



International
Labour
Office

Forced labour and human trafficking

**A toolkit for
trade unions
in Zambia**

**Special Action
Programme
to combat
Forced Labour**

Forced labour and human trafficking

A toolkit for trade unions in Zambia

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Designed by Glenn Shaw
Printed in France

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Foreword

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.

The International Labour Organization is at the forefront of efforts to combat forced labour and human trafficking, collaborating with many partners at international and national levels. We are 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, and the elimination of forced labour, child labour and discrimination at work - are respected everywhere.

This toolkit for trade unions was developed as part of a project on forced labour and trafficking in Zambia, involving the ILO constituents. The project was initiated at the request of the Ministry of Labour and Social Security, and started with research in 2007 to assess whether and what sort of forced labour problems exist in the country. Earlier ILO research by the International Programme on the Elimination of Child Labour (IPEC) in 2006 confirmed the occurrence of child trafficking, both internally and cross-border. The SAP-FL research further confirmed the existence of trafficking, forced labour and severe labour exploitation of youths and adults, in various economic sectors both within and outside Zambia.

While the main responsibility for ensuring freedom from forced labour and trafficking lies with governments, trade unions have a crucial role to play. Trade unions are in the front line, defending and protecting the rights of workers, and hold a unique position with regard to identifying where forced labour and trafficking problems occur and in pushing for, and taking, action to address them.

This toolkit was developed in collaboration with trade unions in Zambia. It aims to provide practical guidance and suggestions that will allow trade union officers and members to recognize forced labour and to take action to prevent it and assist its victims.

Our intention is to develop the toolkit further in subsequent editions, making it widely available for use in other countries and regions where trade unions are committed to being active partners in the urgent global fight against forced labour and human trafficking.



Roger Plant

Head, Special Action Programme to combat Forced Labour
Programme for the Promotion of the Declaration on Fundamental Principles and Rights at Work
forcedlabour@ilo.org

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This toolkit for trade unions was developed through a consultative process involving representatives of the following trade unions in Zambia:

Free Federation of Trade Unions of Zambia
National Union of Agriculture and Plantation Workers
United House and Domestic Workers Union of Zambia
Zambia Congress of Trade Unions
Zambia National Union of Teachers

The Zambia Federation of Employers and the Ministry of Labour and Social Security were also part of the consultative process.

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. Additional comments and assistance were provided by Birgitte Poulsen (International Programme for the Elimination of Child Labour (IPEC), Lusaka), Christina Holmgren (International Labour Standards Specialist, Addis Ababa), Claude Akpokavie (ILO Bureau for Workers' Activities (ACTRAV), Geneva), Hans van de Glind (IPEC, Geneva) and Philip Hunter (SAP-FL). Jeroen Beirnaert, the Brussels-based coordinator of the International Trade Union Confederation (ITUC) global programme against forced labour and human trafficking also provided helpful comments on the draft toolkit. 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.

A number of existing ILO resources and publications were drawn on. Particular recognition is given to the ILO/ACTRAV training kit: *"Trade unions and child labour"* (ILO, 2000) from which much of the content of section five is adapted. Extensive use is made of 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).

The research and toolkit production was possible thanks to financial support provided by the governments of Ireland, Sweden and the United Kingdom (DFID) to SAP-FL. Additional contributions were generously made by IPEC, through funding from the United States Department of Labor and by the ILO-Lusaka office's regular budget for Technical Co-operation.

This is the first edition of the toolkit. Suggestions from readers and users for improving it are very welcome, and should be sent by email to SAP-FL in Geneva, at: forcedlabour@ilo.org.

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Acronyms

C29	ILO Forced Labour Convention, 1930 (No.29)
C105	ILO Abolition of Forced Labour Convention, 1957 (No.105)
CEACR	Committee of Experts on the Application of Conventions and Recommendations
DR Congo or Congo	Democratic Republic of Congo
FNDP	Fifth National Development Plan
GUF	Global Union Federation
HRC	Human Rights Commission
IFA	International Framework Agreement
ICFTU	International Confederation of Free Trade Unions
ILO	International Labour Organization/Office
ILO/ACTRAV	ILO Bureau of Workers' Activities
ILO/IPEC	ILO International Programme on the Elimination of Child Labour
ILO/SAP-FL	ILO Special Action Programme to Combat Forced Labour
IMF	International Metalworkers' Federation
IOM	International Organization for Migration
ITUC	International Trade Union Confederation
MLSS	Zambian Ministry of Labour and Social Security
NGO	Non-Governmental Organization
NRC	National Registration Card
SSOs	Solidarity Support Organizations
TCLC	Tripartite Consultative Labour Council
TU	Trade Union
TUC	Trade Union Congress
UNICEF	United Nations Children's Fund

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

Part 1:

Forced labour and human trafficking: Understanding the problems



This young girl in Tanzania is a domestic worker and works for no salary. She does all the housework, from dawn to dusk, and takes care of the children. © ILO/ M. Crozet

Part I: Forced labour and human trafficking: Understanding the problems

Introduction

The problems of forced labour and human trafficking are increasingly recognized the world over, with trafficking often referred to as a modern form of slavery. The terms 'forced' and 'slave' labour conjure up images of shackled workers, bonded to an employer under inhuman working conditions. However, forced labour nowadays can be much more subtle, with the worker's freedom of movement restricted not by shackles but by the withholding of wages or identity documents, yet still in complete violation of his or her human rights. These new forms of slavery must be abolished to ensure that all workers enjoy decent work in conditions which respect their human rights and their dignity. Research in Zambia, including by the ILO, has found that forced labour and trafficking exist in the country, and, like elsewhere in the world, urgent preventive and protective action must be taken to put an end to these abuses.

Trade unions secure workers' rights and ensure decent working conditions, so they are key partners in combating forced labour and trafficking. Trade unions have many important priorities to tackle, often with limited resources, but forced labour and trafficking, when they are uncovered, are abuses which no-one should ignore or fail to

act against. This toolkit provides background information to trade unions and their members on the problems of forced labour and trafficking, how they apply to Zambia and what international and national legislation exists to combat them. The toolkit also outlines why trade unions should become involved in tackling these problems, and suggests various practical activities that trade unions can carry out against them.

How to use the toolkit

The toolkit is both an information resource for those readers who simply want to know more about forced labour and trafficking in Zambia (Part 1); and a guide to action for those who wish to become partners in the fight against these problems (Part 2). Trade union leaders and officials at headquarters or provincial secretariats can use the toolkit to reach their members and the communities in which they live. The sections in Part 1 can be adapted for use in, for example, newsletters or worker education programmes, so that trade union members become more knowledgeable and aware. Part 2 provides specific activities that can be undertaken by officers or members to join the fight against forced labour and trafficking.

Section one: Definitions and background

What is forced labour?

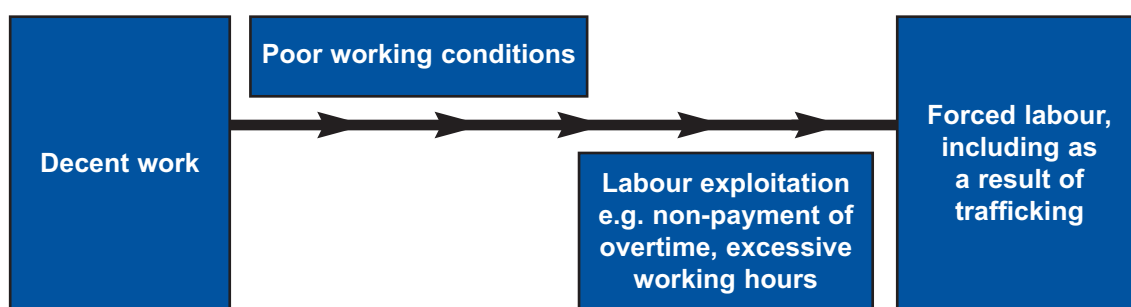
The definition of forced labour comes from the ILO Forced Labour Convention, 1930 (No.29), ratified by Zambia in 1964. Article 2 (1) of the Convention defines forced labour as:

"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.



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Section one: Definitions and background

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.

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

Convention 29 provides for certain exemptions, as follows:

- any work or service under compulsory military service that is of a purely military character;
- any work or service that forms part of the normal civic obligations of the citizens;
- 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
- 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;
- 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 ILO², 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.

By region:	Victims
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.

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

What is human trafficking?³

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.

“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.”

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

3. For ease of communication, the term human trafficking is often abbreviated to trafficking.

Section one: Definitions and background

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 adults⁴

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

Trafficking of children, aged less than 18 years

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

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

Section one: Definitions and background

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.⁵

According to IOM⁶, in relation to trafficking for sexual exploitation only, the problem is significant in southern Africa. Angola, Botswana, Democratic Republic of Congo, Lesotho, Mozambique, Malawi, South Africa, Swaziland, Tanzania, Zimbabwe and Zambia are source countries for trafficking, while Botswana, Malawi, Mozambique, South Africa, Tanzania, Zambia and Zimbabwe are transit countries. South Africa is a destination country for regional and extra-regional trafficking. Victims leaving southern Africa are trafficked to Thailand, China and Eastern Europe.

The worst forms of child labour, including forced labour⁷

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).⁸ 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.

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

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

7. 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.

8. This Convention was ratified by Zambia in 2001.

Section one: Definitions and background

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. This Convention 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.

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 disasters⁹, 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.



9. These migrants are often refugees or internally displaced persons.

Section one: Definitions and background

Further reading:

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).

ILO. 2000. *"Trade unions and child labour"* (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. 2006. *"Trafficking for forced labour: How to monitor the recruitment of migrant workers. A training manual"* (Geneva).

ILO. 2007. *"Eradication of forced labour"* (Geneva).

ILO/IPEC. 2007. *"Child trafficking: The ILO's response through IPEC"* (Geneva).

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).

ITUC. Forthcoming. *"Mini-action guide on forced labour"* (Brussels).

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

US State Department. 2008. *"The annual trafficking in persons report - 2008"*, <http://www.state.gov/g/tip/rls/tiprpt/2008>



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Section two: Forced labour and trafficking in Zambia



Human trafficking in Zambia

Trafficking of humans for sexual and labour exploitation is acknowledged to be taking place in Zambia. Zambia is recognised 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.^{10/11} 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.¹²

There is evidence that Zambian women and children are trafficked for sexual exploitation from Zambia to Malawi and then on to Europe.¹³ Zambia is also a destination country for labour trafficking, as the following two newspaper reports illustrate. In the first report, a Zambian national was arrested taking six children and two elderly Malawians into Zambia. The man told the authorities that he was taking them to his farm

where they would work as peasants. The man was fined Malawian Kwacha 50,000 (US\$400) but remained in prison charged with the attempted kidnapping of the children.¹⁴ In the second report, another Zambian national was arrested trying to take 15 children - boys aged between nine and 15 years - from Malawi into Zambia. The man was fined Malawian Kwacha 24,000 (US\$200).¹⁵

As a transit country, Zambia is implicated in the onward trafficking of refugees and other vulnerable people from Angola, the Great Lakes region and Democratic Republic of Congo to South Africa.¹⁶ Furthermore, there is evidence to suggest that children are trafficked on from South Africa or Botswana to third countries such as USA, Israel and Russia.¹⁷

“In 2004 a Congolese woman was stopped at the Zambian border bringing in 14 Congolese girls on the way to South Africa with the promises of jobs.¹⁸ The International Organization for Migration, along with non-governmental organizations, provided support to the children and the principal trafficker was arrested. She was later released after being fined two million Kwacha.”¹⁹

10. 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.

11. US State Department: *The annual trafficking in persons report - 2008*, <http://www.state.gov/g/tip>

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

13. Research conducted in the United Kingdom by the Child Exploitation and Online Protection Centre found at least one case of a Zambian child trafficked to the UK.

14. *Another Zambian in child trafficking scam*, Nation Malawi (date unknown).

15. *Outrage over lenient fine for trafficking boys* (24 August 2005) <http://www.irinnews.org>

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

Section two: Forced labour and trafficking in Zambia

In March 2008 the media reported a case of 42 Congolese nationals who were thought to be victims of traffickers, or even traffickers themselves. They were all intercepted going to South Africa by the Immigration Department in Lusaka. Twenty-six of the offenders were found in Lusaka and repatriated back to the Congo, while 16 were held in detention in Kabwe (Central Province).

