



Republic of Zambia



International
Labour
Office

Investigating forced labour and trafficking: Do they exist in Zambia?



Carron Fox

Special Action Programme to
Combat Forced Labour

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Do they exist in Zambia?



Carron Fox

Foreword

Zambia has for a long time been committed to fighting forced labour and trafficking. As early as 1964, Zambia ratified ILO Convention No.29 of 1930 on Forced Labour. In this Convention, it is explicitly stated under article 25 that the illegal exaction of forced labour or compulsory labour shall be punishable as a penal offence, and it shall be an obligation of any member state ratifying this convention to ensure that penalties imposed by law are adequate and are strictly enforced. In 1965, Zambia further ratified Convention No.105 on the Abolition of Forced Labour which relates even more to the use of forced labour to oppress, punish and discriminate against workers. Other Conventions ratified by Zambia that relate to forced labour and trafficking include the ILO Convention No.182 on Elimination of the Worst Forms of Child Labour.

The Decent Work Country Programme (DWCP) for Zambia, launched in December 2007 prioritizes, among others, promotion of decent non-exploitative employment with particular attention to youth, women and people living with disabilities; and supporting the elimination of child labour, starting with its worst forms. Clearly, work on forced labour and trafficking, and identifying consequent problems contributes to attainment of these priorities.

The world is more and more becoming a global village. The liberalization of the Zambian Labour Market led to the importation of foreign labour practices into Zambia, among which, include the emergence of Private Employment Agencies (PEAs). Since the inception of PEAs, the Ministry of Labour and Social Security has received various reports from workers whose identity document were withheld by PEAs. Ultimately, concerns abound that workers were being forced by PEAs, and at the very least being exploited. This therefore prompted the idea of conducting this study.

Despite Zambia having ratified ILO Convention No.29 in 1964, not much has been done in terms of studies that shed light on the problem of forced labour. The findings of this study provide an insight into forced labour and trafficking in Zambia, and suggestions on possible interventions. I therefore welcome this report and also commend the excellent collaboration between Government and the International Labour Organization that has seen the completion of this project.



Ngosa Chisupa
Permanent Secretary
Ministry of Labour and Social Security

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Acronyms

C29	ILO Convention concerning Forced or Compulsory Labour, 1930 (No.29)
CBO	Community Based Organisation
DRC	Democratic Republic of Congo
DWCP	Decent Work Country Programme
FGD	Focus Group Discussion
HRC	Human Rights Commission
ILO	International Labour Office/Organization
INGO	International Non-Governmental Organisation
IOM	International Organisation for Migration
IPEC	International Programme on the Elimination of Child Labour (ILO)
MLSS	Ministry of Labour and Social Security
NAPSA	National Pension Schemes Authority
NGO	Non-Governmental Organisation
NRC	National Registration Card
SAP-FL	Special Action Programme to Combat Forced Labour (ILO)
TIP	United States' Department of State, Trafficking in Persons Report
UNICEF	United Nations Children's Fund

During the research period, the Zambian Kwacha (K) to US Dollar (USD) was approximately K4000 to 1 USD.

Contents

Foreword	i
Acknowledgements.....	ii
Acronyms	iii
Executive Summary.....	1
Section One: Introduction.....	7
1.1 Background to the research project.....	7
1.2 Definitions	9
1.3 National legislation and policies.....	14
1.4 Existing knowledge base on forced labour and trafficking in Zambia	18
Section Two: Analysis of labour complaints in Zambia	23
2.1 Details of complainants.....	24
2.2 The public sector	25
2.3 The private sector	27
2.4 Types of complaints	29
2.5 Sectoral concerns.....	36
2.6 The response of the authorities.....	40
Section Three: Forced labour, trafficking and migration in Zambia	41
3.1 Research methods	41
3.2 Understanding of the terms ‘trafficking’, ‘forced labour’ and ‘migration’	43
3.3 Profiles of forced labour and trafficked victims, and traffickers	44
3.4 Reasons for migration and trafficking	45
3.5 Means of transportation.....	46
3.6 Routes and channels for migration and trafficking	46
3.7 Nationalities of migrants, trafficked victims and traffickers	49
3.8 Travel documents and work permits.....	50
3.9 Discovering and intercepting traffickers	51
3.10 Types of work undertaken by migrants.....	52
3.11 Terms of employment and working conditions of migrants and trafficked victims	54
3.12 Trafficking of Zambians to other countries	56
3.13 Trafficking and forced labour within Zambia.....	59
3.14 Domestic work sector: A special focus.....	61
3.15 Responses to forced labour and trafficking in Zambia	64
Section Four: Conclusion and Recommendations.....	67
4.1 Conclusion	67
4.2 Recommendations	69
References	72
Annex 1: Profiles of migrants and trafficked victims	75
Annex 2: Profiles of domestic workers	80
Annex 3: Examples of cases taken from section two.....	84
Annex 4: Data collection proforma for MLSS complaints.....	86

Executive Summary

Introduction

This research project was undertaken in response to an approach by the Zambian Ministry of Labour and Social Security (MLSS) to the International Labour Office (ILO) to request assistance to look into the possible existence of forced labour practices in Zambia. In particular, MLSS had become concerned about the practices of some recruitment agencies, which were acting as 'labour brokers' in the mining sector. These agencies were thought to be exploiting jobseekers after they had been placed into employment, by retaining a significant part of their wages as a placement fee. MLSS' concern arose following the lodging of complaints by workers over non-payment of terminal benefits, with neither the client company nor the recruitment agency accepting responsibility for the payment.

