400,000 a month. He worked from 06.30 to 19.30 with a break of one hour at lunch. Despite promises of pay, he never received any salary or benefits.

Beatrice, an 18 year old woman, was recruited as a domestic worker by a doctor looking for a domestic servant for her partially blind and diabetic brother. An intermediary was sent to find the girl. The girl's mother knew the intermediary and believed that because the doctor was a good person, her brother would be too. So Beatrice was sent from Chipata to Lusaka by bus where she was met by her employer.

Beatrice remained with the employer for one year. During that time she was mistreated by the man. He would deny her food and beat her whenever she made a mistake. Beatrice wasn't paid, was unable to communicate with her mother and was not allowed out to meet other people in the area. If she went out she was beaten. The man lived in a flat and the maids from the other flats helped the girl with food and clothes. It took the courage of these maids to report the matter to the police.

Beatrice was removed from the man's flat and taken to a centre while efforts were made to contact her parents in Chipata. After a month, her mother came to take her home. The man was arrested by police but maintained that he was disciplining her.

## Child trafficking in Zambia

ILO research and media reports show that internal trafficking of children is rife in Zambia. The ILO research on child trafficking found that children were trafficked for a number of reasons, including domestic work, agricultural work, street hawking and prostitution; and that anybody could be a trafficker - members of the church, truck drivers, would-be husbands, business people and cross-border traders, in addition to relatives, acquaintances and friends.<sup>18</sup> The means of recruitment vary from deceiving families and children, to children voluntarily offering to help strangers, such as truck drivers, in the belief that they will earn some money. "Some recruiters offered money or gifts in exchange for children or promises of returning wealth, other children were trafficked through arrangements between guardians and family members or third parties."<sup>19</sup>

The placing of children within the extended family, sometimes known as 'cultural placements', is predominantly used to give a child from a less advantaged background the chance to receive an education, training or better prospects. Cultural placements are often crucial in providing support to orphans and other children whose families are unable to support them. Placing children in extended families, often far from their home can, however, sometimes lead to child labour exploitation. This was one form of trafficking identified by the ILO research which found that relatives, and sometimes strangers, travel to rural villages to recruit children, in particular child domestic workers. The relative often promises the child's parents that the child will be sent to school and will be better off living with them. UNICEF Innocenti Research Centre found that there are two types of recruitment. The first involves the traffickers contacting the potential victim "... or his or her family - in many cases traffickers know their victim or the victim's family and are likely to take advantage of a condition of vulnerability e.g. illiteracy, poverty, lack of information". The second is where the victim or his or her family contact the trafficker to seek assistance to leave a difficult situation at home. This latter situation, UNICEF states: "... can lead to a possible link between smuggling and trafficking."<sup>20</sup>

Many factors make a child more vulnerable to trafficking. In Zambia, the following factors were identified by the ILO/IPEC research:

- Poverty is often cited as the main cause of trafficking, usually in conjunction with other factors. It can push children into accepting offers of work so that they can contribute money to their families, or simply provide for themselves.
- The HIV and AIDS pandemic has created a large number of orphans.<sup>21</sup> Orphans are often vulnerable as they lack support networks to protect them.

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18. ILO/IPEC & RuralNet Associates: *Working paper on the nature and extent of child trafficking in Zambia* (Lusaka, 2007).

19. Ibid.

20. UNICEF Innocenti Insight: *Trafficking in human beings, especially women and children, in Africa* (Italy, 2003).

21. UNAIDS estimated that in 2006 there were 710,000 children orphaned in Zambia directly due to AIDS related deaths of either one or both parents (UNAIDS: *Report on the global AIDS epidemic* (New York, 2006).

## Section two: Forced labour and trafficking in Zambia

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- Cultural factors contribute to internal trafficking especially. It is accepted that children are sent to live with extended family members or friends to work as domestic workers, often with the promise of an education. Cultural acceptance of early marriage for girls can result in trafficking for forced marriage.
- Out-of-school children and orphans might accept offers to earn money to enable them to go to school or false promises of being sent to school.
- Due to high poverty rates, HIV and AIDS and adult unemployment, children may become victims of neglect and abuse in the family, heightening their vulnerability to offers of outside help.

## Section three: National legislation and policies

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### Forced labour

A number of Zambian laws address the issue of forced labour. Article 14 of the 1991 Constitution protects individuals against slavery and slavery-like practices, and states that no person shall be required to perform forced labour. There is, though, no definition of forced labour in the Constitution, although Article 14 does list the exemptions made under C29.

Under the Penal Code the following are criminal offences:

- Section 261: a person who trades, accepts, receives or detains a person as a slave is guilty of a felony and is liable to imprisonment for seven years.
- Section 262: any person who habitually trades in slaves is guilty of a felony and is liable to imprisonment for 10 years.
- Section 263: a person who unlawfully compels any person to labour against the will of that person is guilty of a misdemeanour.<sup>22</sup>

The penal code also refers to the government's option to use hard labour as a form of punishment for convicted felons. The courts will "... take into account the severity of the offence, its prevalence and whether the accused is a first offender or not. Hard labour will not be imposed on a person who is physically challenged". In the Prisons Act, reference is made to the use of prisoners' labour in government institutions such as parastatal organizations and public companies, but says that this should only take place under the supervision of a prison officer or public officer. When a prisoner is hired out, s/he is eligible for wages.

### Trafficking

The Penal Code (Amendment) Act of 2005 specifies the following as a criminal offence:

- Section 143: Any person who sells or trafficks in a child or other person for any purpose or in any form commits an offence and is liable, upon conviction, to imprisonment for a term of not less than twenty years:

Provided that where it is proved during the trial of the accused person that the sale or trafficking in a child or other person was for the purpose of causing the child or person to be unlawfully and carnally known by any other person, whether such carnal knowledge was intended to be with any particular person or generally, the person is liable, upon conviction, to imprisonment for life.

This legislation has resulted in at least three prosecutions, but is widely considered weak, particularly as no definition of trafficking is given. A consultative process began in 2006 to develop an anti-trafficking policy and new legislation. The policy and legislation are still under consideration by the Government of Zambia, but there are indications that comprehensive legislation should be passed by the end of 2008.

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22. The penalty for a misdemeanour is imprisonment for a term not exceeding two years or a fine or both.

## Child labour

The Employment of Young Persons and Children Act 2004 closely follows the definition contained in the ILO Convention on the Worst Forms of Child Labour, 1999 (No.182). The Act also states that: "A child between 13 and 15 years may be engaged in light work which is not likely to harm that child's health, or development; or which is not prejudicial to that child's attendance at an institution of learning or participation in vocational orientation." A child under 13 years of age cannot work under any circumstances. This closely reflects the ILO Minimum Age for Admission into Employment Convention (No.138 of 1973). Under this legislation, the penalty for employing children in the said activities is a fine of not less than two hundred thousand penalty units, but not exceeding one million penalty units, or imprisonment for a term not less than five years but not more than 25 years, or to both.<sup>23</sup>

## National employment law

Zambian labour conditions are legislated under the Employment Act, Chapter 268 of the Law of Zambia. The legislation provides cover to all workers to a varying degree, often dependent on their time in employment. This Act sets out the minimum contractual age as 16 years; stipulates that an employer must pay for repatriation of workers who have been moved from their home to work by an employer; must provide paid leave to employees who have worked for them for six continuous months and maternity leave to women who have been in continuous service for two years from the date of first engagement, or since their last maternity leave. The Act also sets out the rights and responsibilities of labour officers, laws governing recruitment agencies and lawful procedures for oral and written contracts.