"We could not detain the Congolese nationals who were arrested in Lusaka because most of them were women with children as young as six month old" Ms Mbangweta [the immigration officer] said. "From the interviews we have conducted so far, they look like they were being trafficked to South Africa. When people are trafficked, they do not know where they are going and where they are", she said. Immigration officers arrested 16 Congolese nationals in Kabwe last week and picked up leads from them that another larger group had proceeded to Lusaka. An unknown group of human traffickers is behind the scheme to move the Congolese nationals to South Africa."²⁰

Child trafficking in Zambia

Evidence from research conducted by the International Labour Organization²¹ in 2007 and from media reports shows that internal trafficking is also rife in Zambia. Internal trafficking appears to be the most dominant form of trafficking in Zambia. The ILO research on child trafficking found that children were trafficked for a number of purposes, including domestic work, agricultural work, street hawking and prostitution. The 2007 TIP report supports this, stating that: "Child prostitution exists in Zambia's urban centres, often encouraged or facilitated by relatives and acquaintances of the victim. Many Zambian child labourers, particularly those in agriculture, domestic service, and fishing sectors, are also victims of human trafficking".²² The ILO research found that anybody could be a trafficker - for example, members of the church, truck drivers, would-be

husbands, business people and cross-border traders, in addition to relatives, acquaintances and friends. 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."²³

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".²⁴ 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".²⁵

17. *Child trafficking: Does it exist in Zambia?*, (15 March 2005) <http://www.allafrica.com>

18. US Department of State: *The annual trafficking in persons report - 2005*, <http://www.state.gov/g/tip>

19. *Permanent Secretary condemns ZMK2m fine on human trafficker*, (15 June 2005) <http://allafrica.com>

20. *42 nabbed over human trafficking*, Daily Mail (5 March 2008).

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

22. US State Department: *The annual trafficking in persons report - 2007*, <http://www.state.gov/t/tip>

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

Section two: Forced labour and trafficking in Zambia

Many factors make a child more vulnerable to trafficking. Within Zambia the following were found by the ILO/IPEC research²⁶ on children:

- Poverty is often cited as the main cause of trafficking, usually linked to other factors. It can push children to accept offers of work so that they can either contribute money to their families or simply provide for themselves.
- The HIV and AIDS pandemic has created a large number of orphans.²⁷ Orphans are often vulnerable as they lack support networks to protect them.
- Cultural factors contribute to internal trafficking especially. It is accepted that children can be 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 rates of poverty, 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.

Forced labour, trafficking and migration in Zambia

The following information is taken from research carried out by ILO in Zambia during 2007/2008 into migration, forced labour and trafficking, and the links between the three.²⁸ Three pieces of research were carried out as part of the study. The first looked at the practices of recruitment agencies in Zambia, the second studied labour complaints collected by four provincial labour officers and the Human Rights Commission, and the third field-researched migration, forced labour and trafficking. The findings of the third piece of research are summarised below.

Who are the victims and traffickers?

The victims of trafficking are women and children, although some felt that men, due to being strong and able to work on farms, were also potential victims. This was largely supported by case studies. A number of cases of male victims were also recorded. The traffickers were considered to 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.

Reasons for migration and trafficking

The main reasons for migrating or becoming vulnerable to trafficking were: search for better economic or employment opportunities; better living conditions; lack of local economic opportunities; poverty; looking for a better life; ignorance; education/ studies, and joining family members who have already migrated abroad. The following reasons for migration into Zambia were given: investment and job opportunities; trading; tourism; prevailing peace; relaxed laws, and running away from a bad economic situation in neighbouring countries.

Means of transportation, routes and documentation

Migrants and/or trafficked victims travel by air, rail or land to their point of destination; although in a small number of cases migrants were known to have walked. Land transport was more common than flying for people migrating within the region. Not only is road transport cheaper, it is also easier for irregular migrants and traffickers because of comparatively lax border controls. Truck drivers were repeatedly referred to as transporters of migrants, and traffickers of women for prostitution. Because Zambia is landlocked and borders seven different countries, migrants use various means to cross borders. Some use legal immigration routes, while others use bush paths that circumvent immigration.

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

25. Ibid.

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

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

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

Section two: Forced labour and trafficking in Zambia

Zambians were thought to travel with genuine passports whereas the Congolese, for example, often travel on fraudulent documents because it can be difficult to obtain genuine documents in the Democratic Republic of Congo. Professional migrants often obtain work permits before travelling, while non-skilled workers travel without work permits with the intention of finding work at their destination.

"Something must be done here in Zambia because most of the Zambian ladies have a bad reputation for prostitution and there are a lot that side [South Africa]. So if something can be done because we will not have a good reputation if this continues, because most of them are taken there by people who lie to them."

South Africa was repeatedly cited as the most common destination for Zambian migrants and victims of trafficking. A number of victims confirmed this.

Tanzania was also cited as a destination, particularly for women involved in prostitution. Other neighbouring countries such as Botswana were also mentioned. Immigration officers find it difficult to apprehend traffickers because of weak legislation. In cases where the potential victims are in transit through Zambia, immigration officers find it difficult to stop onward movement.

Types of work undertaken by migrants and victims of trafficking and forced labour

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 is the predominant form of work, along with agriculture, mining and other labour intensive work. For non-Zambians migrating into Zambia, it was thought 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. Prostitution was cited as a form of exploitation resulting from trafficking, as were agricultural work, construction and retail.

The conditions faced by migrant workers are often deemed exploitative and poor. Examples cited include cases of many Malawians who, having worked an agricultural season were not paid, despite promises. Domestic workers are also vulnerable to exploitation with long working

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.

Section two: Forced labour and trafficking in 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.

hours, low pay, and often cases of sexual harassment. The position of the migrant away from home and desperate for work, places them in a position where they can easily be exploited by their employers. The forms of exploitation (long hours, unpaid wages and poor working conditions) were similar to cases recorded by Ministry of Labour and Social Security (MLSS) officers (see next section).

Contractors to a mine in Congo were employing Zambians under poor working conditions. An informant said: "People employed here were promised housing allowances, transport allowance as well as a salary. There were no houses at the mines. They moved to the mine area and put up small shelters. After three months, workers came to HQ to get their dues and were only given a salary. Other allowances were not given. There was no signed contract. The employer changed, saying that he only offered them salary and transport allowance, not housing allowance. Seven people were affected.

Problems within the domestic work sector also became apparent in the forced labour, trafficking and migration research. Children were often cited as victims of trafficking for domestic work - friends and family convince young girls to come to work for them in return for schooling that is rarely provided. However, the child has to work long

hours in the house and is often not allowed to go to school. The majority of adult domestic sector cases related to migrants who had travelled independently and found exploitative jobs. It should be noted, however, that the lack of cases of adults being trafficked for domestic work may be due to these victims being inaccessible to the project researchers and MLSS labour officers.

The boy was 17 years old when he came from Chipangalia area and agreed to look after a man's cattle.

When questioned about the arrangement an informant said: "The agreement was there. Yes. The man who took him said, let's go. I'll employ you. I'll be giving you a certain amount of money. But when they reached, the man changed. He was just using the boy. The boy was not paid for a year."

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.

Labour exploitation and forced labour

Research conducted by ILO in Zambia in 2007/2008²⁹ examined labour-related complaints filed at the MLSS and Human Rights Commission, in order to assess whether there was evidence of labour exploitation and forced labour. It is often very difficult to tell whether a case is one of forced labour or one of severe labour

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

Section two: Forced labour and trafficking in Zambia

An 18 year old woman, Beatrice, was recruited as a domestic worker by a doctor who was 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 and 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 simply disciplining her.

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 offices³¹ 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 complainants³² 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.

31. The labour officers were based in Chipata, Kitwe, Livingstone and Lusaka. Each researcher collected approximately 300 cases and recorded the details of the case. In each office, labour officers were employed for 15 days to examine the complaints registered in that office between 2003 and 2008, and to fill out a data sheet for each case considered to represent an instance of labour exploitation, forced labour or trafficking.

32. 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.

Section two: Forced labour and trafficking in Zambia

The public sector

In total, 27% of all complaints (87) collected by the HRC³³ involved the government. 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 are 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%.

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 employee claimed that he was suspended from a publicly-owned company and put on half pay without being given the opportunity to be heard. Before his suspension, he was forced to work overtime against his will for very long hours because of manpower shortages. He was not paid for these hours. He felt exploited and was arbitrarily suspended.

The private sector

In total, complaints were recorded in 21 employment sectors, with the highest number of complaints received by sector found below. 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.

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

Reasons for complaints

The top three reasons for complaints were as follows:

Reason	MLSS		Reason	HRC ³⁴	
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%

33. 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.

34. 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

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.

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 domestic workers in particular, to have their National Registration Cards (NRC) withheld by their employers as a means to ensure that the worker did 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.

Section two: Forced labour and trafficking in Zambia

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

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.

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.

A male gardener working at a private residence in Kitwe complained that he had not been paid for 18 months. He claimed that every time he asked his employer for his wages, his employer told him to wait, especially as he had provided food and second-hand clothes.



Section two: Forced labour and trafficking in Zambia

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.

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<http://www.irinnews.org/Report.aspx?ReportId=56005>.

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Section three: National legislation and policies

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.³⁵

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 20 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 (see below), 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.

Father jailed for selling 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.

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"³⁶

The judge, when handing down the sentence, indicated that by not exceeding 20 years, he had given a lenient sentence because of the defendant's mitigating circumstances. This case was the first prosecution under trafficking legislation introduced under the Penal Code in 2005. Prior to this, there was no trafficking legislation in Zambia.

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

36. *Father jailed for selling his son*, *Zambian Daily Mail*, available at www.zamnet.zm

Section three: National legislation and policies

The first recognised 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'.³⁷ 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.³⁸

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).³⁹ 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.⁴⁰

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



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37. 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.

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

39. Zambia ratified C138 in 1976 and C182 in 2001.

40. 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

(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.

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.⁴¹

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 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".

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

Part 2:

Action by trade unions against forced labour and trafficking



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Section four: Role of trade unions in combating forced labour and trafficking

Governments have the responsibility to ensure that national legislation reflects the international commitments that they have entered into, and that these laws are fully and effectively implemented in practice.

Trade unions have an important complementary role to play, to ensure that the government lives up to its commitments, and to defend all workers whose rights have been violated. Trade unions can achieve this through actions like policy advocacy and development, organizing workers, raising awareness and monitoring and reporting violations.

Trade unions have a large collective voice, which can be used to help sensitize and mobilize communities and governments to take action against forced labour and trafficking. As Zambia has ratified all the eight ILO fundamental Conventions, including Conventions 29 and 105, trade unions should also work to make certain that the government meets its obligations to ensure respect for all the fundamental Conventions in law and practice.⁴²

These fundamental Conventions concern the four principles that are covered under the ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998. These principles are:

- The right to form and join a trade union, or employers' organization, and to bargain collectively;
- freedom from forced or compulsory labour;
- freedom from child labour;
- freedom from discrimination at work.

Fighting forced labour and trafficking should be a priority for all trade unionists. Not only do these practices represent terrible violations of workers' human rights, but they can also negatively affect unions' bargaining power. Workers in forced labour and trafficking situations are a source of cheap labour, which may make it difficult for unions to bargain with employers for a decent wage for other, 'free', unionised workers. It is thus in the interests of trade unions and their members

also to help create the social climate - a broad-based consensus that forced labour and trafficking are intolerable practices wherever they occur - which will ensure that these problems can be sustainably eliminated in the long term.

The problems of forced labour and trafficking can affect any worker, whether they are employed in the formal or informal economy. However, it is recognised that most workers affected by forced labour are likely to be working in the informal economy, where trade unions often encounter challenges to recruit members and operate effectively. But this should not deter trade unions from action, as they have a responsibility to defend the rights of all workers, irrespective of their status or sector.

Trade union leaders, members and other non-unionised workers can be categorized into the following groups:

- those with the ability to be 'change agents' at the workplace or community level;
- those who are knowingly or unwittingly employers of trafficked or forced labour victims, particularly of domestic workers;
- those who are actual or potential trafficking or forced labour victims themselves, and
- those who may become part of a vigilance network to detect and take appropriate action in cases of forced labour and trafficking.

Workers can fall into one or several of the categories listed above. All trade unionists have the ability to be both 'change agents' and part of a vigilance network against forced labour and trafficking, as they are uniquely well-placed to have access to workplaces and workers, and to detect where violations of workers' rights are occurring.

42. 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).

Section four: Role of trade unions

What can trade unions do?

Trade union leaders, officials and members can undertake many different activities to tackle forced labour and trafficking, which are explained further in the following section.

These include:

- drawing up trade union policies and action plans to combat forced labour and trafficking;
- awareness raising campaigns, including producing leaflets and posters to raise awareness among members and the general public;
- organizing victims of forced labour and women and men workers who are particularly vulnerable to forced labour and trafficking, such as young women and migrant workers;
- providing legal assistance and support services to victims of forced labour and trafficking;
- mobilizing members and networking with others in the labour movement;
- integrating forced labour and trafficking concerns into workers' education programmes;
- developing model agreements with employers on an industry-wide basis;
- approaching employers to take joint action against forced labour and trafficking;
- building networks and alliances with civil society and other stakeholders;
- ensuring that government legislation is in conformity with Conventions 29 and 105 and that this legislation is enforced;
- identifying, documenting and reporting forced labour and trafficking abuses to appropriate national or local authorities;
- contributing to trade union reports and complaints to the ILO;
- fighting against forced labour on the shop floor.