MLSS' approach to the ILO raised the idea of conducting research into forced labour in Zambia, an area that had not previously been researched. The Special Action Programme to Combat Forced Labour (SAP-FL)¹, based in ILO's headquarters in Geneva under its programme to promote the ILO Declaration on Fundamental Principles and Rights at Work,² took responsibility for the study. Funding was provided by the UK Department for International Development (DFID) and Irish Aid. It was agreed that the study would look into forced labour and trafficking of adults and youths aged 15 years and above. The project started in July 2007 and was completed in April 2008. This project builds upon research³ conducted by ILO/IPEC⁴ in Zambia in 2006/2007 on child trafficking that conclusively showed the existence of trafficking of children aged less than 18 years.

Structure and scope of the research

While the broad scope of the research was agreed in advance, its more specific content evolved in response to the priorities expressed by the project's steering group members and other stakeholders consulted during the inception phase. It was agreed that three discrete, yet inter-linked, studies should be undertaken to explore different aspects of forced labour and trafficking in Zambia. These studies addressed:

- recruitment agencies and their practices;
- labour complaints lodged in Ministry of Labour and Social Security Offices and the Human Rights Commission; and
- experts', communities' and individuals' insights into forced labour, trafficking and migration.

The recruitment agencies research was conducted in Lusaka City and Copperbelt Province, while the recording of labour complaints and the forced labour, trafficking and migration research were carried out in Lusaka City, Copperbelt Province, Eastern Province and Southern Province.⁵

The definitions used are those specified in international law. Forced labour is defined in the ILO Forced Labour Convention 1930 (No.29), as 'All work or service which is exacted from any person under menace of any penalty and for which the said person has not offered himself voluntarily'. Trafficking is defined in the UN Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children adopted in 2000. In brief, trafficking is the recruitment and movement of someone, by means of deception or force, in order to exploit them in prostitution, forced labour or in similar serious

1 The ILO established the Special Action Programme to Combat Forced Labour (SAP-FL) in 2001 to spearhead ILO activities against forced labour, including trafficking. It is a broad-based technical cooperation programme working at the request of member states and in close collaboration with workers and employers, civil society and other international organizations (www.ilo.org/forcedlabour).

2 The ILO Declaration was adopted by the International Labour Conference in 1998. It obliges all Member States of the ILO to respect, promote and realize four fundamental rights at work, namely: freedom of association and the right to collective bargaining, the elimination of forced labour, the abolition of child labour and the elimination of discrimination in employment and occupation (www.ilo.org/declaration).

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

4 The International Programme on the Elimination of Child Labour.

5 It should be emphasised that this research project is limited in both geographical and substantive scope. It set out specifically to investigate the possible existence of forced labour, trafficking and severe labour exploitation in selected locations. It does not represent an investigation of labour conditions overall in Zambia nor purport to give any indication of the prevalence of forced labour and trafficking in the country.

ways. In the case of a child under 18 years of age, there is no need to prove the use of deception or force in order to classify the case as one of trafficking.

Main findings

Recruitment agencies⁶

From the ILO's perspective, recruitment agencies represent a critical link in the employment relationship, in which abuses can occur that may lead to trafficking and/or forced labour. However, where effectively regulated and functioning correctly, such agencies provide a valuable contribution to a well-functioning labour market. The main findings of the research include the following:

- Current legislation and policy do not adequately regulate the operations of private recruitment agencies. This is acknowledged by the MLSS, who revoked all licenses issued to recruitment agencies in early 2006; this ban was subsequently lifted in November 2007.⁷ Many of the registered agencies were no longer in operation at the time of the research. The study found problems with the contracts signed by some workers who had been employed through agents, including unfair wage deductions, although workers being sent overseas must have a contract that has been seen, and verified by a labour officer. Furthermore, it was learnt that there are no clear complaints procedures for workers recruited and placed by agencies.
- The study found that there are two types of agencies. The first type "is that which performs the role of intermediary between the employer and the jobseeker. These agencies do not maintain an employment agreement or contract with the worker".⁸ The second is the labour broker, which involves "a commercial agreement between an agency and the employer/user firm for the former to recruit certain categories of labour to be contracted to the latter. In this arrangement, the agency recruits jobseekers and enters into individual contracts with them (and is supposed to take full responsibility for them)".
- The legislation governing the operations of recruitment agencies is inconsistent on the issue of fee-charging. In practice, agencies apply different charges. The most common arrangements were for the employer to be charged either a flat fee, as in the case of maids being employed through a maid centre, or a one-off fee of 20% of each worker's salary for the first month of employment. Some agencies did charge jobseekers fees for applications/registration, training and placement. In the case of at least one maid centre, the fee of K50,000 charged to the employer was deducted from the maid's first salary payment, in effect resulting in the maid herself paying for the placement.

As well as looking at recruitment for employment within Zambia, the research found "that there were no registered agencies specifically focused on overseas employment". Four out of twelve 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, and a visitor from the United Kingdom staying at a guest house operated by a maid centre had travelled home with a maid.

It proved very difficult for the researchers to investigate the operations of certain agencies that place advertisements regularly in the local press, and are probably operating at or beyond the margins of legality, as 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".

⁶ This work was conducted by consultants, Dr Mutesa and Mr Matenga. A financial contribution was made by the Ministry of Labour and Social Security towards this research. Following the research, a workshop was held bringing together MLSS, recruitment agencies and workers' and employers' organisations. This enabled feedback from interested parties, and provided input to MLSS on the development of new regulations on private recruitment agencies.