In relation to forced labour, the Act states in Section 75 that:

Any person who:

- (a) induces or attempts to induce any person to engage himself for employment or engages or attempts to engage any person by means of any force, threat, intimidation, misrepresentation or false pretence; or
- (b) by force, in any way prevents or endeavours to prevent any person from hiring himself as an employee or from accepting work from any employer; shall be guilty of an offence.

And in Section 77 that:

Any person guilty of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding two thousand penalty units or to imprisonment for a period of not exceeding six months, or to both and, in the case of a continuing offence, to an additional fine not exceeding two hundred penalty units in respect of each day during which such offence continues.

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23. The Ministry of Sport, Youth and Child Development published the National Child Policy 2006, which includes laying down various objectives to prevent economic exploitation and child labour and prevent child sale, trafficking and abduction.

### Section three: National legislation and policies

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This demonstrates that while forced labour does indeed constitute an offence under the Employment Act, the penalties are weak and do not reflect the criminal nature of the deed.

Alongside the Employment Act is the Minimum Wages and Conditions of Employment Act (Chapter 276). The statutory instruments for the Minimum Wages Act were revised in 2006 to update the level of the minimum wage. This Act sets out eligibility for the minimum wage, the level of the minimum wage and what allowances must be paid. Wages and allowances differ according to the type of job. Some confusion is caused by the fact that not all jobs are categorised. There is also confusion over eligibility of casual workers for the minimum wage. Casual workers are non-permanent workers who have contracts of less than six months duration.

The minimum wage does not apply to the following categories of workers:

- Employees of the Government of the Republic of Zambia
- Employees of a District, Municipal or City Council
- Employees engaged in domestic service
- Employees who undergo collective bargaining (unionised workers)
- Employees with specific employment contracts attested by the Ministry of Labour
- Employees in management positions (as defined under the Industrial Relations Act).

The Government of Zambia is currently reviewing the statutory instruments for the minimum wage, the Employment Act and the Industrial and Labour Relations Act. Furthermore, the Ministry of Labour and Social Security intends to introduce regulations for private recruitment agencies.

### **National Registration Act**


The issue of the withholding of National Registration Cards (NRC) is often raised in relation to some categories of workers, in particular domestic workers, as employers often hold onto the original cards so as to prevent theft by the worker. It is, however, illegal to hold onto another person's NRC. The National Registration Act, Chapter 126 of the Law of Zambia, article 8 (3) states: "Any person who finds or unlawfully comes into possession of a national registration card which is not issued to him shall, without undue delay, return it to the person to whom it was issued or forward it to the nearest registrar." Article 13 dealing with offences and penalties, states that any person who (e) "wilfully destroys or mutilates any national registration card"; (g) "unlawfully deprives any person of a national registration card issued to him under this Act", and (h) "is in unlawful possession of or makes use of a national registration card issued to any other person under this Act"; "shall be guilty of an offence and be liable to a fine not exceeding three thousand penalty units, or to imprisonment for a term not exceeding six months, or to both."

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# Part Two



**Action by  
labour officers  
against  
forced labour  
and trafficking**



## Section four: Role of labour officers in combating forced labour and trafficking

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### Introduction

There is growing international recognition that urgent action is needed to combat forced labour and trafficking in the world today. Law enforcement is a major part of the solution, as offender impunity is one of the most important reasons why forced labour persists. But there is also recognition that law enforcement alone is not adequate to put an end to these problems. Policies against forced labour and trafficking must cover the 'three Ps': **prosecution, prevention and protection**, and be based on a sound understanding and analysis of the problems.

In tackling the sensitive issue of forced labour and trafficking, a preventive approach by labour officers can help stop people becoming victims in the first place. "A preventive approach to labour inspection requires the inspector to be first an adviser, and an enforcer only if advice is not accepted."<sup>24</sup>

### The functions of labour inspectors<sup>25</sup>

Labour inspectors' three main operational functions are relevant to the three Ps in the global fight against forced labour and trafficking.

- **Ensuring compliance with national law**  
This is the main task of a labour inspector and can involve persuasion as well as applying sanctions. In order to ensure compliance, labour inspectors observe and monitor compliance levels in enterprises in different economic sectors. They can thus play a key role in gathering and reporting data related to forced labour and trafficking.
- **Advice and information**  
Labour inspectors can use their knowledge and expertise to help resolve problems encountered during on-site inspections or through their contacts with workers' and employers' organizations. Labour inspectors can advise on and implement information campaigns, and disseminate good practice. Labour inspectors may also provide training, including to trade unions, employers, NGOs, labour court officials and other government authorities.
- **Protection**  
Labour inspectors can empower and protect workers through direct contact during on-site inspection by disseminating information. Informing workers and employers about their rights is an important prevention and protection strategy against forced labour and trafficking.

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24. ILO: *Combating child labour: A handbook for labour inspectors* (Geneva, 2002).

25. The terms labour officer and labour inspector are used interchangeably throughout these guidelines. Although the job descriptions are different, the limited number of inspectors and officers in Zambia means that, in practice, labour inspectors and officers often do the same work.

#### Section four: Role of labour officers in combating forced labour and trafficking

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There are two ILO Conventions on labour inspection: the Labour Inspection Convention, 1947 (No.81) and the Labour Inspection (Agriculture) Convention, 1969 (No.129). Zambia has not yet ratified either of these instruments.<sup>26</sup>

There is a worldwide trend towards integrated labour inspection systems. Mainstreaming vigilance against forced labour and trafficking within existing labour inspection functions is normally preferable to creating a new, specialized institution. However, due to the complexity and in some cases widespread extent of the problems, there may occasionally be justification for a specialized labour inspection unit to monitor in the field (for example, this has happened in Brazil). In order to implement laws effectively, it is always necessary to equip institutional structures with material, transport and financial resources, as well as have a sufficient number of qualified staff at field offices.

The regulatory framework for labour officers in Zambia is contained in the Employment Act, Chapter 268. Under this legislation, labour officers are mandated to carry out inspections, attest employment contracts, and prosecute offenders. More generally, labour officers have the task of informing employers and workers of their rights, and acting as an intermediary when disputes arise. In the vast majority of cases of disputes or problems, labour officers do not initially take legal action against the employer, but first try to resolve the problem amicably.

With respect to forced labour and trafficking, labour inspectors often lack a clear mandate. This is because first, in many countries (including Zambia) forced labour and trafficking are criminal offences that are primarily investigated by the police, and second, labour inspection systems may not cover those sectors in which forced labour practices tend to occur (agriculture, domestic work and prostitution, for example). The Ministry of Home Affairs most often takes the lead in national policy and action against human trafficking, as is the case in Zambia.

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26. See Annex 2 for brief overview of Convention No.81.

## Section five: Indicators of forced labour and trafficking

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### Remember!

Forced labour is: All work that a person has to undertake against their will and under the menace of a penalty.