What resources are needed for trade unions to fight forced labour and trafficking?

Activities to combat forced labour and trafficking do not have to be expensive, but what can be done will obviously depend on the resources available. Trade unions should always look for opportunities to combine or integrate activities related to forced labour and trafficking with other on-going programmes or initiatives. Trade union staff or leaders appointed to look at human rights issues could be trained to take on forced labour and trafficking along with other concerns.

However, before any specific activity can be carried out, there must be an assurance that the necessary human and financial resources are available. Some of the questions that should be asked are:

- Does the union have staff to implement the particular activity?
- If not, do activists need to be recruited to help or are other partners required? If so, which ones?
- Does the union have all the other resources it needs to tackle the problem?
- Are additional resources needed? If so, how and where can they be found?

The following sections describe various things trade union leaders and members can do to work towards the elimination of forced labour and trafficking. The types of activity undertaken will depend in large part on the size and scope of the trade union and on how involved it wants to become in the fight against these abuses.

The activities cover action against both forced labour and trafficking. Unions may choose to focus on one or both issues, but as the two are so closely linked, it would make most sense to tackle both together.

Section five: What can trade unions do?

Activity 1: Developing a policy and an action plan

Aim: To develop a trade union policy and an action plan to guide its implementation.

Policy development

To start working on an issue such as forced labour and trafficking, a union must develop a policy statement stating why it is working on the issue, and how it intends to proceed. Such a policy statement should help trade unionists inform members and non-members of their intention to combat forced labour and trafficking.

Before unions can develop a policy, they should think about:

- the relative importance of the issues of forced labour and trafficking compared to other union priorities;
- the major headings which should be included in the policy;
- the kind of campaign the union would launch;
- the other areas of union work which could incorporate forced labour and trafficking activities.

It is often the case that an organization's policy is developed at the top of the organization and stays at that level. To get a commitment from members and to mobilize them around the issue, there has to be wider membership involvement in policy-making through a process of consultation and information sharing. Once the policy is developed, it is important that it is immediately communicated to the membership.

What is a policy?

A policy provides the trade union with a public statement of what it is committed to work towards. It provides a framework for setting objectives and priorities, and helps determine what kind of activities are undertaken to achieve these objectives. Policy and action are very closely linked: a policy must be implemented for it to be effective and have an impact on the issue it sets out to address. So the development of a policy and action plan should go hand-in-hand.

Development of action plans

With a policy in hand, the union then needs to outline a plan of action designed to implement the policy and achieve its objectives. Why a plan of action? Forced labour and trafficking are difficult, mostly hidden, problems that are not easy to solve. Some practices, particularly in relation to domestic workers, are culturally deeply entrenched. Changing the situation could take many years. A plan should therefore include activities for the longer-term as well as short-term.

Activity 1: Developing a policy and an action plan

This **checklist** may help with the development of an action plan:

- What are the objectives of the plan? Are they clearly stated?
- What actions will be required to achieve the objectives?
- Who will benefit from the different activities planned?
- What resources are needed to implement the plan? What materials and finances will be required and how will these be secured?
- Who within the union will have responsibility for implementing the plan?
- Who will actually carry out the activities? (This need not always be the person who is responsible for the plan).
- What is timeframe for implementing different elements of the plan?

- Does the plan fit in with other union activities?
- Is the planned action aimed at the right level to be successful and to make an impact? For example, a plan which involves action at a local level might be successful, but will it have an impact outside the area?
- What other action is required before the plan can be carried out (for example, information gathering, forming an alliance or committee, appointing a focal point for dealing with forced labour and trafficking issues)?

Implementation

Plans should be reviewed regularly during implementation and strategies adjusted on the basis of experience. A review timetable should be built into the plan and there should be mechanisms in place for monitoring and evaluating its success.



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What can trade unions do?

Activity 1: Developing a policy and an action plan

The ITUC is working closely with the ILO Special Action Programme to combat Forced Labour to build a **Global Trade Union Alliance to Combat Forced Labour and Trafficking** as part of a broader Global Alliance led by the ILO, which involves many other partners as well. The Global Trade Union Alliance aims to build capacity among trade unionists to fight forced labour and human trafficking in a structured and coordinated way. The ITUC is identifying focal points in all regions so as to build a network of trade unionists committed and able to fight forced labour and human trafficking everywhere.

All national centres and trade unions are encouraged by ITUC to become active members of the Global Trade Union Alliance. Its secretariat at the ITUC in Brussels can be contacted for further information and assistance. The ITUC-African Regional Organisation in Nairobi can also provide information.⁴⁴

The International Trade Union Confederation Plan of Action against Forced Labour and Trafficking

In December 2007, the ITUC General Council endorsed a plan of action for campaigning on forced labour and trafficking. This was a fundamental step in forming the Global Trade Union Alliance against Forced Labour and Trafficking. The action points that form the basis of the Global Trade Union Alliance against Forced Labour and Trafficking are:

- the promotion of ratification and effective implementation of ILO Conventions 29 and 105, 81 and 129, 97 and 143, and 181;⁴³
- awareness-raising on forced labour and trafficking issues aimed at trade union members and officials, and the wider public;
- addressing forced labour and trafficking issues in bipartite and tripartite negotiations and agreements;
- promoting political and material support within trade union organizations for the development of policies against forced labour;
- monitoring employment agencies as well as companies and their supply chains to detect and combat forced labour and trafficking practices;
- identification, documentation and public exposure of forced labour issues and cases;
- bilateral, sectoral and regional trade union cooperation agreements and appropriate alliances or coalitions with civil society organizations that have recognised expertise and experience;
- cooperation with labour inspection services, law enforcement and other relevant national, regional or international authorities or interagency working groups;
- outreach and direct support to informal, unprotected and migrant workers at risk to address their specific situation and needs, including through their integration into trade union ranks;
- ensuring that proper attention is paid to all aspects of racism and discrimination, including in particular its gender dimension, as women and girls are especially at risk;
- working closely with Global Union Federations to target sectors where forced labour and trafficking are most likely to occur.

44. Contact details can be found in Annex 1.

43. Forced Labour Convention, 1930 (No.29), Abolition of Forced Labour Convention, 1957 (No.105), Labour Inspection Convention, 1947 (No.81), Labour Inspection (Agriculture) Convention, 1969 (No.129), Private Employment Agencies Convention, 1997 (No.181), Migration for Employment Convention (Revised), 1949 (No.97), Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143).

Activity 2: Fact-finding, investigation and information

Aim: To provide ideas on how to gather information on forced labour and trafficking; where to find such information and how the information can be used.

The issues of forced labour and trafficking in Zambia have only recently started to be addressed and researched, and there is a constant need for new and up-to-date information and knowledge. Trade unions are in an ideal position to collect information on forced labour and trafficking in both the formal and informal sectors. Without such information that allows a comprehensive understanding of the problems, it is difficult to develop policies and know what action to take to address them.

What information is needed?

Gaps in information

Collecting secondary data will help trade unions identify who is vulnerable to forced labour and trafficking, whether men, women, boys or girls; the sectors that are particularly affected; where the workers come from; what the working conditions are like and what means of coercion are used; and what action has already taken place, if any, to address the problems. Significant knowledge gaps remain about these problems in Zambia. Trade unions can help fill these gaps by carrying out their own primary research and gathering information to build-up sector-specific information which, when collated with the work of other trade unions, will help build a bigger and better picture of the problems.

Sources of information

The first step is to identify which institutions and organizations already have information on forced labour and trafficking in Zambia and southern Africa as a whole. These sources could include:

- International organizations such as ILO, UNICEF, IOM;
- government departments such as the Ministry of Labour, Ministry of Home Affairs, other ministries, Central Statistical Office;
- workers' and employers' organizations locally, nationally, and internationally;
- media organizations;
- academic institutions and teachers' organizations;
- local, national and international NGOs.

What has already been done?

It is also useful to find out what action has already been taken to combat forced labour and trafficking: this could include government activities, the work of United Nations' (UN) agencies, the development agencies of different donor countries, and national and international agencies working on relevant issues. By learning from what has already been done, trade unions are able to learn from good practice and successful strategies, and avoid repeating the same mistakes or reinventing the wheel.



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What can trade unions do?

Activity 2: Fact-finding, investigation and information

How to collect information

Information can be sought at different levels, from different sources and using different methods. It is important to determine at the outset which methods are most appropriate for obtaining the information needed. When a union investigates forced labour and trafficking, it is searching for facts, gathering existing information and collecting new information, so that it builds a bank of data relevant to the problem which it can use as the basis for its action.

Using union structures and members

The union can get its members and workers in local communities to help identify areas where there might be forced labour and trafficking by asking them to document their observations and personal experiences. The union could also gather and compile photographs and video footage which, together with the individual stories of forced labour and trafficking victims, could be very effective mobilization tools and essential evidence.

Qualitative studies

Small-scale surveys can be carried out by unions alone, or in cooperation with NGOs or local researchers. When trade union activists work alongside professional researchers, both sides can benefit. The trade unionist is trained in research methodology and the researcher gains better access to workplaces and workers. Surveys can be used to collect baseline data such as numbers, age, sex, type of work and working conditions, as well as more in-depth personal stories.

Sharing information

Once collected, the information gathered can be put into a report and distributed to partner organizations and other institutions working on forced labour and trafficking. By systematically storing information, unions will be more able to access and share the data so that everyone involved is kept up-to-date. The sharing of data is also important in building relationships with other organizations that may be able to assist the union with future work.

Unions may also be required to share information when referring cases on to other organizations, such as victim support units or labour officers, for assistance and possible prosecution.

Special issue 1: Identification of victims

As they carry out research or go about their day-to-day work, trade union members may come across possible forced labour and trafficking cases. The following questions⁴⁵ may help with identification, but a 'yes' to one question does not necessarily mean that the person is in a situation of forced labour. Positive responses to a number of the questions however might well indicate this. Remember, if someone is unable to leave their job because of a threat or menace of a penalty and they have not freely consented to do the job then they are in a forced labour situation.

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?

Restriction of freedom of movement

- Is the worker locked up at the workplace?⁴⁶
- Is the worker forced to sleep at the workplace?
- Are there visible signs which indicate 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?

Threats

- Does the worker make statements which are incoherent or show indoctrination by the employer?
- Does the worker report any threat against her/himself, co-workers or family members?

- Is there any sign that the worker is subject to racketeering or blackmail (with or without the complicity of the employer)?
- Are workers forced to work excessive (unpaid) overtime or to carry out tasks that they prefer not to do, and are they threatened if they refuse?
- Is the worker in an irregular situation (e.g. migrant worker) and threatened with denunciation to the authorities?

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?

Withholding of wages or non-payment of wages

- Does the worker have a written employment contract?
- Are wages paid on a regular basis?
- 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?
- Is the worker threatened with dismissal if she/he complains about non-payment of wages?

45. Based on Andrees, B: *Forced labour and human trafficking: A handbook for labour inspectors* (Geneva, ILO/SAP-FL, 2008) and International Trade Union Confederation: *Mini-action guide on forced labour for trade unions* (Brussels, forthcoming).

46. It should be noted that a worker who is locked in the work premises during a shift but allowed home afterwards and returns voluntarily to the workplace, is not necessarily a victim of forced labour. However, if the worker always returns, for example, because wages have not been received, then the two together would indicate forced labour.

What can trade unions do?

Special issue 1: Identification of victims

Retention of identity and travel documents

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

General

- Is the worker younger than 18 years?
- Does the worker depend on the employer for basic needs such as food and shelter?
- Is the worker a migrant or a local? A national or a non-national?
- Is the worker free to leave the employment if she/he wants to?
- Is the workplace in an isolated location?
- Has the worker been recruited for one job and then employed in another?
- Have there been any prior complaints about the employer?

Possible responses

If forced labour and trafficking are suspected, the trade union has various options to consider in resolving the situation. To force someone to work, or to traffic someone, is a criminal offence and the police should be quickly informed and involved.

It may also be worth contacting a labour officer to discuss the problem before deciding on what action to take. Employers may be difficult to work with and may try to harm the victims or abscond to avoid arrest. However, the trade union may feel reluctant to contact law enforcement officers, particularly if the victim is a migrant, or if the trade union has not had a good response from the police/labour officers in the past. If the trade union is unsure, it is advisable to contact an NGO or international organization for advice.

In some cases the worker may be reluctant to leave for fear of the consequences, or may have nowhere else to go. In such cases the trade union should also contact the social welfare department, local NGOs that provide support to vulnerable people, the International Organization for Migration if the worker is a migrant or requires assistance to return home (either within Zambia or elsewhere), or phone the trafficking helpline on 990 for further support. There is a list of relevant organizations and their contact details at Annex 1.

(See also Special Issue 2 on page 5 for additional ideas on supporting victims of forced labour and trafficking).