⁷ In April 2008, MLSS published a gazette requesting recruitment agencies to re-apply for their operating licenses.

⁸ All quotes are taken from the research report by Mutesa, F & Matenga, C: Recruitment agencies and practices in Zambia (Lusaka, forthcoming).

Exploitative and forced labour practices in Zambia

The information on exploitative and forced labour practices in Zambia was collected by five research assistants, of which four were labour officers based within MLSS offices, and one was an external consultant based in the Human Rights Commission (HRC) offices in Lusaka. A total of 1542 cases⁹ were recorded, of which 65% were lodged by individual males. Eleven percent of complaints to MLSS and 19% of those to HRC were by females. Complaints by groups were recorded as one complaint even though in some cases the group consisted of up to 80 people. The reason for the large discrepancy between the number of males and females complaining cannot be explained by the data itself. However, it may be due at least as much to the greater confidence of men to register a complaint as to any difference in the extent of exploitation of men versus women.

The majority of the complainants were Zambians; less than ten were of other nationalities, including British, Ethiopian, Indian, Malawian and Zimbabwean. The labour officer in Chipata believed that many of the agricultural workers lodging complaints in the Chipata labour office were in reality Malawian, but due to their fear of deportation, claim to be Zambian. The nationality of the employer was not systematically recorded.¹⁰ Thirty-two percent of the HRC complainants¹¹ were aged between 30 – 39 years, with 19% being 40 – 49 and 17% being 20 – 29 years.

The public sector

In total, 27% of complaints collected by the HRC¹² related to the government as employer, totalling 87 complaints. These complaints concerned a wide range of government departments, with the Ministry of Education having the highest number of complaints, with a total of 17 (20%). Complaints about the military, including the army and air force, totalled nine (10% of the total). These complaints predominantly related to unfair dismissal.

The reasons for complaints in the public sector were not as varied as those recorded in the private sector. While exploitation takes place, with unpaid wages and non-payment of terminal dues being the main reasons, it does not appear that this is done vindictively. Rather, it is due to a breakdown in administrative systems. Each complainant may have been subjected to multiple problems, therefore resulting in more complaints than the number of complainants. In total, 105 separate incidences were recorded, with 52 of these (50%) being of unpaid dues. The second highest number of complaints related to unfair dismissal, at 15%, followed by non-payment of wages at 8%.

The private sector

The sectors with the highest number of complaints were as follows:

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

The research found that some provinces recorded high numbers of complaints for a particular economic sector, reflecting the predominance of the sector in that region. For example, Kitwe recorded 35% of its cases from the mining sector, while Chipata recorded no cases for mining whereas domestic work and agriculture each accounted for 17% of the cases.

⁹ It should be noted that it was not possible to record whether or not these complaints were justified, as the majority of complaints have yet to be adjudicated.

¹⁰ In a small number of cases it was noted that the employers were 'white', Chinese, Indian, and in two cases, Peruvian.

¹¹ The MLSS does not systematically record the age of the complainant.

¹² The MLSS does not regularly receive complaints from the public sector, as public sector workers are advised first to try to resolve the problem with their supervisor, and if this does not resolve the problem, to complain to their union. A total of 23 complaints were received by MLSS and were broadly similar to the complaints recorded by the HRC.

Reasons for complaints

The most frequent reasons for complaints were as follows:

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

While the majority of the cases presented problems of labour exploitation, and in many instances severe exploitation, some cases showed indications of possible forced labour and trafficking. These cases tended to be related to unpaid wages; threats of dismissal, or dismissal if the worker complained; deception as to the nature of the work; withholding of personal documentation; excessively low wages; transportation to a distant work site and non-repatriation; and very poor conditions of service.

Regarding unpaid wages, some workers were not paid for months on end, and in a few instances, several years. Unpaid wages oblige a worker to decide between staying with the employer in the hope of one day being paid, or quitting to seek work elsewhere that will be paid correctly. In the former case, the worker is effectively forced to stay in the job against their will, because leaving would result in the forfeiture of wages due. This could amount to forced labour, although the case would be strengthened by being able to demonstrate the intention of the employer to exact forced labour by withholding wages (and not, for example, due to a temporary cash flow crisis). Another situation of possible forced labour was found in the mining sector. Mine workers need a valid certificate of health to work, which is paid for by the employer. In a number of cases, contractors withheld this certificate in order to stop the worker finding work elsewhere. This occurred even in cases in which the contractor was not currently employing the worker, so as to retain him on their books until the contractor secures a new contract.

The recording of complaints also revealed that in three sectors, workers are particularly vulnerable to exploitation due either to the informal nature of the work (as in agriculture and domestic work), or because of a “triangular” employment relationship (as in mining). In the latter case, workers hired by contractors are vulnerable to exploitation, as they are not directly hired by the mining company. Numerous complaints were made in relation to contractors not paying the workers. Domestic and agricultural workers were also prone to exploitation, particularly through non-payment of wages. In the instance of agriculture, an Eastern Province labour office recorded that Malawian workers, migrating into Zambia to undertake seasonal agriculture work, were not being paid at the end of the season. Their illegal working status in Zambia was thought to be one reason for this, as the workers are often too scared to complain, due to their fear of deportation.

Forced labour, trafficking and migration in Zambia¹³

The research into forced labour, trafficking and migration was carried out in Lusaka City, Eastern Province, Copperbelt Province and Southern Province. In total, the researchers conducted 14 focus group discussions, 60 interviews with key stakeholders, 12 interviews with trafficked victims or migrants, 31 interviews with domestic workers and five interviews with maid centres. Efforts were made to include both male and female respondents in all cases.