Trafficking of an adult is: Recruiting and moving them, by means of force or deception or abuse of power, for the purpose of forced labour or sexual exploitation.

Trafficking of a child is: Recruiting and moving them for the purpose of exploitative child labour, including forced labour and sexual exploitation.

### Indicators to detect possible forced labour and trafficking situations

Indicators will help labour inspectors determine whether or not a particular case or situation amounts to one of forced labour and/or trafficking. The presence of one or more indicators may not necessarily signal forced labour; however, this would suggest that further investigation is required. The overall assessment should be based on (a) whether a worker has given his or her free and informed consent when accepting the work and (b) whether he or she has the freedom to leave the employment if desired.

#### Indicators should:

- guide labour inspectors, other law enforcement agencies and victim assistance organizations in identifying possible situations of forced labour;
- be country-specific and take into account situations that may occur in specific sectors and regions;
- be based on national laws and regulations;
- help to distinguish poor working conditions and exploitation from forced labour.

Indicators of forced labour and trafficking can be grouped into six overarching categories. Some examples of specific indicators under each category are listed below:

#### 1. Physical violence, including sexual violence

- Does the worker have any signs of maltreatment, such as bruises?
  - Does the worker show signs of anxiety?
  - Is there any other sign of mental confusion or traces of violence?
  - Do supervisors/employers demonstrate violent behaviour?
  - Has the worker been deprived of food, water, sleep, medical care or other necessities?
-

## **2. Restriction of freedom of movement**

- Is the worker locked up or otherwise confined at the workplace?<sup>27</sup>
- Is the worker forced to sleep at the workplace?
- Are there visible signs that the worker is not free to leave, such as barbed wire or the presence of armed guards or other such constraints?
- Is the worker under threat not to leave the workplace?
- Is the worker allowed to communicate freely with friends and family?

## **3. Threats and coercion**

- Does the worker make statements which are incoherent or show indoctrination by the employer?
- Does the worker report any threat against themselves, co-workers or family members?
- Is there any sign that the worker is subject to racketeering or blackmailing (with or without the complicity of the employer)?
- Does the worker show anxious behaviour?
- Is the worker forced to work excessive unpaid or even paid overtime or to carry out tasks that they prefer not to do. Is the worker threatened if they refuse?
- Is the worker forced to do a job that is different to the one they were promised?
- Is the worker in an irregular situation (e.g. migrant worker) and threatened with denunciation to the authorities?
- Was the worker moved to another place by the employer against their will?

## **4. Debt and other forms of debt bondage**

- Does the worker have to repay high recruitment or transportation fees? If so, are these deducted from the salary?
- Is the worker forced to pay excessive fees for accommodation, food or working tools that are directly deducted from the salary?
- Has any other loan or advance been paid that makes it impossible to leave the employer? What rate of interest is charged on the loan?
- Are work permits bound to a specific employer?

## **5. Withholding of wages or non-payment of wages**

- Does the worker have a written employment contract?
- Are wages paid on a regular basis?
- Does the worker receive a pay slip showing wages and deductions?

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27. A worker who is locked inside the work premises during a shift but allowed home afterwards and returns voluntarily to the workplace the next day, is not necessarily a victim of forced labour (although is certainly suffering violation of labour law concerning, for example, safety and health). However, if the worker is obliged to return, for example, because wages have not been received on time or because the employer threatens them if they fail to return, then the two together could indicate forced labour.

## Section five: Indicators of forced labour and trafficking

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- Is there any illegal wage deduction?
- What is the amount of the wage in relation to the minimum wage?
- Does the worker have access to their earnings?
- Has the worker been deceived about the amount of her/his wages?
- Are wages withheld with the promise of future payment?
- Is the worker paid in-kind, in part or in full?
- Is the worker threatened with dismissal if she/he complains about non-payment of wages?

### 6. Retention of identity and travel documents

- Does the worker possess personal identity or other documents?
- Are they kept by the employer or supervisor? If so, why?
- Does the worker have access to the documents at any time?

### Other indicators to look for include:

- Is the worker younger than 18 years old?
- Does the worker depend on the employer for basic needs such as food and shelter?
- Is the worker a migrant or a local person? A national or a non-national?
- Is the workplace in an isolated location, without means of transport available?
- Has the worker been recruited for one job and then employed in another?
- Have there been any prior complaints about the employer?
- Was the worker recruited by a private recruitment agent? Are there any continuing links with the agent?
- Is the work seasonal or temporary in nature?
- Are the hours of work regular and reasonable, or are they erratic or excessively long?

### **In Zambia, the following have been identified as possible indicators of forced labour:**

- Non-payment or very delayed payment of wages;
- Threats of dismissal after complaints relating to unpaid wages;
- Threats of arrest after complaints relating to unpaid wages or poor working conditions;
- Deception as to the nature of the work;
- Withholding of personal documentation, including NRC and medical records (silicosis certificates in the case of miners);
- Refusal to assist with repatriation if the worker has been moved to work elsewhere.

**For further discussion on indicators of forced labour and trafficking in Zambia, see Annex 3.**

## Section five: Indicators of forced labour and trafficking

### Vulnerable sectors

The table below, based on ILO research in Zambia, shows the sectors which recorded the highest numbers of labour complaints. It indicates which sectors may be most vulnerable to labour exploitation and forced labour, in different parts of the country.

Sector	Chipata		Kitwe		Lusaka		Livingstone	
	Number	%	Number	%	Number	%	Number	%
Hospitality/ Tourism	33	9%	22	7%	28	12%	91	30%
Construction	64	17%	11	5%	15	9%	35	12%
Agriculture	52	14%	15	4%	23	11%	26	8%
Mining	0	0%	105	35%	6	3%	1	0.3%
Domestic service	63	17%	16	5%	9	4%	13	4%
Security	11	3%	32	11%	22	9%	32	10%
Processing	23	6%	2	1%	0	0%	2	1%
Manufacturing	15	4%	4	2%	0	0%	11	4%
Transport	31	8%	12	4%	20	8%	18	6%
Education	3	1%	9	3%	31	13%	11	4%
Retail/trading	58	16%	23	8%	32	13%	40	13%

### Categories of vulnerable workers

Any worker can be vulnerable to forced labour and trafficking, but the following groups are particularly at risk:

- women workers are often discriminated against and tend to work in economic sectors vulnerable to exploitation and forced labour, such as textiles and garments or domestic work or prostitution;
- children, who by virtue of their young age, inexperience and dependency on their elders, are especially vulnerable to being exploited and forced to work, including in the worst forms of child labour;
- migrant workers, in particular those who have an irregular status. Irregular migrant workers are found in construction, agriculture, manufacturing and other sectors where they are often subjected to poorer working conditions than national or local workers.

### Recording of forced labour and trafficking complaints

When conducting inspections, or receiving and recording labour-related complaints, labour officers should always be vigilant to possible forced labour and trafficking situations.

The indicators listed above can be used as a checklist for identifying possible cases. MLSS has developed a 'recording of complaints' form, although it is not yet widely circulated or used by labour officers (see Annex 4). There is also a labour inspection form, but it does not cover information related specifically to forced labour and trafficking. It is recommended that the form developed by the MLSS be completed when taking the details of labour complaints. When used in conjunction with the checklist of indicators, it could help labour officers identify possible cases of forced labour and trafficking.