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Identifying cases of forced labour and trafficking: Zambian cases for discussion

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. The first three cases are clearly labelled. For the remaining three cases, discuss with colleagues to see whether they are cases of labour exploitation, forced labour and/ or trafficking and how the trade union could deal with them.⁴⁷ Remember, not all cases are clearly forced labour situations. The union's response should be appropriate to the situation.

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 promised 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.

47. A discussion of case studies four, five and six can be found at Annex 2.

What can trade unions do?

Identifying cases of forced labour and trafficking: Zambian cases for discussion

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.

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.

Case six

The employer found the employee working at a bakery in Mufulira. 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 Mufulira.

Activity 3: Awareness raising and campaigning

Aim: To learn about different awareness-raising techniques and how to plan and implement an awareness campaign.

There are many reasons why the abuse of workers in forced labour and trafficking situations continues to take place. But in general, the problem is underpinned and sustained by a general lack of awareness which results in victims not being identified and in employers being able to abuse workers without the risk of being caught. Through raised awareness, members of trade unions and the general public will learn more about the problem and be able to assist in identifying victims and abusive employers, and to prevent either themselves, or someone they know, becoming a victim. Awareness and knowledge will enable workers and their communities to mobilize to take action and campaign against forced labour and trafficking.

Trade unions in Zambia already run raising awareness activities among workers and communities on issues such as HIV and AIDS. Campaigns on forced labour and trafficking could target:

- general information and awareness-raising of the risk of forced labour and trafficking to workers and the general public;
- specific vulnerable sectors and groups e.g. domestic workers, agricultural workers, migrants leaving Zambia, migrant workers in Zambia and child labourers;
- ratification and implementation of relevant international Conventions and national legislation and policies;
- provision of information on basic workers' rights and minimum wages;
- membership drives in the informal economy;
- policy advocacy on poverty reduction, education, decent job creation and other relevant areas.

Levels of campaigning and action

The trade union movement as a whole can campaign on three levels - locally, nationally and internationally. Here are some examples of what can be done at those different levels.

Locally

- Mobilizing members;
- mobilizing the unorganized and marginal workforce;
- lobbying local authorities over law enforcement and respect for workers' rights.

Nationally

- Mobilizing members to eliminate forced labour and trafficking abuses;
- pressing for policy and action on employment creation and decent work, training and apprenticeship opportunities for disadvantaged groups, minimum wage implementation, etc.;
- pressing for economic reform and poverty alleviation;
- lobbying for legislative and enforcement measures;
- supporting national implementation of international standards.

Internationally

- Organizing industry and sector campaigns;
- undertaking global campaigns in support of ILO Conventions;
- participating in the Global Trade Union Alliance to Combat Forced Labour and Trafficking.

What can trade unions do?

Activity 3: Awareness raising and campaigning

Organizing a campaign

There are many different types of trade union campaigns. It is important to remember that a campaign is not one single event or task. It is composed of several different activities and tasks that contribute to an overall goal. Campaigns should aim at changing an existing situation or behaviour. If the union decides to run a campaign, it must think about its goals and how best to organize the campaign to achieve those goals. The form the campaign takes will depend on these objectives, the resources available and the team responsible.

A plan should be formulated to:

- determine the objectives of the campaign;
- determine who the campaign will target (there may be more than one target group);
- determine how best to spread the message using the most appropriate means, materials and methods;
- decide who will be responsible for coordination;
- decide how many people will be needed to run the campaign and what skills they should possess (human resources);
- devise a budget and ensure that the money is available (financial resources);
- decide how best to use the mass media (radio, TV, newspapers) to implement and publicize the campaign and contribute to achieving the objective.

Thought should also be given to whether the campaign can be sustained long-term both in terms of human and financial resources and a timescale developed. Drawing up a detailed schedule of what needs to be done, by whom and when is always very helpful.

Setting up a campaign committee or task force

It is important to set up a dedicated team (campaign committee or task force) to work on forced labour and trafficking issues. If the union asks its members to become involved, it should be clear about the time and effort expected.

Once the task force is established, it is essential to ensure that all its members have a good understanding of forced labour and trafficking and the campaign's objectives. It is important that task force members are able to answer questions about the campaign. Run a training session for task force members and ensure that task force members are accountable and recognized for their work.

Publicizing the campaign

To make sure that everyone knows about the campaign, information should be circulated about its objectives and planned activities. Information about the campaign could be included in circulars to district/branch offices and articles carried in the union magazine or newsletter. Additionally, the union will want to win support from the community and the general public. Radio and television are good ways of doing this, as is recruiting a national celebrity (a cultural artist, footballer or a well-known community leader for example) to endorse the campaign. Unions may also consider launching campaigns on forced labour and trafficking on pertinent special days, such as Labour Day or dates when conventions come into force or other national and local celebration days.

Union officials should also receive information which can be used when they go to speak to workers or other groups. No matter what other activity the union is involved in, the opportunity should be taken to link the forced labour and trafficking campaign with that activity. Integrating the campaign into the union's wider activities will generate more support from members and the union's structures.

Activity 3: Awareness raising and campaigning

Using the mass media

Using the mass media to generate information about and for the union's campaign reaches not only the general public but also the union's own members and lets them know that their union is actively campaigning. To achieve media coverage, unions must build a good relationship with the media.

Before starting to work with the media, the union should:

- be clear about what it wants from the media;
- research and prepare an article or press release;
- think about the best media to use and how the chosen media likes to receive its information;
- think about what it wants readers, listeners or viewers to do as a result of hearing about the campaign;
- ensure that enough copies of the articles or press release are available for distribution;
- ensure that there is a contact point for the media who will be available to provide follow-up information.

Training

As well as campaigning, awareness can also be raised through training. Training is more targeted and specific and need not be expensive. Unions can train senior members who in turn provide information to other members. Brief guidelines can be circulated to all members detailing key points about forced labour and trafficking and telling members how they can get involved in campaigning. By including the issue of forced labour and trafficking in general induction programmes, new members will be involved from the start and can raise awareness amongst existing members.

Writing a press release

A press release is a short statement sent to the media to encourage them to write a story about an event or a particular problem concerning forced labour and trafficking. It should go to newspapers, magazines, and television and radio journalists. Press releases should include new information, be relevant to the chosen media and sent out in time to meet any deadlines for the radio or TV programme targeted.

When writing a press release:

- check that the information is given in clear and precise language. Use short sentences;
- ensure that the most important information is in the first paragraph. This is aimed at catching the reader's attention immediately;
- check that the release answers the questions: who, what, when, and why;
- illustrate issues with a local or human interest angle.

What can trade unions do?

Activity 3: Awareness raising and campaigning

Other ways to raise awareness and carry out training

- **Workplace discussion groups** could be held during work breaks or in time allotted for union activities.
- In **union meetings** during or after work where sections of the toolkit could be copied and distributed.
- In **communities** where workers live, where there are social, cultural or other activities supported by the union or union members; the toolkit or campaign materials could also be used in informal adult education.
- Organize an **exhibition** on forced labour and trafficking, or on the work of the trade union in the fight against forced labour and trafficking. It may be that a stand could be set up at exhibitions or gatherings organized by others.
- The trade union could also organize **petitions** against the use of forced labour or trafficking victims in the workplace.
- Invite a **panel of speakers** on forced labour and trafficking to a union meeting. Panel members should be carefully chosen for their knowledge of the issues and for their ability to speak clearly to a trade union audience. Panels should include a trade union officer.
- Look for **case studies/examples** of good practice. Some unions or workplaces may have already tackled the issue and lessons can be learnt on what methods have proved successful or not. It may help to prepare a checklist to record findings.
- Organize a **role play**, which requires a small group to act out a situation. The group selects who will play each part, and a short brief is available for each 'actor'. A role play could involve a union activist and a member who employs a worker who has been trafficked. These plays could be acted out in the workplace or in the community.

Campaign materials

There are all sorts of campaign materials that can be used to illustrate the campaign and spread the message to members and the general public: stickers, leaflets, posters, banners, T-shirts, videos, handouts, postcards, cartoons, drama and songs for example.



A children's theatre group raise awareness on HIV/AIDs through drama

© ILO/ M. Crozet

Activity 4: Working with employers to combat forced labour and trafficking

Aim: To provide ideas on ways in which trade unions can become involved in developing and implementing initiatives with employers on preventing forced labour and trafficking.

As emphasized throughout this toolkit, forced labour and trafficking are prohibited under international law, which is reflected in Zambia's national legislation. Therefore, no employer or business should ever make use of forced labour or employ victims of trafficking. If they do, they should be subject to prosecution and conviction in a court of law.

Because the practice is illegal, trade unions do not normally include forced labour clauses as part of collective agreements negotiated with employers at the national, sectoral or enterprise level. Nevertheless, with some creative thinking specific clauses on forced labour and trafficking could help target specific areas or groups of people or protect workers who blow the whistle on abuses.⁴⁸

Employers and businesses, for their part, should undertake initiatives to ensure respect for workers' rights in their own operations and in their supply chains. While being no substitute for the binding force of national law and collective agreements, such initiatives have a useful role to play in ensuring freedom from forced labour and trafficking; they should always include a specific provision to this effect and must be properly implemented and monitored. Trade union involvement is an important way to enhance the transparency and credibility of such monitoring mechanisms.

International Framework Agreements

An International Framework Agreement (IFA) is similar to a Collective Bargaining Agreement, but is negotiated at global level between a multinational corporation and a Global Union Federation (GUF), to cover the operations of that company throughout the world. The prohibition on forced labour (along with other fundamental rights) is invariably included in IFAs. For example, the International Framework Agreement between Volkswagen AG, the Group Global Works Council of Volkswagen AG and the International Metalworkers' Federation states:

"Basic goals:

1.3 Free Choice of Employment

Volkswagen rejects any knowing use of forced labour and indentured as well as debtor servitude or involuntary prison labour."⁴⁹

However, just like other agreements, IFAs will be effective only if they are properly implemented and monitored. Whereas voluntary company codes of conduct (see below) are usually monitored unilaterally by the company that has developed the code, IFAs should be implemented and monitored jointly by the company and the GUF that is co-signatory to the IFA, through its global and regional structures and national affiliates.

48. NUWHRAIN, a major hotel union in the Philippines, has included clauses in its collective agreement with hotel owners that require hotel employees to report any requests made by hotel guests in relation to child prostitution. The report is made to either the personnel manager, hotel manager or trade union delegate. *Filipino workers want to discourage paedophile tourists* (4.9.2001), International Confederation of Free Trade Unions, <http://www.icftu.org>

49. *Declaration on social rights and industrial relationships at Volkswagen*, International Metalworkers' Federation, (6 June 2002) <http://www.imfmetal.org>

What can trade unions do?

Activity 4: Working with employers to combat forced labour and trafficking

Below is an example of recommendations for implementing an IFA:

"International Metalworkers' Federation (IMF)

Recommendations of the International Framework Agreement (IFA) Conference

This conference proposes the following measures to realise effective implementation of IFAs:

- 3.1 The overall co-ordination of implementation of IFAs is the role of the IMF, but it is the responsibility of all;
- 3.2 Implementation work should be planned far in advance of signing an IFA and should begin immediately upon signing;
- 3.3 Establishing union networks is of primary importance and should be prioritised;
- 3.4 Education and training, and improved communication methods must be developed to ensure affiliates are equipped to genuinely implement IFAs;
- 3.5 IMF Regional Offices should play a central role in assisting affiliates with training on the use of IFAs and with their implementation;
- 3.6 Where appropriate, contact should be made with NGOs to assist with implementation efforts;
- 3.7 Affiliates should develop plans to organise plants of the IFA company where there is currently no union;
- 3.8 When requested, IMF will co-ordinate country specific organising campaigns in which the IFA can be used and which require solidarity from affiliates around the world;
- 3.9 Suppliers and sub-contractors account for many IFA violations and affiliates should develop specific strategies for organising in these workplaces and for enforcing the IFA;
- 3.10 Affiliates should report on progress with IFA implementation to the IMF;
- 3.11 Regular progress report on IFA implementation must be made by the IMF Secretariat to the IMF Executive Committee."⁵⁰

Trade unions in Zambia can work on the issue of IFAs by:

- finding out which companies in Zambia have signed IFAs with a GUF;
- contacting the relevant GUFs to learn about the IFAs and what activities can be undertaken in Zambia to support their effective implementation;
- contacting trade unions in other countries who are already involved in the implementation of IFAs or targeting specific multinational companies, and learning more about their activities or campaigning together;
- in more general terms, engage with union counterparts in other countries to raise awareness and share 'lessons learned' in relation to engaging employers on both IFAs and on voluntary corporate social responsibility initiatives (see below).