Who are the victims and traffickers?

According to respondents, the victims of trafficking were mostly women and children, although some felt that men, due to being strong and able to work on farms, were also vulnerable. Most of the case

ⁱ 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. Some complainants to HRC had already complained to MLSS without receiving a response.

¹³ This research was conducted by consultants, Ms Mwape and Mr Matenga.

studies recorded related to women, girl and boy victims, although a few cases of adult male victims were identified. The traffickers were considered to come from a cross-section of society, such as family members, relatives, friends, church organisations, truck drivers, owners of bars and tourism enterprises. While the majority of traffickers appear to be working independently of one another, a few references were made to more organised syndicates. The traffickers can be male or female and Zambian or non-Zambian.

Reasons for migration and trafficking

The main reasons given for people migrating or becoming vulnerable to trafficking were as follows: the search for better economic or employment opportunities or better living conditions; the lack of local economic opportunities; poverty; ignorance; the pursuit of education/studies; and joining family members who had already migrated abroad. For those migrating into Zambia, respondents cited the following as possible reasons: investment and job opportunities; trading; tourism; prevailing peace; relaxed laws; and escaping adverse economic situations in neighbouring countries.

Means of transportation, routes and documentation

Respondents maintained that migrants and/or trafficked victims travel by air, rail or road to their destination, although in a small number of cases, migrants were known to have walked. Overland transport was more common than by air for people migrating within the region. According to informants, not only is road transport cheaper, it is also preferred by irregular migrants and traffickers due to the relative weakness of border controls, compared with air travel. Truck drivers were repeatedly referred to as responsible for transporting migrants, and trafficking women for prostitution. Given the fact that Zambia is landlocked and has borders with seven different countries, migrants use various means and routes to cross them. Some use legal crossing points while others use remote paths that circumvent immigration controls.

In general, Zambians were thought to travel with genuine passports, as passports are relatively cheap and easy to obtain. However, it was suggested that Congolese, for example, often travel on fraudulent documents, due to the difficulty in obtaining genuine documents in their home country. It was felt that skilled and professional migrants often obtain work permits before travelling, while unskilled workers usually travel without work permits, and seek work once they arrive at their destination.

Many respondents believed South Africa to be the main destination of cross-border Zambian migrants, including victims of trafficking, and several victims confirmed this. However, Tanzania was also cited as a destination country, particularly for women involved in prostitution, and other neighbouring countries, such as Botswana, were also mentioned. Immigration officers said that they find it difficult to apprehend traffickers, in part due to weak legislation. In cases where the possible victims are in transit through Zambia, immigration officers find it difficult to prevent their onward movement.

However, many of the trafficking cases identified related to internal trafficking within Zambia, rather than cross-border trafficking. Respondents noted the following routes for trafficking and internal migration: from Katete to Chipata; from Eastern Province to Lusaka and Copperbelt Province; from Ndola to Solwezi; and from Luapula Province to Copperbelt Province. In general, it was suggested that migrants tend to move from rural areas to urban areas including small towns.

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

Among Zambians migrating out of Zambia, respondents stated that professionals tend to leave to work as nurses, doctors, and teachers, while the unskilled find work as babysitters, cleaners, carers for the aged, waitresses and prostitutes. For those migrating within Zambia, domestic work was cited as a

predominant form of work, as well as agriculture, mining and other labour intensive jobs. In relation to non-Zambians migrating into Zambia, Zimbabwean women were noted as working as traders and prostitutes, Congolese as traders and smugglers of essential goods, Malawians as agricultural labourers, and West Africans as gemstone miners. The sectors in which trafficking plays a role were thought to include prostitution, agriculture, construction and retail.

The working conditions faced by many migrants were deemed to be exploitative and poor. Many Malawians were found to have worked for an entire agricultural season, without being paid at the end of the season as promised. Domestic workers were also cited as vulnerable to exploitation, with long working hours, low pay, and often being subject to sexual harassment. The position of migrants, being away from home and desperate for work, makes them vulnerable to exploitation by their employers. Respondents' opinions on the forms of exploitation that take place were similar to those recorded by the MLSS officers, and included long working hours, unpaid wages and poor working conditions. Exploitation was particularly clear in relation to young domestic workers, and children hired to herd cattle.

The particular problems within the domestic work sector became apparent throughout the research. Children were often cited as victims of trafficking for domestic work, with friends and family convincing young girls, in particular, to come to work for them in return for schooling. However, schooling is sometimes not provided and children are expected to work long hours in the house. Among adults, high levels of exploitation were found in domestic work, but in the majority of cases, the adults had migrated independently and voluntarily, and then found jobs in which they suffered exploitation, rather than being victims of trafficking. However, this may be due to the fact that trafficked victims were inaccessible to project researchers, and to MLSS labour officers.

Responses by government and civil society

In recent years, work to combat trafficking has started in Zambia. A draft anti-trafficking policy and legislation have been developed and an inter-agency committee on human trafficking set up. While there is still no specialised unit to deal with human trafficking, the Victim Support Unit of the Zambian Police Service has been trained in carrying out investigations into human trafficking. In addition, the governmental social welfare departments are responsible for providing counselling, shelter and protection to victims of trafficking. However, these activities are still limited, and there is no formal screening or referral process.