## Section six: Carrying out inspections

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### Investigation techniques

Labour inspectors have at their disposal a wide range of investigation methods that other law enforcement authorities may not have. They usually have the power to enter freely, at any time of the day or night without prior notice, any workplace liable to inspection (Convention No.81). They can carry out inquiries freely and speak with people in confidence, examine documents and take samples. They also have the power to issue orders with a view to remedying defects, and to decide whether it is appropriate to give warning and advice, or to instigate or recommend legal proceedings against the employer. These proceedings could ultimately also entail criminal proceedings. Inspectors are required to investigate any complaint concerning labour law violations without revealing the source of the complaint, thus protecting victims and encouraging them to come forward. Finally, labour inspectors can use tact and the power of persuasion to obtain information or achieve compliance. Collaboration with social partners, including trade union and staff representatives, is an important way to identify violations and ensure compliance by employers.

With respect to investigating forced labour and trafficking, a big challenge faced by labour inspectors is finding and gaining access to the workplaces where victims may be working. This is particularly the case for employment in the informal economy as well as illegal employment in the formal economy. Sometimes very practical constraints can hinder the identification and investigation of forced labour cases. In remote areas, for example, labour inspectors may be limited by the absence of adequate means of transport. In Zambia, inspection is also restricted by the limited number of labour officers and inspectors posted in the Provinces. Additionally, some employers may hide behind subcontractors who disappear in the event of any problem, or they may obstruct access of labour inspectors. Such obstruction is an offence.<sup>28</sup>

The work of inspectors in relation to domestic workers is a special case because of the principle of the inviolability of the private home. The isolation of many domestic workers, their relative youth and lack of education and legal awareness make them especially vulnerable to trafficking and forced labour. Telephone hotlines and cooperation with community-based organizations can be helpful in bringing abuses to light.<sup>29</sup> Where the situation gives rise to suspicion, labour inspectors can use the element of surprise to ask for permission to enter the home. Once permission is given, inspectors are able to proceed with their investigation.

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28. In practice, labour officers must enlist the help of police officers when their work is being obstructed. For a fine to be imposed, the labour officer must make a recommendation to the court.

29. In Zambia, there is a 990 trafficking hotline. Information is collected on a confidential basis. However, some callers to the hotline may be willing to be referred to a labour officer if this will help resolve the case.

## Section six: Carrying out inspections

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Under the Zambian Employment Act (Chapter 268 of the Laws of Zambia):

"Part II, Section 2: A labour officer shall, for the purposes of this Act, have power to do all or any of the following:

- (a) to enter freely at any reasonable time, whether by day or night, any workplace or conveyance where he may have reasonable cause to believe persons are being employed and to inspect such workplace or conveyance;

Provided that this power shall not be exercised except during the hours of daylight in relation to any private dwelling-house or any land or building occupied in connection therewith.

- (b) to enter by day any premises in order to carry out any examination, test or inquiry which he may consider necessary in order to satisfy himself that the provisions of this Act are being complied with."

Chapter 274, Section 18 of the Children and Young Person's Act states that:

"Any labour officer or any police officer of or above the rank of Assistant Inspector shall have the power to -

- (a) at all reasonable times to enter upon any land or premises of an industrial undertaking affected by the provisions of this Act;
- (b) to examine, either alone or in the presence of any other person as he thinks fits, with respect to any matter under this Act any person affected by the provisions of this Act;
- (c) to examine such other powers as may be necessary for carrying this into effect."

Labour inspectors must strictly respect privacy. In the case of a farm, for example, they should not enter the private home of the operator unless they have cause to believe that there are workers inside the premises.

To date, across the world, most forced labour victims have been identified either through police raids or because workers have themselves come forward, often with the assistance of an NGO or other organization. When investigating potentially serious cases of labour law infringements, labour inspectors may have no choice but to resort to some form of forced entry. This should only be done with police support. In general, however, labour inspectors should always seek to act in a non-confrontational manner.

## Section six: Carrying out inspections

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The following inspection methods can all be used:

- **Interviews and direct observation**

Labour inspectors are able to interview, alone or in the presence of witnesses, the employer, the staff or any other person whose evidence could be useful for the purposes of the inspection. Labour inspectors have to exercise judgement when it comes to carrying out confidential interviews in order to obtain the most reliable information. In most forced labour situations, workers are intimidated and afraid to talk freely. In such instances, it may be possible to collect information from workers discreetly by way of hotlines or other confidential channels for finding out about the situation or by meeting them outside the workplace if possible. Labour inspectors have to be very sensitive to the possible risk of reprisals against workers by their employers, should the workers register complaints of violations. During inspections and interviews, labour inspectors should also use methods of direct observation and triangulation to assess a particular situation and to verify statements.

Zambian Employment Act (Chapter 268 of the Laws of Zambia):

"Section 2 (b) (i): to interrogate, whether alone or in the presence of witnesses, any employer, employee or casual employee on any matter concerning the application of any of the provisions of this Act, and to question any other person from whom he considers useful information may be obtained, so, however, that no one shall be required to answer any questions tending to incriminate themselves."

- **Verification of documents**

The legislation of most countries recognizes the right of inspectors to gain access to any book, register, document or electronic information from employers in order to see that they are in conformity with the law, and to take copies or extracts from them. With regard to forced labour, labour inspectors should focus on the employment contract, and on whether it includes any abusive clauses such as working off debts or other clauses that would prevent the worker leaving the employer at a time of his or her choosing. In the absence of any contract, interviews with workers should focus on possible deception, false promises and unfair threats of dismissal.

Zambian Employment Act (Chapter 268 of the Laws of Zambia):

"Section 2 (b) (ii): to require the production for examination of any book, register, account or other document, the keeping of which is prescribed by this Act, and to copy such documents or to make extracts therefrom and, if he considers such a course necessary or expedient, to remove such book, register, account or other document."

## Section six: Carrying out inspections

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- **Enforcing the posting of notices**

Inspectors are able to enforce the posting of notices required by the law. These notices are posted in workplaces and display legislation, internal regulations, work schedules and general safety information. This method is particularly relevant to the prevention of trafficking in human beings. Labour inspectors should ensure that information is posted in an easy-to-understand format and in appropriate foreign languages in enterprises that use migrant labour. Notices should also provide other information relevant to migrant workers, such as immigration regulations. Proceedings should be instituted against employers for failing to comply with this provision.

Zambian Employment Act (Chapter 268 of the Laws of Zambia):

"Section 2 (b) (iii): to enforce the posting of notices in such places and in such manner as may be prescribed."

- **Inspection of materials and substances used**

Inspectors are able to take or remove samples, materials and substances used at the workplace for purposes of analysis. These provisions are intended to ensure workers' health and safety and in some cases the health and safety of workers' families. Potential victims of forced labour often work under extremely hazardous conditions and may be exposed to health risks.