50. *Recommendations of the International Framework Agreement (IFA) Conference*, International Metalworkers' Federation, <http://www.imfmetal.org>

Activity 4: Working with employers to combat forced labour and trafficking

Developing codes of conduct

In recent years, public attention has focussed on the human rights and labour practices of multinational corporations operating in developing countries. Attention has been drawn in particular to the use of child labour in the production of consumer goods but increasingly, issues of severe labour exploitation and forced labour of adults are coming to light. Although some cases have been exposed by the media, it has most often been human rights and workers' organizations that have denounced the intolerable conditions in factories supplying some brand-name companies. In order to protect their reputations and in response to such pressures, many companies have adopted voluntary codes of conduct. Voluntary codes are often not negotiated with trade unions, but rather decided unilaterally by the company.

These codes of conduct state the company's position on human rights issues such as child labour, forced labour, freedom of association and non-discrimination, as well as other workplace issues such as occupational safety and health, and access to training. There are some codes of conduct that have been negotiated with trade unions. An example is the Code of Labour Practice for Production of Goods licensed by the Sydney Organising Committee for the Olympic Games and signed with the Australian Council of Trade Unions (ACTU). The code includes the commitment that:

"There shall be no exploitation of child labour. Workers shall only be employed in accordance with relevant State and Federal legislation, in line with appropriate ILO standards..."⁵¹

Some examples of forced labour provisions in company codes, taken from Gap Inc. - a clothing firm, Marks and Spencer - a UK chain of department stores and Triumph International - a textile and clothing company are provided.

The Marks and Spencer Code is derived from a basic model code put forward by the ITUC and the GUFs.

Gap Inc.

"Factories shall not use any prison, indentured or forced labour.

- (A) The factory does not use involuntary labour of any kind, including prison labour, debt bondage or forced labour by governments.
- (B) If the factory recruits foreign contract workers, the factory pays agency recruitment commission and does not require any worker to remain in employment for any period of time against his or her will."

Marks and Spencer Group Plc

"There is no forced, bonded, or involuntary prison labour; workers are not required to lodge "deposits" or their identity papers with their employer and are free to leave their employer after reasonable notice."⁵²

"Triumph International

Commits itself to follow the minimum standards and recommendations listed below:

1. Working Voluntarily - Illegal Forced Labour

Employment within Triumph International companies is exclusively on the basis of voluntary agreement. Any kind of forced labour, carried out in servitude/ bondage or through imprisonment is prohibited (ILO-Agreement [sic] 29 and 105)."⁵³

51. ILO: *Trade unions and child labour* (Geneva, 2000).

52. Both examples taken from Business for Social Responsibility, *Forced labour issue brief*, <http://www.bsr.org>

53. *Triumph Code of Conduct*, International Textile, Garment and Leather Workers' Federation, <http://www.itglwf.org>

What can trade unions do?

Activity 4: Working with employers to combat forced labour and trafficking

Trade unions could work with employers in Zambia to introduce and implement codes stating clearly that the company will not tolerate the use of forced labour, either directly or within its supply chain. This could be particularly important and useful in the case of principal employers who use subcontractors in certain parts of the production process, or who rely on private recruitment agents for sourcing and supplying labour.

Implementing codes of conduct

A code is only as good as its implementation in practice; otherwise it can legitimately be criticised for being nothing more than a list of good intentions. Monitoring is therefore vital. Large companies and multinational enterprises often hire professional social auditors to undertake this role, without any involvement of the trade union. Such systems lack transparency and credibility. While 'multi-stakeholder initiatives', such as the UK-based Ethical Trading Initiative and the US Fair Labor Association, often promote TU involvement in monitoring codes, this is still the exception rather than the rule. Therefore, trade unions must push to be involved in this wherever they can, through dialogue with employers and their representative organizations at different levels.

As a trade union official or member, you should be aware of the different roles that can be played

by trade unions at different levels, regarding implementation of codes of conduct.

For example, at the **enterprise level**, each member should be vigilant as to the treatment and behaviour of fellow workers (members and non-members alike), particularly if they are migrant workers and unfamiliar with local rules and norms, or show visible signs of discomfort or unease. Monitoring of codes can also be included as one of the functions of existing union structures or bipartite committees at the workplace. Enterprise level unions should also cooperate closely with labour inspectors in the fulfilment of their duties.

The **sectoral trade union** can work with the sectoral employers' association to ensure that any codes adopted at sector/industry level incorporate adequate provisions to outlaw forced labour, trafficking and related practices, and similarly be part of the monitoring mechanisms established. It can also publicize codes, through newsletters, posters or other means, so that workers become aware of their existence and provisions.

The **national trade union centre** can likewise negotiate with the national employers' organization to ensure adequate provisions on forced labour and trafficking are included in any 'model'

When thinking about working on codes of conduct, trades unions in Zambia should:

- find out which companies in Zambia don't have codes of conduct and target them;
- focus on multi-national enterprises with codes of conduct that have operations in Zambia and ensure they are honouring the code;
- target sectoral associations and chambers of commerce, as well as individual companies. This can help raise standards across the industry, as those without codes, or performing poorly, may feel under pressure to develop or improve them.

When working with employers on development of codes, trade unions should:

- insist that ILO Core Conventions are referred to;
- include relevant national laws;
- include promotion of social dialogue and workplace cooperation;
- include a clause on the implementation and monitoring;
- include a clause on reporting procedures and transparency.

Activity 4: Working with employers to combat forced labour and trafficking

codes adopted at this level. The national centre should also engage with the private recruitment industry/private employment agencies, especially if they establish their own representative organization. The national centre could work with such a newly-formed organization to ensure adoption of a comprehensive code of practice governing recruitment and placement practices, in collaboration with the Ministry of Labour, as well as be involved in its implementation and monitoring.

In general terms, monitoring mechanisms should:

- be objective and transparent, using clear and verifiable criteria for each component of the code. Such criteria should be agreed between the appropriate employers' and workers' representatives;
- in relation to possible forced labour and trafficking, include a range of indicators to pick up both overt and more subtle forms of coercion;
- involve representatives of workers and employers, and both men and women, in order to minimize bias;
- have some relationship with the public labour inspection system, or direct involvement of labour inspectors;
- use proven methods to increase the reliability of the data gathered, such as ensuring an element of unpredictability in the time scheduling of monitoring exercises, and interviewing workers both on- and off-site, away from the management;
- have an established and agreed system for reporting and dissemination of the results.

Other voluntary initiatives

There are other, quite widely known voluntary initiatives such as social labelling and fair trade. Unions are rarely involved in such initiatives, largely because of the difficulty to be 100% sure that any particular product is really 'child labour' or 'forced labour'-free, or that it has been produced by workers receiving the minimum wage or other basic rights.

Nonetheless, union officials and members in Zambia should be alert to the existence of any such schemes in the country. If such schemes are being used by companies as part of social marketing strategies, unions can play a role in raising public awareness of their potential strengths and weaknesses.

What can trade unions do?

Activity 5: Using ILO standards to combat forced labour and trafficking

Aim: To enable trade unions to better understand ILO Conventions, how they work and how they can be used to enforce the protection of workers against forced labour and trafficking.

Zambia has ratified the standards relating to forced labour and has acceded to the UN Optional Protocol on Trafficking. Once they have ratified, ILO Member States are obliged to put the Convention into effect. Trade unions should continually monitor to ensure that government legislation is in conformity with its ratified Conventions and is effectively implemented and enforced in practice.

While Zambia has ratified all eight ILO fundamental Conventions, it has not ratified a number of other ILO Conventions that could be instrumental in combating forced labour and trafficking. These include:

- Labour Inspection in Industry and Commerce, 1947 (No.81)
- Labour Inspection (Agriculture) Convention, 1969 (No.129)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)
- Private Employment Agencies Convention, 1997 (No.181)

In light of the above, it is recommended that trade unions contact the relevant government departments to find out whether the government intends to ratify a specific Convention, and if not, why not. Trade unions can be instrumental in pushing a government to ratify a Convention, and should then monitor to ensure new legislation is enacted that is in line with the Convention. This may take a number of years and requires a trade union to maintain pressure throughout.

ILO Conventions

Procedures are laid down in the ILO Constitution to supervise and monitor the actions of Member States with regard to the Conventions they have ratified. The ILO depends on two main types of procedure to supervise the application of Conventions by states. These are:

1. Regular supervision via regular reports and examination of these reports by the ILO Committee of Experts.
2. Examination of specific allegations, through:
 - representations and
 - complaints

Reporting

Governments must submit reports to the ILO on each ratified Convention. Reports must address a list of questions prepared by the Governing Body, concerning:

- the arrangements made to achieve the goals of a convention;
- how to overcome any obstacles to its full application, and
- how it is applied in law and practice.

Under Article 23 of the ILO Constitution, trade unions - together with employers' organizations - are entitled to receive copies of these reports and to comment on them.



International Labour Conference, 2008

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Activity 5: Using ILO standards to combat forced labour and trafficking

The reports are then sent to, and examined, by the ILO Supervisory Body - the Committee of Experts on the Application of Conventions and Recommendations. Government reports should include relevant laws and regulations contained in official gazettes and similar publications.

Comments made by trade unions on government reports are of great importance as they give complementary views on the conditions that prevail in the country concerned and provide the Committee of Experts with a fuller picture of the situation. Reporting procedures also allow workers to participate fully in ILO supervisory systems in conformity with its tripartite character. The Committee is not limited to the information supplied by governments but may also make use of information found in official reports prepared by United Nations institutions. If the Committee finds that a government is not fully applying a ratified Convention, it formulates its comments and suggestions either under:

- a 'direct request', usually made in the case of minor failures; or
- an 'observation', usually used for more serious or long-standing offences.

Each year the Committee of Experts publishes the *"Report of the Committee of Experts on the Application of Conventions and Recommendations"*, which is studied during the International Labour Conference by the Tripartite Committee on the Application of Conventions and Recommendations. The Report contains all Observations formulated to all ILO Member States, and serves as a basis for discussions between the Conference Committee and selected Governments on how to address particularly serious problems that have been identified.

Many problems concerning individual cases can be sorted out at this forum, and it is here that trade union representatives can play what is perhaps their major role. Moreover, given the public nature of the observations, journalists and NGOs have access to the comments of the Committee of Experts. The publicity sometimes given to Government failures to uphold labour rights in certain countries constitutes an additional means of pressure on them to improve their performance.

The Committee of Experts also publishes an annual report on a special topic proposed by the ILO

Governing Body. This is called the General Survey and describes and analyses the situation in all countries, whether or not they have ratified the Conventions concerned. The 2007 General Survey dealt with the issue of forced labour, paying special attention to the issue of trafficking.

In 2006, an 'individual direct request' came from the ILO Committee to Zambia relating to C29. Zambia was requested to clarify its legislation with regard to national service or compulsory enlistment. Zambia had previously stated that neither national service nor enlistment was compulsory. The Committee requested that Zambia review its laws to reflect this. The Committee also asked for clarification on the question of schemes for the encouragement of and participation in community development. Although Zambian legislation says that such schemes are carried out after consultation with the community, the Committee requested more detailed information.⁵⁴



ILO Governing Body © ILO

54. Committee of Experts on the Application of Conventions and Recommendations (CEACR): *Individual Direct Request concerning Forced Labour Convention, 1930 (No.29) Zambia* (ratification: 1964) Submitted: 2006.

What can trade unions do?

Activity 5: Using ILO standards to combat forced labour and trafficking

Representations

Any trade union, whether national or international, can make representation under Article 24 of the ILO Constitution to the ILO to the effect that a Member State has violated a particular ratified Convention. Representations are received by the Governing Body if they are presented by:

- a national union directly interested in the matter;
- an international workers' organization having consultative status with the ILO; or
- an international federation where the allegations relate to matters directly affecting its affiliates.

The submission must be in writing, signed and as fully documented as possible with proof in support of the allegations. It is examined by a committee of three members of the Governing Body, one from each of the employer, government and worker groups. The Governing Body presents the representation to the government concerned. If it is not satisfied with the response or if no reply is forthcoming, then it publishes the representation along with the government's reply, if any, and its own conclusions for further action.

Complaints

Making a complaint to the ILO is a more formal procedure and can be taken by one Member State against another if the former is not satisfied that the latter is observing a Convention they have both ratified. A complaint can also be initiated by the Governing Body or by delegates to the International Labour Conference.

When a complaint has been received, the Governing Body may appoint a commission of inquiry to examine the case in detail. The commission prepares a report of its findings and recommendations for the Governing Body and gives it to each of the governments concerned in the complaint. If a government does not accept the recommendations, it may refer the complaint to the International Court of Justice, whose decision on the matter is binding. No country has yet found it necessary to take this final step.

One of the most notorious cases to be dealt with in this way by the International Labour Organization is that of forced labour in Myanmar (Burma). A Commission of Enquiry reported on this case in 1998, but the government of Myanmar has still not complied with its recommendations to the satisfaction of the ILO. The international trade union movement has been extremely active in this case, relentlessly campaigning for the rights of workers in Myanmar to be free from forced labour.