Anti-trafficking activities within civil society are also limited, with only a small number of NGOs and international agencies working on trafficking. Although shelters are provided, together with counselling and rehabilitation, places are limited and little support is available to potential victims identified at borders, without having to transfer them to the larger towns.

Conclusion

In summary, the study found that forced labour and trafficking do exist in Zambia. Many Zambians, desperate for employment, are willing to accept any promise of a job. Their desperation stems from poverty and until poverty is alleviated, forced labour and trafficking are likely to continue. However, there are many measures that could reduce the incidence and impact of forced labour and trafficking in the short and medium term, by preventing and better protecting workers from exploitation. These should be seen in the context of broader efforts to provide all workers with the freely chosen and decent employment they deserve.

Section One: Introduction

1.1 Background to the research project

1.1.1 Rationale and objectives

This research project was undertaken in response to an approach by the Zambian Ministry of Labour and Social Security (MLSS) to the International Labour Office (ILO) to request assistance to look into the possible existence of forced labour practices in Zambia. In particular, MLSS had become concerned about the practices of some recruitment agencies which were acting as 'labour brokers' in the mining sector. These agencies were thought to be exploiting jobseekers after they had been placed into employment, by retaining a significant part of their wages as a placement fee. MLSS' concern arose following the lodging of complaints by workers over non-payment of terminal benefits, with neither the client company nor the recruitment agency accepting responsibility for the payment.

While the non-payment of terminal benefits is not itself an indicator of forced labour, the general lack of knowledge about the recruitment sector gave rise to questions as to whether vulnerable jobseekers were possibly being placed into forced labour situations. MLSS' anxiety over the private recruitment sector became apparent in early 2006 at a time when this relatively new sector was flourishing and expanding. This was particularly in relation to the large mining industry in the Copperbelt Province, without adequate regulations or mechanisms being in place to monitor and control their practices. A ban on private recruitment agencies was imposed in early 2006 to enable MLSS to assess the situation and introduce improvements as necessary.¹⁴

MLSS' approach to the ILO raised the idea of conducting research into forced labour in Zambia, an area that had not previously been researched. The Special Action Programme to Combat Forced Labour (SAP-FL)¹⁵, based in ILO's headquarters in Geneva, under its programme to promote the ILO Declaration on Fundamental Principles and Rights at Work,¹⁶ took responsibility for the study. Funding was provided by the UK Department for International Development (DFID) and Irish Aid. It was agreed that the study would look into forced labour and human trafficking¹⁷ of adults and youths aged 15 years and above. The project started in July 2007 and was completed in April 2008. This project builds upon research¹⁸ conducted by ILO/ IPEC¹⁹ in Zambia in 2006/2007 on child trafficking that conclusively showed the existence of trafficking of children aged less than 18 years.

The Decent Work Country Programme (DWCP) for Zambia provides the agreed framework between the MLSS, the social partners (representative organizations of employers and of workers) and the ILO, for ILO cooperation and support in Zambia. It was launched in December 2007. The DWCP identifies the following priorities for Zambia: i) promotion of decent, non-exploitative employment with particular attention to youth, women and people living with disabilities; ii) preventing and mitigating the effects of HIV in the workplace and iii) the elimination of child labour, starting with its worst forms. Within this context, work on forced labour and trafficking, and identifying ways to combat these problems, clearly contributes to priorities i and iii.

1.1.2 Institutional structure and research components

A steering group was established to provide guidance and support throughout, and to ensure that the research remained relevant to the needs of the Zambian Government, the social partners and

14 The ban was officially lifted in April 2008 and private recruitment agencies were invited to apply for new licenses.

15 The ILO established the Special Action Programme to Combat Forced Labour (SAP-FL) in 2001 to spearhead ILO activities against forced labour, including trafficking. It is a broad-based technical cooperation programme working at the request of member states and in close collaboration with workers and employers, civil society and other international organizations (www.ilo.org/forcedlabour).

16 The ILO Declaration was adopted by the International Labour Conference in 1998. It obliges all Member States of the ILO to respect, promote and realize four fundamental rights at work, namely: freedom of association and the right to collective bargaining, the elimination of forced labour, the abolition of child labour and the elimination of discrimination in employment and occupation (www.ilo.org/declaration).

17 The term 'human trafficking' is often abbreviated to 'trafficking' for ease of use.

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

19 The International Programme on the Elimination of Child Labour.

other key stakeholders. The group consisted of representatives from the MLSS, Zambian Federation of Employers, Zambian Congress of Trade Unions, Human Rights Commission, Central Statistical Office and Ministry of Home Affairs. The group was chaired by the Permanent Secretary of the Ministry of Labour and Social Security.

The project was managed by a research co-ordinator based in the ILO Lusaka office. The project was technically supported by the Special Action Programme to Combat Forced Labour based in Geneva, and by the ILO/IPEC team and ILO Director in Lusaka.

While the broad scope of the research was agreed in advance, its more specific content evolved in response to the priorities expressed by the steering group members and other stakeholders consulted during the inception phase. It was decided that three discrete, yet inter-linked, research projects should be undertaken to explore different aspects of forced labour and trafficking in Zambia, as described below.

i. Recruitment agencies and their practices in Zambia

Due to the expressed concern of the Ministry of Labour and Social Security²⁰ that recruitment agencies in Zambia may be placing jobseekers into forced labour situations, this was the first study carried out. Given experience elsewhere, ILO is aware that some private recruitment agencies, when acting outside the law, can become fronts for human trafficking or otherwise increase the vulnerability of jobseekers to severe exploitation. This research was carried out by two consultants.²¹ Using semi-structured interviews and focus group discussions, the researchers were able to rapidly assess the situation and provide recommendations. A two-day workshop was held, hosted by ILO and MLSS, bringing together representatives from the MLSS, employers' organisations, trade unions and private recruitment agencies, to discuss the findings of the research, examine options for the better regulation and monitoring of the private recruitment sector and discuss ways forward.