### **Other sources of intelligence and information**

- Testimonies of victims and witnesses
  - Information from trade union organizations
  - Victim shelters, NGOs, faith-based or other community based organizations
  - Information from tax and customs authorities
  - Information from social security authorities
  - Information from border and airport authorities
  - Information retrieved from databases maintained by other government agencies
  - Media reports or other public reports
  - Databases maintained by international organizations, for example Interpol, IOM
  - Environmental authorities and satellite monitoring of high-risk activities, for example deforestation or mining
  - Information received from hotlines/spontaneous informants
  - Internet monitoring of, for example, dubious job offers
  - Monitoring of adverts in the printed press for overseas jobs and educational opportunities
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### Prosecution and penalties

The credibility of labour inspectors and the labour inspection system ultimately depends on the existence of a sufficiently dissuasive enforcement mechanism. Forced labour and human trafficking are crimes that often take place along with other violations of labour laws. Enforcement therefore relates to labour law as well as criminal law. The penalty could be imprisonment as well as fines, which is the case in Zambia.

Although labour inspectors have discretion to choose not to immediately impose penalties in cases of relatively minor infringements of labour law, forced labour cases will generally require swift legal and criminal law enforcement responses. Labour inspectors need knowledge and good judgement to be able to distinguish between serious or wilful non-compliance and an involuntary or minor violation. For example, the retention of workers' identity documents is illegal in all countries and can be an indicator of forced labour. Some employers, however, may not retain identity documents in bad faith, although this may be difficult to prove.<sup>30</sup> Before initiating legal proceedings, labour inspectors should therefore try to understand the intention of employers in, for example, withholding personal documents or delaying wage payments.<sup>31</sup>

In relation to the non-payment of wages in Zambia, labour officers are able to use section 55 which states that: "Any person who -

- (a) employs or continues in his employment any employee or casual employee without intending to pay, or without having reasonable grounds for believing that he can pay the wages of such employee or casual employee as they become payable;
- (b) without reasonable excuse fails on demand to pay in accordance with the provisions of section forty-eight any wages due to any employee or casual employee;
- (c) makes any deductions from wages other than those authorised in the Part;
- (d) by any act or omission contravenes any other provisions of this Part; shall be guilty of an offence."

Prior to initiating criminal proceedings, labour inspectors have a wide range of administrative sanctions at their disposal. In Zambia, one such possible sanction is referral of a complaint to court so that a fine can be imposed. Fines, however, have to constitute an effective deterrent. Some countries have established methods of determining the level of fines based on criteria such as repetition of the offence, business turnover, and the number of workers affected, or the nature and consequences of the violation. A more serious sanction is revocation of a licence to operate the business or closure of the enterprise.<sup>32</sup> It is important for labour officers proactively to tackle labour law violations that may subsequently degenerate into forced labour. Prevention is always better than cure.

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30. This is often the case for domestic workers in Zambia, whose national registration cards are withheld by the employer as a means of security against them stealing. In most cases, the card is returned at the request of the worker.

31. In Zambia, labour officers are rarely directly involved in prosecutions as cases are dealt with by the High Court or Industrial Relations Court.

32. In Zambia, factory and business closures are done by the relevant authorities (either the Chief Inspector of Factories or the local council) after a labour officer has made a recommendation for closure.

## Section six: Carrying out inspections

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Labour inspectors can also use other punitive measures as a deterrent. In Brazil, for example, the labour inspection secretariat publishes the names of employers convicted by courts as forced labour offenders. This so-called 'dirty list' has enabled public institutions to restrict offenders' access to credit, subsidies and social benefits. Such a list has to be handled with care to avoid misuse and corruption. The Government of Brazil has also enabled federal law enforcement and judicial authorities to work closely together and to issue on-the-spot penalties against employers. In a similar attempt to stigmatize offenders and warn the public, the Philippine authorities publish information on their website on unregistered recruitment agencies.

Possible administrative, civil and criminal sanctions against employers in violation of labour laws include:

- Injunction to the employer to introduce required changes, once a labour officer has made recommendations to the employer
- Payment of fines, after referral to a court
- Temporary closure of firm until changes are introduced
- Reinstatement of a worker by a court on the recommendation of a labour officer
- Temporary or permanent withdrawal of operating licence by the relevant authority, on the recommendation of a labour officer
- Compensation for financial losses to the victim, such as wage arrears and unpaid benefits
- Payment of moral damages to victims for physical and mental suffering etc.
- Confiscation of employer assets
- Deprivation of rights to sign contracts with employees
- Imprisonment

Only some of the above sanctions fall within the authority and responsibility of labour officers in Zambia.

## Section seven: Treatment of possible victims of forced labour and trafficking

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### How to treat victims

Unfortunately, experience shows that victims of forced labour and trafficking are often vulnerable to double victimization - both at the hands of their employers and of the law enforcement agencies who deal with them, who may treat them as criminals rather than as the victims of a crime.

While intelligence-based evidence alone can sometimes be sufficient to bring a case to court, most successful prosecutions of forced labour and trafficking crimes will require victims' testimonies. When dealing with possible victims of forced labour, respecting and protecting their human rights should always be paramount. The UN High Commissioner for Human Rights has issued Recommended Principles and Guidelines on Human Rights and Human Trafficking, which provide useful guidance in this regard (see box below). Labour inspectors are advised to take note of these principles, and could develop partnerships with trade unions and other organizations to ensure a victim-centred approach to identification and prosecution.

#### **The following principles should guide victim identification and assistance:**

- Victims should be fully informed about possible choices, in particular with regard to testifying in court. They need to know about procedures and any possible risks involved.
- Victims should be exempted from criminal investigations should they have committed a crime while being in forced labour or in other forms of exploitation ('non-punishment clause').
- The privacy of victims should be respected, and information given by victims should be treated with confidentiality.
- The safety of victims and their family members should be guaranteed. Before sending trafficked victims back home, possible risks should be carefully assessed.
- Victims should be provided with assistance according to their need, such as medical, psychological or legal assistance.
- Victims should be empowered to make their own informed choices and decisions and to participate as much as possible in the decision-making process regarding them.
- Victims should be informed about compensation independent of criminal proceedings.
- Special procedures have to be in place to take into account the rights and needs of children. All assistance and protection should be in the best interest of the child.<sup>33</sup>

Special treatment may be required for female victims who may wish to talk only to a female labour officer, particularly if the case involves sexual harassment or violence. Thus, labour inspections of workplaces with many women workers should ideally include female labour officers. If they encounter a female victim of forced labour or trafficking, male officers should treat the victim sensitively and ask if they would be more comfortable

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33. These are some of the principles proposed by the United Nations Commissioner for Human Rights: *Recommended Principles and Guidelines on Human Rights and Human Trafficking*.

## Section seven: Treatment of possible victims of forced labour and trafficking

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speaking to a female labour officer, police officer or NGO worker. See Annex 5 for more information on interviewing women who have been trafficked.

Inspectors should be aware that the relationship between potential victims and offenders can be complex. Victims may not readily identify themselves as such, but rather assume personal responsibility for their situation. Migrant workers, for example, tend to calculate their risk in a rational way. 'From slave to entrepreneur' is a common perception among those who have endured a lot of hardship over the course of their journey and job history. Many do manage, in the end, to improve their living and working conditions. Others cannot imagine any alternative to exploitation, and so consider their situation as 'normal'.

Victims can sometimes be complicit in their own exploitation and even try to cover up the wrongs of their employers because they do not see a viable alternative to their present condition. They can also become part of the criminal network that previously exploited them.