ILO supervision checklist

- As Zambia has ratified ILO Conventions 29, 105, and 182, get copies of reports submitted by the Government to the ILO, as well as the reports under the other relevant ILO Conventions, and examine them carefully. Examine also any trade union submissions.
- If you think any aspects of the law and/or practice do not conform to these Conventions, consider reporting this to the ILO. Contact ILO in Lusaka and it can put you in touch with ACTRAV (ILO's Bureau for Workers' Activities) which should help by explaining the procedure, or contact the ITUC.⁵⁵

You are strongly advised to discuss this first with any national and/or international organization to which you are affiliated.

- If regular and repeated reporting has not yielded results, consider making a representation to the ILO.

55. Contact details can be found in Annex 1.

Activity 6: Working with the ILO tripartite structure and partners

Aim: To provide information on the tripartite structure and encourage trade unions to work with employers, the government, labour officers and other trade unions on the issue of forced labour and trafficking.

Tripartism refers to the unique way in which workers, employers and governments work together through the ILO structure to set labour standards, to protect and promote workers' and employers' rights throughout the world and to achieve the other objectives of the ILO, particularly decent work for all. Tripartism is central not only to social stability, but also to sustained economic growth and development.

To achieve their aims, trade unions need to work with other social partners in democratic structures. Working through these tripartite structures at industry and national level and of course at international level, trade unions can promote their own policies and plans for tackling forced labour and trafficking, and also influence the policies and plans of governments and employers.

Beyond the tripartite structure, trade unions can also collaborate with other like-minded groups and agencies in order to translate their policies into effective action against forced labour and trafficking.

Working with employers

Employers have a strong stake in fighting forced labour and trafficking (see Activity 4 - Working with employers to combat forced labour and trafficking). The majority of employers who do not use forced or trafficked labour risk facing unfair competition from those few who do. The publicity and headlines given to a few 'bad apples' who do not respect workers' rights and resort to forced labour practices risk tarnishing the reputation of whole industries, sectors or even countries. Trade unions therefore share a common interest with law-abiding employers in ensuring that forced labour and trafficking are stamped out.

Trade unions should approach employers' organizations to see if they and their members will join with them to take action against forced and trafficked labour. At a national level, employers and trade unions can work together to push government for the implementation of ratified Conventions and national laws in order to prevent the exploitation of workers and to remove victims from forced labour situations.

Before starting work with employers it may be useful to develop a work plan to assist with preparations. If and when work commences with the employer and a joint working committee is set up, a new work plan may then be developed jointly.

Forced labour and trafficking action plan: working with employers

In what areas can unions cooperate with employers?	Who should be responsible for it?	What is the timetable?	What preparations need to be made before approaching employers?	Opportunities and risks

What can trade unions do?

Activity 6: Working with the ILO tripartite structure and partners

Working with governments

Ending forced labour is primarily a government responsibility. While attention in Zambia is now being given to combating trafficking, and work is starting on forced labour, this may not always be the case. Trade unions need to maintain continuous pressure to ensure that, in the future, these issues will not be sidelined.

How can unions influence and work with governments? The first task is to assess the status of the relevant conventions in law and practice in Zambia and to take stock of where they are not working or are weak. Where this is the case, unions need to push the government to strengthen the law. Trade unions should work closely with governments and other stakeholders in drafting legislation and policy to ensure that they meet the needs of their constituents.

Secondly, trade unions should maintain contact with the relevant officials in the Ministry of Labour and Social Security (dealing with forced labour), and the Ministry of Home Affairs (dealing with trafficking).

To work with governments and be prepared, trade unions should:

- make a list of all officials dealing with forced labour and trafficking and any existing task forces;
- find out which officials attend the ILO Conferences;
- visit these officials regularly. Keep asking what the government is doing and whether there is anything the union can do;
- identify and approach Members of Parliament.

A work plan may help unions as they start to work with government. For example:

Working with labour officers

Trade unions should specifically target the labour office/inspectorate. Labour officers are charged with the enforcement of national employment legislation and ensuring that workers enjoy decent working conditions.

There are two important International Labour Conventions concerning labour inspection.

- Labour Inspection Convention, 1947 (No.81) deals with industry and commerce
- Labour Inspection in Agriculture Convention, 1969 (No.129) deals with agricultural enterprises.

Labour Inspection Convention No.81 lays down standards for cooperation between inspectors and trade unions. Zambia has not ratified either Convention. Nevertheless, trade unions should attempt to build up good relationships with their local labour office so that they can work together. When a trade union official or member identifies possible cases of forced labour or trafficking, the complaint is often made to the labour office. With an already established working relationship, action is likely to be taken faster than if the labour officer is not familiar with the trade union.

Working with trade unions

It is recognized that within the tripartite structure, trade unions have to collaborate with the other social partners - employers and government - but trade unions sometimes overlook the fact that they should also strengthen cooperation amongst themselves. This is one of the most effective ways of advancing the positive profile of trade unions as well as strengthening the trade union contribution to the fight against forced labour and trafficking.

Forced labour and trafficking: working with government

In what areas can unions cooperate with the government?	Who should be responsible for it?	What is the timetable?	What preparations need to be made before approaching the government?	Opportunities and risks

Activity 6: Working with the ILO tripartite structure and partners

To assist with building relationships and learning more about how other trade unions have dealt with forced labour and trafficking issues, trade unions can arrange meetings or exchanges with other trade unions in other parts of the country or in other countries. Information can be collected and exchanged on national legislation relating to labour standards and trafficking (which usually falls outside labour laws) and how others have worked towards eliminating forced labour and trafficking.

Building alliances and networks to combat forced labour and trafficking

As well as working closely with tripartite partners, trade unions can also work closely with ministry departments, friendly NGOs and civil society organizations. The wider the network that the trade union has, the better chance there is of combating forced labour and trafficking. While ministry departments may be partners in the fight, there may be times when it is more appropriate to work with friendly NGOs that are independent from government and therefore often more flexible to work with. There may be NGOs that specialise in human rights, forced labour, trafficking and issues such as the provision of support services to vulnerable people.

Before working with NGOs or other civil society organizations such as faith/community based groups, unions should ask themselves the following questions:

- What kind of NGO can we collaborate with?
- Does the NGO share the same vision as the trade union on the issue of forced labour?
- Do the interests of the NGO and the trade union coincide on this issue or is there a conflict of interests? Is there likely to be a conflict of interests in the future?
- Which activities could benefit from collaboration with an NGO?
- Does the NGO have access to information or resources which the union can benefit from if a relationship is established?
- Does the NGO respect the role of the trade union?

What can trade unions do?

Special issue 2: Supporting victims of forced labour and trafficking, including children and migrant workers

One of the aims of this toolkit is to raise awareness among members of trade unions and their communities about the problem of forced labour and trafficking in the hope that increased knowledge will stop potential victims becoming victims. However, prevention is not always possible, and trade unions may come across cases of forced labour and trafficking and have to respond to the victims' needs (see Special issue 1: Identification of victims).

In some cases this response may be fairly straightforward. A trade union member may, through education, become aware that they had inadvertently trafficked their domestic worker. The member could, for example, have taken a girl from the village to work as a domestic in their home and instead of putting the child into school, made them look after their children, cook and perform all the household chores. For many this is a cultural issue without any consequences. They argue that children employed as domestic workers have better living conditions than they would have had staying in the village - meals with the family, access to TV, for example. However this does not mean it is right. When a child is moved and exploited, they have been trafficked. In this situation, general awareness should enable an appropriate response such as ensuring the child, if over 13 years of age, is only working a maximum of four hours a day and is going to school. Any child under 13 should not be employed. The same can be said of adult domestic workers who are made

to work long hours without being paid at the end of the month and whose identity cards are withheld to prevent them stealing or leaving.

Many employers of forced and trafficked labour are, however, fully conscious of their actions. In these cases, trade unions must be sensitive to the worker's (victim's) needs. The victim may not wish to leave the situation suddenly, but may instead request intervention from the labour office. In other cases, the appropriate response may be for police, including the Victim Support Unit, to be brought in to investigate.

Once out of the situation, victims of forced labour and trafficking may require various types of assistance, for example, help to return home, to claim lost wages or identification documents, to find accommodation or help with legal issues such as immigration offences. In some cases victims may also require health care, including psychological counselling or an HIV test. The action of the trade union should be determined by the wishes and needs of the victim and, in most cases, a government department or NGO will be able to provide the assistance. It must be remembered that forced labour and trafficking is a serious crime and the perpetrators are likely to do everything they can to avoid being brought to justice. Therefore, in the majority of cases, once the trade union has identified a victim, the case should be handled by experts including police officers who have been trained to handle such cases. However, there may be situations where the victim may request that the trade union act as a mediator between themselves and their 'employer'. This may be the case if the victim is seeking compensation in the form of back salaries, but is unwilling to take the case to court.

Trade unions are able to assist in some instances, particularly after the victim has been assisted by the appropriate agency. For example, a number of trade unions in Zambia operate micro-credit schemes to enable workers to start their own small business. This type of assistance may be



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This centre is run by the Conservation, Hotels, Domestic and Allied Workers Union in Tanzania in conjunction with ILO/IPEC. The prevention programme works with employers, trade unions, local chiefs, NGOs, teachers and parents to break the recruitment chain and reintegrate children into families and school. The centre provides schooling and the facilities for clients to learn a trade.

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appropriate to a former forced/trafficked worker to help them start earning again. Additionally, the provision of micro-credit can also be useful to families whose children are involved in child labour, or have been victims of trafficking. It can enable the adults in the family to start earning themselves rather than relying on the children to provide an income. Trade unions may already be doing many of the things that will help in victim rehabilitation but some adaptation may be needed to make the activities appropriate to the needs of victims of forced labour and trafficking.

Support to child victims of trafficking

Child victims of trafficking need to be dealt with sensitively and by the appropriate, specialised services. Trade unions may become involved in such cases as a result of having identified victims or received information from a member concerned that their child may have been trafficked. In such cases, it is the role of the trade union in the first instance to refer the case to the appropriate authority and monitor that it is being dealt with. The union might also consider whether it should become involved at a later stage in supporting the family of the possible victim.

Teachers have a crucial role to play in the prevention and detection of trafficking. Teachers are central to communities and know which children attend school and which are vulnerable. Teachers can be vigilant about absent children from school, or children who show signs of abuse or fear. Teachers may be able to prevent a child being trafficked or put into a forced labour situation by making the parents and the child aware of the dangers of accepting seemingly tempting job offers without careful consideration and research. Teachers may also be able to persuade parents to send their children to school and thus give them a better chance of securing decent work in the future. Teachers may even sometimes themselves be implicated in forcing children into work or, wittingly or unwittingly, assisting a trafficker. It is therefore the role of the union to monitor such activities and take action when cases are discovered. If a union ignores such cases, it is itself complicit in the crime.

Migrant workers

Migrant workers may move independently within their own country, or travel to another country to find work. Many Zambian workers travel from home to find work in other parts of Zambia and many leave to find work outside the country. There are also non-Zambians who migrate into Zambia to work.

Zambian migrants

Zambians have the right to work anywhere in the country. However, such internal migrants are still at risk of exploitation. The very fact that they are moving in search of work often shows that they are desperate to secure a job. Some may find decent work, many will be exploited, and some will be forced to work. Due to their transient nature, migrant workers may not be members of trade unions and yet trade unions still have an important role to play. Members may know of migrants working in their communities or of migrants being exploited or forced to work for subcontractors who supply services to a company. By being aware that migrants are at risk of exploitation and are sometimes forced to work, members will become more sensitive to the needs of other workers. Additionally, a migrant worker whose rights have been defended by a trade union or sees that the union has secured decent wages for its members will see the advantage of joining and may end up becoming a member themselves.



A vocational training school.

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What can trade unions do?

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Non-Zambian migrants

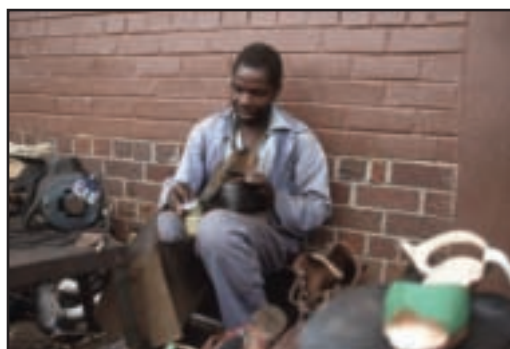
Non-Zambian migrants, who travel to Zambia in search of work or for a job that has been promised to them, may travel illegally or legally. Work permits are required to work in Zambia but because permits are expensive and difficult to secure, many workers resort to working illegally. Employers often exploit the worker's illegal status or force them to work knowing that the worker is unlikely to go to the police or labour office to complain when it may result in their deportation or arrest. Research in Eastern Province found that some migrant workers, Malawians in particular, are employed for an agricultural season and at the end of the season, when the employer refuses to pay, return home without their wages. In some cases, they reported to the labour office but claimed that they were Zambians.