Key findings from this research are included in this report. The complete findings can be found separately in the report entitled 'Recruitment agencies and practices in Zambia'.

ii. Recording of labour-related complaints received by Ministry of Labour and Social Security and the Human Rights Commission

At the start of the project, meetings were held with key stakeholders to ascertain whether forced labour and trafficking were recognised issues. While there was some information and recognition of trafficking, it quickly became apparent that there was no documentation or knowledge about forced labour in Zambia. One existing, and previously unexplored source of information on the latter was the labour-related complaints received by MLSS and the Human Rights Commission (HRC). The idea to record and analyse these complaints for possible forced labour problems was first explored with the HRC. A research assistant was hired in September 2007 to record all complaints registered in the previous five year period that related to employment, non-payment of wages, poor working conditions, and various other categories.

Subsequently, a similar exercise was carried out within the MLSS headquarters in Lusaka and in selected provincial labour offices, namely in Chipata (Eastern Province), Kitwe (Copperbelt Province), and Livingstone (Southern Province). Labour officers were hired within each of these MLSS provincial offices to carry out the work between late January and late February 2008. The research assistants submitted the data, along with a short final report. Each research assistant recorded approximately 300 cases, spanning approximately five years, starting with 2008 and going back to 2003. The data recording form is attached at Annex 4. The findings are presented in section two of this report.

20 The Ministry of Labour and Social Security's generously contributed financial resources to this section of the research and provided invaluable support throughout the project.

21 Dr Fredrick Mutesa and Mr Chrispin Matenga, of the University of Zambia.

iii. Primary research into forced labour, migration and trafficking

The final part of the project involved primary research to examine forced labour, migration and trafficking, covering locations in Lusaka City, Copperbelt Province, Eastern Province and Southern Province.

Two consultants²² were commissioned by ILO to lead the research, and they hired research assistants to assist them in the field. This research used semi-structured interviews and focus group discussions to gather information. Specific attention was given to domestic workers, particularly those that had been trafficked or exploited. The findings of the research are described in section three.

It should be emphasised at the outset that this research project was limited both in geographical and substantive scope. It set out specifically to investigate the possible existence of forced labour, trafficking and severe labour exploitation in selected locations. It does not represent an investigation of labour conditions overall in Zambia nor purport to give any indication of the prevalence of forced labour and trafficking in the country.²³ Therefore, no generalisations can or should be made on the basis of the findings presented in this report. Nonetheless, the various pieces of work described above have all contributed to drawing a more multi-dimensional picture of forced labour and trafficking in Zambia than would have been provided by one piece of research alone.

1.1.3 Ethical considerations

The information collected at the MLSS offices and HRC contained confidential details in relation to the names of complainants and their employers. These details were not recorded. The field research likewise omitted names of respondents, to ensure that they could not later be identified.

Research into trafficking and forced labour is difficult to undertake due to the sensitive and criminal/underground nature of the problems. Victims are hard to locate, and those that are willing to speak to researchers have undergone traumatic experiences. In the research on forced labour, migration and trafficking, ethical guidelines were developed prior to the work commencing, and in some cases, depending on the vulnerability of the individual respondent, a consent form was signed. Key informants did not have to sign a consent form, nor did members of focus groups discussions. However, individual victims of trafficking or exploitative labour, such as domestic workers, did. Only through ensuring confidentiality and maintaining sensitivity to the respondent's situation can researchers guard against possibly jeopardising the safety of those people who provide them with information.

1.2 Definitions

Definitional clarity is important both in understanding (and indeed measuring) a phenomenon and in determining the appropriate responses to it. The primary focus of this research is forced labour and trafficking. These two issues are linked but not the same. Not everyone in forced labour is there as a result of trafficking, though the vast majority of victims of trafficking end up in forced labour or commercial sexual exploitation. In many cases, it is difficult to differentiate a forced labour situation from a severely exploitative one. Migrant workers are especially vulnerable to forced labour and also to trafficking. The research therefore also investigated migration and severe labour exploitation, in a bid to try to understand better the relationships between the various problems.

²² Mr Matenga and Ms Mwape, both from the University of Zambia.

²³ The Labour Force Survey of Zambia, to be conducted by the Central Statistical Office later in 2008, will for the first time include a section aimed at the detection of forced labour and trafficking. The results of this survey should allow a first estimation of the national incidence of these problems and their geographical distribution, as well as the economic sectors affected.

1.2.1 Forced labour

The definition of forced labour comes from the ILO Forced Labour Convention, 1930 (No.29) (C29), ratified by Zambia in 1964. The Convention under Article 2 (1) defines forced labour as:

All work or service which is exacted from any person under 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 is unable to leave because they are threatened by the employer, is in a situation of forced labour. It may also apply to a worker who is unable to leave the job because they have not been paid for an extended period, or because their identity documents are withheld by the employer. However, workers who remain in a job because, out of economic necessity, they are unable to leave (but if they found another job would be free to leave) would not be regarded as being in a forced labour situation.