Labour inspectors must be aware of these complexities and exercise caution if they encounter a situation that they suspect might be one of forced labour and/or trafficking. It is important to make an objective assessment of the situation, and not leap to any hasty conclusions or take poorly-considered or planned action that might result in additional harm to the possible victim.

Labour officers may also be able to assist with getting victims into decent work by making them aware of the public labour exchange and, in certain circumstances, giving them priority access to available jobs.

### **National Referral Mechanism**

In countries where a National Referral Mechanism (NRM) for victims of trafficking or forced labour has been developed, labour inspectors and other law enforcement authorities will find it easier to respond to their specific needs. A NRM is a cooperative framework through which state actors fulfil their obligations to protect and promote the human rights of victims, coordinating their efforts in a strategic partnership with civil society, including workers' and employers' organizations. The structure of an NRM will vary in each country; however, it usually has a national coordinator and working groups at national as well as local levels.<sup>34</sup> Labour inspectors can contribute to setting up a database of certified service providers, in cooperation with the police and other authorities, so that victims can be referred for any further assistance they might need, for example, psychological counselling or HIV/AIDS care.

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34. OSCE/ODIHR: National referral mechanisms: *Joining efforts to protect the rights of trafficked persons. A practical handbook* (Warsaw, 2004).



## Ethical conduct and safety of labour inspectors

Since forced labour and trafficking often involve criminal networks, labour inspectors may be exposed to bribery or other unethical practices in an effort to cover up the crime. Corrupt or unethical behaviour on the part of labour inspectors in a situation of possible forced labour is particularly critical as it may endanger the lives of victims.

There have been cases where victims of forced labour and trafficking managed to escape from their abusive employers only to be returned to them by corrupt law enforcement officials. This is unacceptable. The ILO has developed recommendations and a Model Code of Ethical Behaviour that should form the basis of any inspectorate's efforts to combat corruption and protect workers who are particularly vulnerable.<sup>35</sup>

### The guiding principles of the code are:

- "I shall perform my work to the highest professional standards and ethical principles at all times.
- I shall perform all professional tasks in accordance with the law and international standards that the state has ratified, and with the rules and values of the inspection services.
- I shall always act in good faith towards employers and serve the right to decent working conditions, safety and health and well-being of workers individually and collectively.
- I shall enjoy full professional independence in the execution of my duties. To this end I have acquired and will strive to maintain the competences necessary for continuing improvement of my work and to meet any challenges the profession of labour inspection may bring."

In relation to forced labour and trafficking, one clause is particularly relevant:

"I shall recognize and abide by the basic aim of good inspection practice, that is to promote the establishment and maintenance of a decent, productive, safe and healthy working environment. Labour inspection is essentially preventive and should therefore help the enterprise in ensuring good working conditions which prevent impairments arising out of employment. A clear priority shall be given to high risk enterprises and vulnerable groups of workers."

Labour inspectors must also ensure their own safety. Inspecting premises where victims of forced labour and trafficking are working could potentially be dangerous for labour officers. In instances where the officer has received prior information that there may be victims on-site, a police officer (preferably from the Victim Support Unit) should be included in the inspection team. If it only becomes apparent during the inspection that there are victims on-site, it may be better for the inspector to withdraw without confronting the employer, and return at a later stage with police officers.

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35. Rice, A (ed.): *A toolkit for Labour Inspectors: A model enforcement policy, a training and operations manual, a code of ethical behaviour* (ILO, Budapest, 2006).



## References and further reading

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Anti-Slavery International. 2003. *"The migration-trafficking nexus: Combating trafficking through the protection of migrants' human rights"* (London).

Andrees, B. 2008. *"Forced labour and human trafficking: A handbook for labour inspectors"* (Geneva, ILO/ Special Action Programme to combat Forced Labour).

Central Statistical Office. 2005. *"Labour force survey 2005"* (Lusaka).

Changemakers.net, *"Blind cry from human trafficking"*, <http://proxied.changemakers.net/journal/300503/display.cfm-ID=107> (accessed 14 July 2008).

Daily Mail, Zambia, *"Father jailed for selling his son"*, also available at [www.zamnet.zm/newsys/news/viewnews.cgi?category=9&id=1169716388](http://www.zamnet.zm/newsys/news/viewnews.cgi?category=9&id=1169716388) (accessed on 14 June 2008).

Fitzgibbon, K. 2003. *"Modern-day slavery? The scope of trafficking in persons in Africa"*, African Security Review, Vol 12, Issue 1 (South Africa, Institute of Security Studies).

Fox, C. 2008. *"Investigating forced labour and trafficking: Do they exist in Zambia?"* (Lusaka, ILO).

ILO. 2000. *"Trade unions and child labour"* (Geneva).

ILO. 2002. *"Combating child labour: A handbook for labour inspectors"* (Geneva)

ILO. 2002. *"Decent work and the informal economy"*, International Labour Conference, Report VI, 90th Session (Geneva).

ILO. 2002. *"Unbearable to the human heart - trafficking in children and action to combat it"* (Geneva).

ILO. 2003. *"Trafficking in human beings: New approaches to combating the problem"* (Geneva).

ILO. 2005. *"A global alliance against forced labour"* (Geneva).

ILO. 2005. *"Human trafficking and forced labour exploitation: Guidance for legislation and law enforcement"* (Geneva).

ILO. 2006. *"Labour Inspection"*. General Survey. International Labour Conference, 95th Session, Report III (Part 1B) (Geneva).

ILO. 2006. *"Trafficking for forced labour: How to monitor the recruitment of migrant workers. A training manual"* (Geneva).

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## References and further reading

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ILO. 2007. *"Eradication of forced labour"* General Survey. International Labour Conference, 96th Session, Report III (Part 1B) (Geneva).

ILO/IPEC & RuralNet Associates. 2007. *"Working paper on the nature and extent of child trafficking in Zambia"* (Lusaka).

ILO. 2008. *"Forced labour and human trafficking: A toolkit for trade unions in Zambia"* (Geneva, SAP-FL).

International Organization for Migration. 2003. *"Seduction, sale and slavery: Trafficking in women and children for sexual exploitation in southern Africa"* (Pretoria).

International Organization for Migration. 2005. *"A counter-trafficking handbook for law enforcement officers in southern Africa"* (Pretoria).

International Trade Union Confederation. Forthcoming. *"Mini-action guide on forced labour"* (Brussels).

Mutesa, F & Matenga, C. 2008. *"Private recruitment agencies and practices in Zambia"* (Lusaka, Ministry of Labour and Social Security/ILO).

Organization for Security and Co-operation in Europe/Office for Democratic Institutions and Human Rights. 2004. *"National referral mechanisms: Joining efforts to protect the rights of trafficked persons. A practical handbook"* (Warsaw).

Petrauskis, C. 2006. *"Employee vulnerability in Zambia: A policy guide to casualisation, minimum wage and the dignity of work"* (Lusaka, Jesuit Centre for Theological Reflection).

Republic of Zambia. 2006. *"National child policy 2006"* (Lusaka, Ministry of Sport, Youth and Child Development).

Republic of Zambia. Undated. *"Zambia's 3rd periodic report on the implementation of the Covenant on Civil and Political Right"* (Lusaka).