A man was not paid his dues after carrying out smallholder agricultural work. The dues amounted to K1,500,000 for cultivating maize and tobacco. He was thought to be a migrant worker. In a similar case, the migrant labourer was owed K8.9 million.

As well as reporting cases of exploitation or forced labour to the labour office, police or an NGO, trade unions can:

- offer legal assistance to migrants to help secure better working conditions;
- set up help-lines for migrants seeking advice;
- develop bilateral cooperation agreements with fellow trade unions in source and destination countries;
- supply information to migrant workers on living and working in Zambia;
- provide legal information on securing work permits and workers' rights;
- distribute information to Zambian migrants travelling outside Zambia to find work.

Like migrant Zambians, non-Zambian migrants are unlikely to be members of trade unions. Trade union members may however know of migrants working near them who are being exploited, or may know of employers who regularly promise work for a season but never pay. By working to secure migrant workers' rights, trade unions may benefit through increased membership as the migrants are more likely to join the union as a result.



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TUC Senegal and TUC Mauritania herewith;

Based on the special action programmes proposed as innovative measures aimed at increasing the impact of the ITUC certain priority fields approved by the 123rd meeting of the Executive Committee (of the ICFTU at that time),⁵⁶ and in particular the programme relating to migrant workers;

Conscious of the challenges faced by the working class in Africa in general, and in these two countries in particular, which is linked to globalisation and its consequences in countries such as ours;

Taking into account that the geographic position of both Senegal and Mauritania making them transit countries for migrant workers;

Wishing to share experience and reinforce bilateral solidarity and co-operation between the people and workers of the two countries;

Commit to implement all actions necessary to:

- Provide ITUC members in Senegal and Mauritania with the capacity to provide services and appropriate help to migrant workers (male and female), to organize them and to carry out campaigns in support of their union rights, where these are restricted;
- To develop a partnership which allows the national centres to play a role in the management of migratory flows and the flows of clandestine workers between the two countries or across their borders;
- Assisting union organisations in their work relating to migratory workers, both in their home countries and their host countries;
- Promote, protect and defend the rights of migratory workers;
- Ensure equal rights for migratory women, with a particular emphasis on the particular problems they encounter;
- Reinforce bilateral relations and union solidarity.

Our two organisations will start working on:

- Regularly exchanging information on the situation in the labour market between our two countries and the countries of the North;
- Favour the promotion of the social partnership at the national, regional and international level;
- Establish greater co-operation between employers' organisations of our two countries and those in Northern countries, in the aim of improving working conditions;
- Harmonise working conditions in our two countries in order to fight the exploitation of migrant labour;

continued on next page

56. The ICFTU (International Confederation of Free Trade Unions) later became the ITUC.

What can trade unions do?

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continued from last page

- Include the organisation of seminars and conferences on themes specifically related to migration in the global agenda of our organisations;
- Encourage members to start co-operating in their respective sectors;
- Engage in awareness-raising campaigns to fight racism and xenophobia, and provide union members and the general public with information on the positive contribution made by migrant workers on the host countries in the North;
- Provide support to migrant workers to organise themselves in unions;
- Initiate tripartite consultations and bilateral agreements within the two countries;
- Actively promote the ratification and effective implementation of the pertinent ILO conventions, being Convention No.97 (migrant workers) and Convention No.143 (migration in illegal conditions, and promotion of equal opportunities and treatment of migrant workers), as well as adoption of the ILO's multi-lateral framework for migration of work.

For fruitful co-operation, our organisations decide to programme:

- Mutual visits;
- The setting-up of an information office on immigration in our two countries;
- Bi-lateral consultations on the questions at hand;
- An exchange of know-how and experience between the two union organisations at all levels.⁵⁷

57. This statement was provided by the ITUC. The programme and partnership between TUC Senegal and TUC Mauritania is still ongoing and integrated into a new special action programme of the ITUC. Trafficking will be integrated into this programme as a specific area of work as of 2009.

Special issue 3: Organizing workers in the informal economy

"Organizing the informal economy should be a priority for unions in view of the ever increasing number of workers in the sector, both in developing and industrialized countries. Strategies are needed to defend and promote the rights of the ever-growing number of informal sector workers - the majority of whom are women - and to get them to become members of and fully integrated into the trade unions."⁵⁸ This was the call made by the ITUC nearly 10 years ago, but it is still just as relevant, if not more so, today.

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 sweatshops 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."⁵⁹ 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 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.⁶⁰

The 2005 Zambian Labour Force Survey found that 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.⁶¹ 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.

However, trade unions in Zambia, as elsewhere, confront particular challenges when seeking to organize such vulnerable workers in the informal economy due to the following factors:

- Such workers are not a uniform group and may have obvious differences of interests and priorities;
- They may not share common interests with the bulk of current union members. For example, ethnic, family and kinship ties may be stronger among such workers than working class solidarity;
- They are often so caught up in the daily struggle for survival that they are not inclined to join in collective action, especially if they cannot see how such action or membership in a union can help them solve their practical problems and basic needs;
- The highly precarious nature of their work may mean they fear losing their jobs if they join a union;
- They are often excluded from labour legislation and therefore from the right to form and join trade unions;
- Informal workers, especially home-based workers and those in micro-enterprises, may be hard for unions to contact and to mobilize. Organizing drives can be costly, difficult and time and resource consuming given that the workplaces and workers are highly dispersed and not concentrated in a single location;

58. International Confederation of Free Trade Unions, *Conclusions and Recommendations of the 7th World Women's Conference, Rio de Janeiro, Brazil, 18-21 May 1999*, in ILO: *Promoting gender equality - A resource kit for trade unions*. Booklet 4. *Organizing the unorganized: informal economy and other unprotected workers* (Geneva, ILO/Gender Promotion Programme, 2001).

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

60. Ibid.

61. Central Statistical Office: *Labour force survey 2005* (Lusaka, 2005).

What can trade unions do?

Special issue 3: Organizing workers in the informal economy

- Unions may find it hard to retain such workers as members because of the precariousness of their employment, all the more so if they are migrant workers;
- Many unions do not have proven strategies for organizing workers in the informal economy;
- Existing union members in the formal economy may not understand the rationale for organizing informal workers; they may object to the changes in policies and resource allocation required, and fear that these new members would compete with their own interests. The challenge is for the unions to reach out to new groups without undermining their traditional support base.⁶²

The ITUC has a special action plan on "Informal workers: Informal economy". This was developed following an international workshop, "Organising workers in the informal economy: A challenge for unions". The workshop resulted in an action plan expressing, among other themes:

- the need for policy discussions involving union leadership;
- the need to develop trade union policies regarding issues of workers in the informal economy, and
- the need to sensitise and stimulate union leaders to formulate these policies.

The project will be developed through a series of high-level regional and/ or sub-regional meetings, involving members of the regional governing bodies, union leaders, Solidarity Support Organisations (SSOs) and Global Union Federations. A guide to support implementation and monitoring of the results and decisions of the meetings will be produced.⁶³

62. Adapted from ILO: *Promoting gender equality - A resource kit for trade unions. Booklet 4. Organizing the unorganized: informal economy and other unprotected workers* (Geneva, ILO/Gender Promotion Programme, 2001).

63. Personal communication.

Activity 7: Reaching out to workers in the informal economy⁶⁴

Aim: To provide ideas on ways that trade unions can support workers in the informal economy in order to protect them from forced labour and trafficking.

Reaching out to informal economy workers may be difficult but there are various strategies that trade unions can employ to contact these workers and provide services to help protect them from exploitative labour practices, including forced labour and trafficking. The strategies will differ depending on whether workers are setting up their own new membership-based organizations or existing trade unions are reaching out to organize and represent them. Even when an existing union is not directly organizing informal economy workers, it can still assist them in several ways. It should also be remembered that contacting victims of trafficking or forced labour may be even more difficult than other workers in the informal economy, and special consideration should be given to their situation. From the outset trade unions should make it known to such workers that they are independent of the government, as victims of trafficking and forced labour may well be scared of government officials, fearing arrest if they are illegal immigrants, or involved in illegal activities, such as prostitution.

The following are a number of areas that trade unions can target in order to provide assistance to informal economy workers, whether by inviting them to join existing unions or by helping them establish their own organizations. "The central issue in organizing is the effective protection of the right of all workers to organize. It is up to workers themselves to decide whether they want to form their own trade unions or other organizations or join existing unions, but it is wrong and counter-productive to confuse the right of workers to organize with the obligation of trade unions to organize."⁶⁵ Trade unions should also advocate at policy level for the inclusion of workers in the informal economy under labour law, for the enforcement of minimum wages, the extension of social protection and other protective measures.

Women workers

ILO estimates show that, globally, women and girls represent the majority of victims of forced economic exploitation (56% women and girls compared to 44% men and boys) as well as of forced sexual exploitation (98% compared to 2%).⁶⁶ Women are also over-represented in the informal economy. Therefore, unions need to make a special effort to target women in the informal economy. In order to do this, unions must be sure to provide services and benefits tailored to the needs of women.

Trade unions should:

- create or build upon existing departments which deal with gender issues - working to have equality become a part of daily activities and programmes;
- put more women into leadership positions in the trade union;
- encourage women's participation, including arranging meetings and activities at times and locations that are convenient for childcare or provide childcare;
- offer services that will be of particular interest to women workers, such as crèches, microfinance or health and nutrition facilities;
- target men in campaigns on gender equality, work-life balance and sharing of family responsibilities.

Young workers

Young people may be unaware of what the trade union can offer them. Trade unions should cater specifically to this new generation of workers and reach out via non-traditional forms of communication, such as music, drama, youth magazines, posters and sporting events.

Informal economy unions/ organizations

In some countries, including Zambia, organizations already exist that represent informal economy

64. The following is taken predominantly from ILO: *Promoting gender equality - A resource kit for trade unions. Booklet 4. Organizing the unorganized: informal economy and other unprotected workers* (Geneva, ILO/Gender Promotion Programme, 2001) and ILO: *Beyond survival - Organizing the informal economy* (Geneva, ILO/Bureau for Workers' Activities, undated).

65. ICFTU: Informal or unprotected work in ILO: *Promoting gender equality - A resource kit for trade unions.* (Geneva, ILO/Gender Promotion Programme, 2001).

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

What can trade unions do?

Activity 7: Reaching out to workers in the informal economy

workers. 'Mainstream' trade unions can provide assistance to such groups, for example, through supporting the organization in its own establishment and operations, by offering it formal affiliation with the trade union or by providing access for its members to some or all trade union services. Alliances can also be formed to work on common issues, events or campaigns. The informal economy organizations, for their part, can encourage their

members to access services from the trade unions or to sign up as fully-fledged members, and be valuable sources of information to the trade union about conditions in the informal economy.

The community

A community-based approach can be effective when combined with more traditional trade union organizing tactics. Trade unions can reach out to the areas (neighbourhoods, villages, etc.) where informal economy workers live, and work with organizations based in their communities. Often, organizers don't have access to workplaces in the informal economy, as with homeworkers and domestic workers, where forced labour and trafficking victims may be trapped. By joining with groups in the community to find informal economy workers, trade unions are able to involve those workers in activities that they care about.

Current and former members

Trade unions should maintain contact with all their members as they can assist with organizing others in the same situation. Former members may have moved from the formal economy into the informal economy and carry with them the experience of being part of a union. Current members may have friends and family in the informal economy.

Supply chains

Trade unions can map the production chain in a particular enterprise or sector, so as to trace the workers at each stage of the chain, focusing in particular on those at the 'end' of the chain who are more likely to be in the informal economy. This is where it might be expected that forced labour or other exploitation might occur, rather than in the production stages at the upper end of the chain.

Provision of services

The provision of services, such as access to credit and technology, can initially attract members to the union and subsequently increase their awareness of the other benefits that membership can offer. Unions should consider expanding or creating a range of special services that are attractive and accessible to informal economy workers. These may include health services, basic literacy education, savings and loans, vocational training or small business skills - services that may prevent a

In 2004 in the Democratic Republic of Congo, the Congres Confederation Syndicale du Congo (CSC-Congo) "... launched its policy to defend and unionise informal economy workers. We started by drawing an inventory of the various activities: widespread petty commerce, agriculture, fishing, mining, transport, and a whole host of other activities. We decided to prioritise the petty commerce, transport, agriculture, fishing and livestock sectors.

The main problems we have identified are, firstly, the red tape and police harassment affecting small traders.

Secondly, the lack of information concerning their rights and duties as citizens and workers. And thirdly, the absence of protection mechanisms as well as credit, savings and production cooperatives".

The union has around 200,000 members, mainly women involved in petty trading. With a population of 50 million, the union is aware that the number of members is small but says: "we have to offer quality services to attract them, like normalising tax payments, which is something we are working on at the moment. Another important service is providing them with health insurance, which is the next step we plan to take."⁶⁷

67. *Spotlight interview with Hilaire Mbuandi Ngoma (CSC-Congo)*, International Trade Union Confederation, <http://www.ituc-csi.org>

Activity 7: Reaching out to workers in the informal economy

vulnerable worker from accepting dubious job offers, or staying in exploitative labour conditions. When providing services or organizing activities, consideration should be given to the often irregular or 'atypical' work schedules of informal workers. However, provision of such services should not be regarded as a substitute for the central trade union role of collective bargaining, nor as a way to absolve governments from their responsibilities. Rather, such special services should be seen as a complementary organizing activity aimed at improving trade unions' leadership role in society at large and helping to raise their profile in civil society.