According to Dottridge²⁴, “At the time the Convention was adopted (just four years after the League of Nations had adopted a Convention against slavery and the slave trade²⁵ – now a United Nations treaty), it was seen as applying chiefly to cases in which the public authorities required private individuals to work, with or without compensation. However, there are evidently many other circumstances in which people enter or stay in particular work because they face a threat or penalty of some sort if they refuse to do so”.

In relation to the definition under C29, the ILO supervisory bodies have stated that:

- the penalty does not have to take on the form of a penal sanction – it could be linked to loss of rights or privileges
- consent is rendered meaningless if a worker has been induced into employment by deceit, false promises, retention of identity documents and force.²⁶

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.

²⁴ Dottridge, M: Forced labour in Africa: Concepts, categories and challenges, Working Paper (Geneva, ILO, forthcoming).

²⁵ The Slavery Convention, 1926. This defined slavery as: “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” (Article 1(1)). It was adopted by the United Nations under the terms of a Protocol approved by the UN General Assembly in October 1953.

²⁶ Andress, B & Mariska, N J van der Linden: Designing trafficking research from a labour market perspective: The ILO experience’ in Lacsco, F & Godziak, E (ed): Data and research on human trafficking: A Global survey (IOM, Geneva, 2005).

Lack of consent to work (the 'route into' forced labour)	Menace of a penalty (the means of keeping someone in forced labour)
• 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 identify documents or other personal possessions • Human trafficking (usually involves a combination of the above)	• 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 • 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:

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

Upon ratifying the Convention, the government commits itself to “suppress the use of forced or compulsory labour in all its forms within the shortest possible period”. The severity of the offence of forced labour is reflected in Article 25, under which “The illegal exaction of forced labour or compulsory labour shall be punishable as a penal offence,” and the government must ensure that “the penalties imposed by law are really adequate and are strictly enforced”. However, the ILO notes that governments rarely prosecute, in part “because of the difficulties in articulating the various offences that constitute forced labour in national laws and regulations”.²⁷

ILO subsequently adopted the Abolition of Forced Labour Convention of 1957 (No.105). It sets out certain situations in which forced labour shall never be imposed, even if exempted under Convention 29, as follows:

- (a) as a means of political coercion or education or as a punishment for holding or expressing political views ideologically opposed to the established political, social or economic system;
- (b) as a method of mobilising and using labour for purposes of economic development;
- (c) as a means of labour discipline;
- (d) as a punishment for having participated in strikes;
- (e) as a means of racial, social, national or religious discrimination.

Zambia ratified this Convention in 1965. Within this research, no incidences were found of forced labour as categorised above.

²⁷ ILO: A global alliance against forced labour (Geneva, 2005).

According to the ILO²⁸, a minimum of 12.3 million people are victims of forced labour worldwide. Of this 2,490,000 (20%) are victims of state or military imposed forced labour; 7,810,000 (64%) are victims of forced labour imposed by private agents for economic exploitation, 1,390,000 (11%) are victims of forced commercial sexual exploitation and 610,000 (5%) are mixed. By region, Asia and Pacific have the highest number of victims, with 9,490,000. This compares to Sub-Saharan Africa which has the third largest number of victims at 660,000. In Sub-Saharan Africa, 80% of forced labour is for economic exploitation, 11% is state-imposed and 8% is forced commercial sexual exploitation.

1.2.2 Trafficking in human beings

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 Transnational Organised Crime²⁹, which was adopted in 2003³⁰:

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

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

Thus, trafficking involves the **act** of moving someone, the **means** of deception, coercion etc and the **end** 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. By contrast with adults, for children 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.

The ‘Palermo Protocol’ also provides guidance to States on criminalising trafficking; protection of victims of trafficking in persons; status of victims of trafficking in persons in receiving States; repatriation of victims and on prevention and cooperation.

According to the ILO³¹ the minimum number of people trafficked into forced labour is 2.45 million. 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 into forced commercial sexual exploitation, 32% for forced economic exploitation and 25% for mixed or undetermined reasons.

1.2.3 The worst forms of child labour

The ILO Worst Forms of Child Labour Convention 1999³² (No.182) sets out child labour activities that under no circumstances should be tolerated and against which immediate and effective action should be taken to secure their prohibition and elimination as a matter of urgency. These apply to all children

28 Ibid.

29 Commonly referred to as the ‘Palermo Protocol’.

30 The protocol was acceded by Zambia in 2005.

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

32 This Convention was ratified by Zambia in 2001.

under 18 years of age and comprise (Article 3):

- (a) All forms of slavery or 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.

Thus, forced labour, trafficking and prostitution of children qualify as ‘worst forms’ of child labour in all circumstances. Any ‘consent’ on the part of the child to such exploitation is deemed to be invalid.

1.2.4 Migration

Migrants move from their place of origin for various reasons. Some are forced to move in order to survive conflicts or natural disasters³³, while others move to find better lives and economic opportunities. Regular and irregular channels are used. Migration is sometimes linked to forced labour and trafficking, as people migrating for a ‘better life’ and for economic reasons may need help to arrange their journey, or to find work at their place of destination. For many, finding ways to enter another country is difficult and intermediaries are used to assist. This ‘assistance’ may constitute only smuggling, in instances where the intermediary facilitates the border crossing, takes the payment and leaves the migrant to their own devices. But in other cases the ‘smuggler’ may subsequently place the migrant 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 who intend to exploit the migrant’s labour. In such circumstances, we can talk of trafficking. In other scenarios, the migrant may travel independently to look for work and yet still find themselves in forced labour due to their desperation to find some employment, however exploitative it may be, at their destination. It should be noted that this is not trafficking as the person has travelled independently, and no-one else moved them.