Rice, A (ed.). 2006. *"A toolkit for Labour Inspectors: A model enforcement policy, a training and operations manual, a code of ethical behaviour"* (ILO, Budapest).

UNAIDS. 2006. *"Report on the global AIDS epidemic"* (Geneva and New York).

United Nations Economic and Social Council. 2002. *"Recommended principles and guidelines on human rights and human trafficking"*. Report of the United Nations Commissioner for Human Rights, Addendum to Substantive Session (New York), also available at <http://www.unhcrh.ch/html/menu6/2/trafficking.doc>.

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## References and further reading

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UNICEF Innocenti Insight. 2003 *"Trafficking in human beings, especially women and children, in Africa"* (Italy).

United Nations Office on Drugs and Crime. 2006. *"Toolkit to combat trafficking in persons"* (Vienna).

World Health Organization. 2003. *"WHO ethical and safety recommendations for interviewing trafficked women"* (Switzerland).

US Department of State. *"Trafficking in persons report"*  
<http://www.state.gov/g/tip/rls/tiprpt/>

## Websites

Amnesty International: <http://www.amnesty.org>

Anti-Slavery International: <http://www.antislavery.org>

Global Alliance Against Traffic in Women: <http://www.gaatw.org>

Human Rights Watch: <http://www.hrw.org>

International Association of Labour Inspection: <http://www.iali-aiit.org>

International Labour Organization: <http://www.ilo.org>

ILO Lusaka: <http://www.ilo.org/lusaka>

ILO Special Action Programme to combat Forced Labour: <http://www.ilo.org/forced-labour>

ILO International Programme on the Elimination of Child Labour:  
<http://www.ilo.org/childlabour>

International Organization for Migration: <http://www.iom.int>

International Trade Union Confederation: <http://www.ituc-csi.org>

United Nations Educational, Scientific and Cultural Organization:  
<http://www.unesco.org/shs/humantrafficking>

UNICEF: <http://www.unicef.org>.

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## **Annex 1: Cooperating partners**

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Labour officers should not operate alone when dealing with forced labour and trafficking. These are criminal acts that sometimes require law enforcement intervention. Of course, it may not always be appropriate to rely on law enforcement. Victims of forced labour and trafficking, whether they are Zambian or not, should be treated with sensitivity and may require services other than those provided by the police or immigration authorities. Some of the partners that labour officers may call upon to deal with situations of forced labour and trafficking are listed below. There are also numerous small NGOs and community/faith based groups that labour officers are aware of and can contact for support.

- Anti-Corruption Commission
- District Commissioner
- Ministry of Community Development and Social Services (PO Box 31958, Lusaka)
- Ministry of Education (PO Box 50093, Lusaka)
- Ministry of Home Affairs (Police, Victim Support Unit, Immigration, Drug Enforcement Commission) (PO Box 50997, Lusaka)
- Ministry of Sport, Youth and Child Development (PO Box 50195, Lusaka)
- Office of the President
- Resident Development Committees

### **National and International Organizations**

- Children in Need Network (PO Box 30118, Lusaka)
- Human Rights Commission (Human Rights House, PO Box 33812, Lusaka)
- International Labour Organization (ILO) (PO Box 32181, Lusaka)
- International Organization for Migration (IOM) (PO Box 32181, Lusaka)
- United Nations Children's Fund (UNICEF) (UN House, PO Box 31966, Lusaka)
- United Nations Joint Trafficking Programme, (c/o IOM, PO Box, 32181, Lusaka)

## **Annex 1: Cooperating partners**

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- United Nations Refugee Agency (UNHCR) (Horizon House, Leopard's Hill Road, Lusaka)
- Trafficking hotline +990
- Young Women's Christian Association (YWCA) (PO Box 50115, Lusaka)

### **Trade unions (including affiliates) and employers' organizations**

- Alliance of Zambian Informal Economy Association (PO Box 20652, Kitwe)
  - Cross Border Traders Association (PO Box 30466, Lusaka)
  - Free Federation of Trade Unions of Zambia (FFTUZ) (Woodgate House, PO Box 34739, Lusaka)
  - International Federation of Workers' Education Association (PO Box 20652, Kitwe)
  - International Trade Union Confederation, African Regional Organisation: [info@ituc-africa.org](mailto:info@ituc-africa.org)
  - International Trade Union Confederation (Brussels), Global Trade Union Alliance to Combat Forced Labour and Trafficking: [forcedlabour@ituc-csi.org](mailto:forcedlabour@ituc-csi.org)
  - United House and Domestic Workers Union (PO Box 31146, Lusaka)
  - Zambian Congress of Trade Unions (ZCTU) (PO Box 20652, Kitwe)
  - Zambian Federation of Employers (ZFE) (PO Box 31941, Lusaka)
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## Annex 2: Labour Inspection Convention, 1947 (No. 81)<sup>36</sup>

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Benchmarks for effective labour inspection:

- Labour inspection should be organized as a system (Article 1) applying to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers are enforceable (Article 2).
- It should cover a basic set of functions, such as hours of work, wages, safety, health and welfare, the employment of children and young persons, and other connected matters (Article 3).
- Inspectors should supply information and advice to employers and workers on how to comply with the law, and alert the competent authorities on any defects or abuses not covered by existing legal provisions (Article 3.1).
- Labour inspection should be placed under the supervision and control of a central authority (Article 4.1).
- Effective cooperation with other government services and public or private institutions engaged in labour protection, as well as with employers and workers and their organizations must be promoted (Article 5).
- Inspectors must be public officials assured of stability of employment and independent of changes of government and improper external influences (Article 6).
- They must be recruited with sole regard to their qualifications and adequately trained for the performance of their duties (Article 7).
- Their number must be sufficient to secure the effective discharge of these duties in regard to *inter alia* the number, nature, size and situation of workplaces, the number of workers employed, and the number and complexity of the legal provision to be enforced (Article 10).
- They must be properly equipped with local offices and transport facilities (Article 11).
- They must be provided with proper credentials and properly empowered (Article 12 and 13).
- Workplaces must be inspected as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions (Article 16).
- Adequate penalties for violations of legal provisions enforceable by labour inspectors and for obstructing labour inspectors in the performance of their duties must be provided for by national laws or regulations and effectively enforced (Article 18).

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36. This Convention has not yet been ratified by Zambia.



## **Annex 3: Identifying cases of forced labour and trafficking: Zambian cases for discussion**

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The following cases are all genuine and took place in Zambia. Some of the cases relate to labour exploitation, while others are of forced labour and trafficking. Discuss with colleagues whether they are cases of labour exploitation, forced labour and/ or trafficking and how they could be dealt with. Remember, not all cases are clearly forced labour situations.

### **Case one**

My job [as a maid] is bad because I have no public holiday. I only rest on Sunday because that is the day my boss is at home. As a maid, there are no benefits. We are hired and fired at will. I work from 07.00 to 18.00. Even when I am not feeling okay, I have to report for work because if I don't, that means my salary will be cut for the days I was sick.

This case is one of labour exploitation, but not forced labour. The maid is free to leave the job, and she is apparently being paid, but she is not getting the holiday or sick days she is due.