Commitment to the informal economy

If a trade union decides that it is committed to recruiting members from the informal economy, then changes may have to be made to the internal regulations of the union. In some cases, special structures may need to be created within the union to address the specific needs of informal economy workers which are often different from those of formal workers. It may also be necessary to adjust subscription rates according to the ability of members to pay. The union constitution or statutes may need to be amended to include informal workers. Recruitment strategies may also be different.

Public Services International

Policy recommendations on strategies and alliances in relation to the organisation of informal workers

The World's Women's Committee at its meeting on May 15 - 16 May 2002 in Berlin, adopted the following policy recommendation and requested that the Secretariat submit them for the consideration of the Executive Board:

Organising workers in the informal economy

- (1) PSI renews its commitment to facilitating the organisation of workers in the informal economy in representative membership organisations.
- (2) Women represent the great majority of workers in the informal economy and it is therefore essential that in all its work on the informal economy, PSI ensures a gender aware approach.
- (3) PSI and its affiliates recognise the wide diversity of organising methods and strategies, which reflect national circumstances and priorities.
- (4) PSI and its affiliates will seek to ensure that at national and international level, labour laws and international instruments are extended to include workers in the informal economy.
- (5) PSI and its affiliates recognise that there is scope for a wide-range of existing and potential alliances with organisations of workers in the informal economy at national level, based on commonality of interest:
 - Alliances within an anti-poverty lobby including campaigns for the introduction of living minimum wage;
 - Alliances to promote universal coverage for health, education, social services; maternity protection, pension and disability allowances;
 - Campaigns to ensure adequate State resources to improve conditions for workers in the informal economy;
 - Alliances to promote the role of the State in formulating appropriate regulatory policies to provide recognition and legal status for workers in the informal economy;
 - Alliances where appropriate with organisations which share a common bargaining partner, such as the Municipal authorities;
- (6) PSI and its affiliates welcome initiatives to develop practical strategies to organise workers in the informal economy and calls for an on-going dialogue with relevant organisations on those strategies.⁶⁸

68. *Policy recommendations on strategies and alliances in relation to the organisation of informal workers*, Public Services International, <http://www.worldpsi.org>

Special issue 4: Recruitment agencies, labour exploitation and forced labour

Recruitment agencies represent a critical link in the employment process, where abuses can occur which may lead to trafficking and/or forced labour. In particular, excessive fee-charging to job-seekers is an exploitative practice which, in some circumstances, can lead to over-indebtedness and forced labour.⁶⁹ Equally, where effectively regulated and functioning correctly, such agencies provide a valuable contribution to a well-functioning labour market.

Research on private recruitment agencies⁷⁰ was conducted by the ILO in Zambia in 2007, in response to a request from the MLSS. The main findings of the research were that existing legislation and policies inadequately regulate the operations of private recruitment agencies. 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). This system has been prevalent in the mining industry in Zambia.

Legislation governing recruitment agencies is inconsistent on the issue of fee-charging and so agencies apply different practices. 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.

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".^{71/72}

In relation to trade unions and recruitment agencies, unions have a key role to play in monitoring the workers' placements, providing advice and assistance with contracts and following up any complaints workers have with agencies and/or the end employers with whom they are placed. In most cases, once the recruitment agency has placed the worker, the relationship is over. The contract is between the worker and the new employer.

69. 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.

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

71. Following the research, a workshop was held bringing together MLSS, recruitment agencies and workers' and employers' organisations. This collected feedback from interested parties, and provided information to enable MLSS to start developing new regulations on private recruitment agencies.

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

Special issue 4: Recruitment agencies, labour exploitation and forced labour

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 the company's demand that the job-seekers 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.

In some cases, however, the relationship between the agency and jobseeker is more permanent. Jobseekers are effectively hired out to an employer by a broker in a triangular relationship. Under such an arrangement, 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. In such cases the trade union may become involved to represent the interests of the individual worker, but also, more generally, to seek to establish clear employment relationships and better contracts for workers in these situations.

In instances where the jobseeker is sent to another country, trade unions can assist by contacting their counterpart unions in the destination country to offer membership benefits to the migrant workers and to bargain on their behalf for decent working conditions.

Trade unions can also work at the policy level to ensure that the legislation and regulations that govern employment agencies are fair to jobseekers, particularly in relation to fee-charging. Unions can participate in tripartite monitoring institutions and mechanisms that are set up to oversee the functioning of the private employment agencies, as well as support any voluntary self-regulation by the industry such as codes of practice.



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Special issue 5: Advocating for a protective working environment

The causes of forced labour and trafficking are numerous - poverty, discrimination, lack of employment and earning opportunities, poor social protection systems and low levels of education. All these factors can result in children and adults becoming vulnerable to traffickers and forced labour situations. In their efforts to tackle forced labour and trafficking, trade unions must be aware of the wider context, using their power and influence to advocate for an environment in which all workers have decent work and access to social protection.

Trade unions have multiple tasks to undertake in advocating for the rights of workers. It is essential that unions push government and other relevant agencies to develop and implement legislation, policies and programmes, to better protect children and adults from becoming victims of trafficking and forced labour. Trade unions, as part of civil society, are already involved in assisting the government of Zambia to develop national frameworks like the Fifth National Development Plan (FNDP). The FNDP contains many sections relevant to building a better working environment - for example, skills development and training, youth and child development, employment and labour and social protection. Trade unions must continually monitor the government's work and progress to ensure that what has been promised in these plans is actually delivered.

Education and youth employment

Children who do not have access to education are vulnerable to being trafficked or other worst forms of child and forced labour. Every child has a basic right to education and the positive benefits of an education cannot be overstated. According to the ILO, education provides a child with "increased chances in finding wage employment and/or higher wage rates and is a route to economic and social mobility to escape the poverty trap".⁷³ Schooling and training can protect children from being trafficked or involved in forced labour because educated children "are more aware of their rights and responsibilities and are less likely to accept hazardous work and exploitative working conditions".⁷⁴

Affordable, accessible and quality education plays a key role in relation to the prevention of forced labour and trafficking. Many out-of-school children and poorly educated adults become easy targets for traffickers or unscrupulous employers. Orphans and vulnerable children (as a result of HIV and AIDS, poverty, family breakdown etc.) are often unable to afford to pay for uniforms, books and transport and end up out of school. Others are not even given the opportunity to attend school as their parents do not see the benefits of an education. Even in cases where education is affordable, at community schools for example, the quality of teaching may be low or the child's attendance may suffer as a result of having to work to help support the family. Whatever the reason for non-attendance, trade unions, particularly those in the education sector, have a key role in ensuring that the government delivers affordable and quality education. By enabling children to exercise their right to an education, even a basic one, trade unions can play a major part in preventing children becoming victims of trafficking or forced labour.

Even with an education, finding decent work may still be difficult for young people. "Achieving decent work for youth is a challenge shared by all countries across the world. On average, young women and men are two or three times more likely to be unemployed than adults. All too often, they work unacceptably long hours under informal, intermittent and insecure work arrangements, characterized by low productivity, meagre earnings and reduced labour protection."⁷⁵ Zambia is no exception; the 2005 Zambia Labour Force Survey states that the high level of youth unemployment is a severe problem affecting the Zambian labour market.⁷⁶ Unemployment can make young people vulnerable to traffickers or unscrupulous employers. Trade unions must work with the government and employer organizations to develop policies and programmes that enable young people to access the job market and make sure they are protected when in work.

73. ILO. *Child Labour: An information kit for teachers, educators and their organizations* (Geneva, 2003).

74. Ibid.

75. Youth employment, ILO, <http://www.ilo.org>

76. Central Statistical Office: *Labour force survey 2005* (Lusaka, 2005).

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Decent work

According to the Zambia Decent Work Country Programme: "Poverty in Zambia has been exacerbated by the persistently high unemployment levels, and further compounded by the HIV and AIDS pandemic. Although GDP growth has been averaging about 4.5% annually, this growth has not translated into a commensurate increase in the number of jobs. Of the 6,184,000 people in the labour force, only about 700,000 are formally employed, and the remainder of the workforce is either engaged in the informal economy or unemployed. Many of these are women, young people and people with disabilities. Employment creation, therefore, remains a high priority for the Zambian Government, as reflected in the National Employment and Labour Market Policy (NELMP) and in the title of the Fifth National Development Plan (2006 - 2010) - "Achieving broad-based wealth and job creation through technological advancement and citizenry participation."⁷⁷

The ILO's Decent Work Agenda is based on four pillars: rights at work; employment, social protection and social dialogue. Within Zambia, priority has been given to:

Priority 1: More and better employment for the youth, women and people with disabilities, support by enhanced labour market information systems

Priority 2: Responding to HIV and AIDS challenges in the world of work in Zambia

Priority 3: Elimination of child labour, particularly in its worst forms

Trade unions can assist in delivering the above objectives which, in turn, will start to better protect those most vulnerable to being trafficked or forced to work. Furthermore, within Zambia, trade unions are members of the Tripartite Consultative Labour Council (TCLC), which plays an important role in setting policies relating to employment, labour and industrial relations, including equal opportunities in employment. Trade unions should

use their position on the council to push for decent working conditions that better protect workers from forced labour and trafficking situations.

Social protection/social security

Zambia [in the Fifth National Development Plan] defines social security as: "... all social transfers in kind and in cash that are organized by the state or parastatal organizations or are agreed upon through collective bargaining".⁷⁸ "Benefits include cash transfers such as pensions, employment injury benefits, short term cash benefits (sickness and maternity benefits, etc.), as well as benefits in kind such as health services."⁷⁹ However, this does not include social security support provided through the extended family network, which is often vital in supporting family members who do not have the means to support themselves.

The ILO report found, however, that in Zambia "... neither existing contributory (social insurance) nor non-contributory (social assistance) social security provisions are adequate in terms of the population covered, the scope of coverage and the adequacy of benefits/ payments received".⁸⁰ In addition, the majority of people in receipt of some level of social security do so through mandatory contributions tied to their employment. Although this should apply to all employed workers, whether in the informal or formal economy, little monitoring or enforcement takes place to ensure that contributions are in fact made to the various schemes.⁸¹

The lack of social protection is a problem affecting all levels of society, from children working to support poverty-stricken families to sick workers laid-off with no compensation or support. Social protection is vital to prevent vulnerability to forced labour and trafficking amongst those groups most prone to it. Trade unions can assist at the policy level by advocating for enhanced social protection in Zambia and effective implementation of social security laws, and by taking up the cases of workers who are being denied access to benefits due to them.

77. Ministry of Labour and Social Security and International Labour Office: *Zambia Decent Work Country Programme 2007 to 2011* (Lusaka, 2007).

78. Republic of Zambia: *Fifth National Development Plan: Broad-based wealth and job creation through citizenry participation and technological advancement, 2006 - 2010* (Lusaka, 2006).

79. ILO: *Zambia: Social protection expenditure and performance review* (Geneva, 2008).

80. Ibid.

81. In the research on forced labour and trafficking by the ILO in Zambia, it was found that some employers deduct 5% from the employee's salary to pay towards their pension in line with employment laws, yet do not submit this to the pension authority, resulting in no pension entitlement being accrued by the worker.

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Annex 1: Directory of cooperating partners

The following is a list of organizations that may be of assistance in providing information on forced labour and trafficking, or in various other ways.

Governmental

- Ministry of Labour and Social Security (PO Box 50103, Lusaka)
- Ministry of Sport, Youth and Child Development (PO Box 50195, Lusaka)
- Ministry of Home Affairs (Police, Victim Support Unit, Immigration, Drug Enforcement Commission) (PO Box 50997, Lusaka)
- Ministry of Community Development and Social Services (PO Box 31958, Lusaka)
- Ministry of Education (PO Box 50093, Lusaka)
- Resident Development Committees
- Anti-Corruption Commission
- District Commissioner

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)
- 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)
- Domestic Workers Union (PO Box 31146, Lusaka)
- 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
- International Trade Union Confederation (Brussels), Global Trade Union Alliance to Combat Forced Labour and Trafficking: forcedlabour@ituc-csi.org
- Zambian Congress of Trade Unions (ZCTU) (PO Box 20652, Kitwe)
- Zambian Federation of Employers (ZFE) (PO Box 31941, Lusaka)

Annex 2: Discussion of Zambian case studies

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.

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 is 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.



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

Programme on Promoting the Declaration on
Fundamental Principles and Rights at Work
International Labour Office
Route des Morillons, 4
CH-1211 Geneva 22