### **Case two**

The workers were contracted to carry out three months of piecework for which they would receive K350,000 upon completion. Two days before completion, the employer increased the volume of work and extended the period to four months without telling the workers anything or renegotiating the wages. At the end of the four months, the employer said he was going to pay only the agreed K350,000 and nothing extra. He accused the workers of being lazy and failing to meet their deadline. The workers felt exploited.

This is probably a case of forced labour because the workers had agreed to a specific job and salary but were deceived about the length of the contract. The employees had agreed to work for a set period of three months but were made to work an extra month for no extra money. This was done without their agreement. They had no choice but to continue working the extra month as they had not received the wages they were due. However, it is not clear whether they were physically prevented from leaving, for example by threats or because they were in a distant place.

### **Case three**

Landilani is 22 years old. When Landilani was 19, his father arranged for his employment by a businesswoman he knew in Chipata who would come to their village buying gemstones. He travelled to Chipata by open van, paid for by his prospective employer.

When he got to Chipata, Landilani and the employer agreed a salary of K150,000 per month. He lived at a restaurant where he also had his meals. He worked as a guard at the restaurant. His duties also included sweeping, cleaning, washing plates, watering flowers, working at the farm, moulding and burning bricks. He worked for three months in Chipata without receiving his salary, only an occasional K10,000 to buy clothes. He was then enticed to leave this employment by the nephew of the employer and prom-

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### Annex 3: Identifying cases of forced labour and trafficking: Zambian cases for discussion

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ised a job in Katete in charge of pool tables at a salary of K350,000 per month. He ran away from his Chipata employer to work for the nephew at the night club. For the first two weeks after arrival, Landilani had to work at his new employer's gemstone mine, digging in the mine and collecting food from Chipata for the miners. Then he was moved to the night club. His employer provided him a rented room but said food was Landilani's responsibility. He worked at the night club for two years without receiving a salary. When he started to ask his employer about his salary, he was told to stop work as another person had been recruited in his place. The employer offered Landilani transport back to the village. To survive, Landilani began doing piece work and getting food from friends. He also paid a bailiff to collect his outstanding dues. The bailiff and employer were friends, however, and the case was stalled. Landilani only received K100,000 of what he was owed.

This case is one of forced labour, as Landilani was not paid his promised salary over an extended period, which kept him in the jobs against his will. When Landilani started to complain, he was dismissed and replaced by another victim. It may also be a case of trafficking, as both cases involved movement, but it is not entirely clear if Landilani moved of his own free will or not. It does seem likely, however, that both employers were abusing his vulnerability, insofar as he was a young man and, on the second occasion, also away from home and in a difficult situation.

#### **Case four**

A group of men were employed as shop assistants at a supermarket. They had been working for five months without being paid their monthly wages, supposedly on the grounds that the shop was facing liquidity problems. When their employment was terminated, they were not paid their wages or their terminal benefits.

In this case, it is not clear whether the employer had genuine financial difficulties, or just used this as an excuse to exploit the workers. If the employer never intended to pay the workers, then this would be a case of forced labour, as the workers were obliged to continue working in the hope of being paid, which they never were. However, even if the excuse was genuine, non-payment of wages is still an obvious breach of employment law.

#### **Case five**

A male security guard in Kitwe claimed his company's client was forcing him to do gardening on top of his contracted duties for no extra money. He alleged that when he told the company, they promised to talk to the client but never did. The guard believes they never will as this client is one of the biggest they have.

This is a case of labour exploitation, as the employee is being made to do two jobs instead of the one he was employed to do. However, based on the information provided, it would appear that the guard is able to leave the employment without any threat or penalty, and has been regularly paid.

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### **Case six**

The employer found the employee working at a bakery in Mufilira. He promised her a higher pay if she came to work at his shop in Kitwe. When they reached Kitwe, the employer told her that he was still preparing her position at the shop but that in the meantime she should help out with the housework as a small token, especially as his wife was nursing accident injuries. After helping out for more than six months, the employee's services were terminated without reason and she was not given any transport money to return to Mufilira.

This seems to be a case of trafficking for forced labour, as the employee was moved from Mufilira to Kitwe with the promise of a job in a shop. However, she was instead made to work as a maid and carer and then fired for no reason. The case does not indicate whether she was paid for her work, but this is irrelevant as she was moved and made to do a job she did not agree to.



# Annex 4: Labour complaints recording form developed by MLSS

MINISTRY OF LABOUR AND SOCIAL SECURITY



## LABOUR COMPLAINT FORM/CASE RECORD

### PART A:

#### PERSONAL DETAILS

Name of Complainant: \_\_\_\_\_

Age: \_\_\_\_\_

NRC: \_\_\_\_\_

Organisation/Company: \_\_\_\_\_

Post: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Children: \_\_\_\_\_

Residential Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

### PART B:

NATURE OF COMPLAINT: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Annex 4: Labour complaints recording form developed by MLSS

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**PART C:**

**ACTION TAKEN:** \_\_\_\_\_

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**PART D:**

**NAME OF OFFICER:** \_\_\_\_\_

**PART E:**

**OUTCOME OF THE CASE:** \_\_\_\_\_

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**PART F:**

**CASE RECORD NO:** \_\_\_\_\_

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**PART G:**

**REMARKS:** \_\_\_\_\_

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Signature

Date

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## Annex 5: Ten guiding principles to the ethical and safe conduct of interviews with women who have been trafficked

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The following is taken from the World Health Organization's *"Ethical and safety recommendations for interviewing trafficked women"*. The same principles should be applied when dealing with (non-trafficked) victims of forced labour, and adapted as necessary to the circumstances and needs of male victims of both crimes.

- (1) **Do no harm** - Treat each woman and the situation as if the potential for harm is extreme until there is evidence to the contrary. Do not undertake any interview that will make a woman's situation worse in the short term or longer term.
  - (2) **Know your subject and assess the risks** - Learn the risks associated with trafficking and each woman's case before undertaking an interview.
  - (3) **Prepare referral information - do not make promises that you cannot fulfil** - Be prepared to provide information in a woman's native language and the local language (if different) about appropriate legal, health, shelter, social support and security services, and to help with referral, if requested.
  - (4) **Adequately select and prepare interpreters, and co-workers** - Weigh the risks and benefits associated with employing interpreters, co-workers or others, and develop adequate methods for screening and training.
  - (5) **Ensure anonymity and confidentiality** - Protect a respondents' identity and confidentiality throughout the entire interview process - from the moment she is contacted through the time that details of her case are made public.
  - (6) **Get informed consent** - Make certain that each respondent clearly understands the content and purpose of the interview, the intended use of the information, her right not to answer questions, her right to terminate the interview at any time, and her right to put restrictions on how the information is used.
  - (7) **Listen to and respect each woman's assessment of her situation and risks to her safety** - Recognize that each woman will have different concerns, and that the way she views her concerns may be different from how others might assess them.
  - (8) **Do not re-traumatize a woman** - Do not ask questions intended to provoke an emotionally charged response. Be prepared to respond to a woman's distress and highlight her strengths.
  - (9) **Be prepared for emergency intervention** - Be prepared to respond if a woman says she is in imminent danger.
  - (10) **Put information collected to good use** - Use information in a way that benefits an individual woman or that advances the development of good policies and interventions for trafficked women generally.
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