Anti-Slavery International³⁴ suggests that “it is no coincidence that the growth in trafficking has taken place during a period where there has been an increasing international demand for migrant workers, which has not been adequately acknowledged or facilitated”. This demand for migrant labour, coupled with restrictive immigration policies and procedures, makes migrants particularly vulnerable to being trafficked, or consenting to jobs that degenerate into forced labour, out of desperation and the fear of deportation.

The overarching UN Convention to protect the rights of migrants is the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). This convention has not been ratified by Zambia. Prior to this, the ILO had already adopted conventions on the protection of migrant workers, namely the Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). This former convention was ratified by Zambia in 1964, although exclusions have been stated enabling Zambia not to be bound by all the provisions of the Convention.

³³ These ‘migrants’ are often refugees or internally displaced persons.

³⁴ Anti-Slavery International: The migration-trafficking nexus (London, 2003).

1.3 National legislation and policies

1.3.1 Forced labour

Forced labour is addressed in a number of Zambian laws. Under the Constitution of 1991, Zambia's overarching piece of legislation, Article 14, protects individuals against slavery and slavery-like practices, and states that no person shall be required to perform forced labour. However, forced labour is not defined in the Constitution, although Article 14 does state 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 7 years;

Section 263: a person who unlawfully compels any person into forced labour is guilty of a misdemeanour;

Section 262: any person who habitually trades in slaves is guilty of a felony and is liable to imprisonment for 10 years.

The penal code also refers to the ability of the government to use hard labour as a form of punishment to 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 for working in government institutions, such as parastatal organisations and public companies, but only under the supervision of a prison officer or public officer. Additionally, where a prisoner is hired out, they are eligible to be paid wages. The issue of forced labour within prisons was not researched in this project and could be a topic for future research.

In 2006, an "individual direct request"³⁵ came from the ILO Committee of Experts on the Application of Conventions and Recommendations (the CEACR, part of the ILO supervisory system) relating to C29. The request asked Zambia to clarify its legislation in regards to compulsory national service. In previous communications, Zambia had stated that there is no compulsion to serve in the national service, nor compulsory enlisting, and the Committee requested that Zambia amend its laws to reflect this. Additionally, the Committee asked for clarification on the 'schemes for the encouragement of and participation in community development' in order to assess their conformity with the Convention.

1.3.2 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 (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 1973 (No.138).³⁶ 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 twenty-five years, or to both.³⁷

1.3.3 Trafficking

The UN Protocol on Trafficking was reflected in new Zambian legislation contained in The Penal Code (Amendment) Act of 2005. Under this, the following was made a criminal offence:

³⁵ CEACR: Individual Direct Request concerning Forced Labour Convention, 1930 (No.29) Zambia (ratification: 1964) Submitted: 2006.

³⁶ Zambia ratified C138 in 1976 and C182 in 2001.

³⁷ The Ministry of Sport, Youth and Child Development published the National Child Policy 2006, which specifies various objectives to prevent economic exploitation and child labour and prevent child sale, trafficking and abduction.

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

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

This legislation has provided the basis for at least three prosecutions, but is widely considered weak, including because of the fact that no definition of trafficking is given. A consultative process began in 2006 for the development of an anti-trafficking policy and new legislation. The policy and legislation have yet to be passed by the Government of Zambia, but drafts of the policy demonstrate a comprehensive approach to trafficking for both sexual and labour exploitation.

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".³⁸

The judge, when handing down the sentence indicated that he had given a lenient sentence "not exceeding 20 years", based on the defendant's mitigating circumstances. This case was the first prosecution under trafficking legislation that was introduced under the Penal Code in 2005. Prior to this there was no trafficking legislation. The first recognised trafficking case appeared in 2000, which involved an Australian national arrested at the Zambia/ Zimbabwean border, taking out five Zambian girls aged between 14 and 16 years of age. The girls were supposedly destined for Australia where they would be 'dancing queens'. While there was some evidence that the Australian was trafficking the girls, weak legislation and a strong defence resulted in the case being acquitted.³⁹ Additionally, 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.⁴⁰

1.3.4 Migration

As a member of the Southern Africa Development Community (SADC) and The Common Market for Eastern and Southern Africa (COMESA), Zambia, along with all the other member states, has discussed the issue of free movement in the region. Article 5 of the SADC treaty specifically refers to the "progressive elimination of obstacles to the free movement of labour, capital, good and services and people in the region".⁴¹ Under SADC the Protocol on the Facilitation of Free Movement of Persons was signed in 2005, and will be adopted when two thirds of members have ratified. The Zambian Government is still discussing the ratification of the protocol. According to the above report "there is a considerable reluctance among member states to surrender essential element of their national

38 Father jailed for selling his son, <http://www.zamnet.zm>, [26.1.2007].

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

40 Blind cry from human trafficking, <http://www.changemakers.net>. [Date unknown].

41 Ammassari, S: Migration and development: New strategic outlooks and practical ways forward. The cases of Angola and Zambia, IOM Migration Research Series, Series 21 (Geneva, 2005).

sovereignty, especially in such a crucial area as migration”.⁴²

1.3.5 National employment law

Zambian labour conditions are legislated under the Employment Act, Chapter 268 of the Law of Zambia. 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 six months of continuous service 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 Employment Act states (Section 75):

Any person who

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

Section 77. 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.

As can be seen from the above, while forced labour is an offence under the Employment Act, the penalty is weak and does not reflect the criminal nature of the act.

Working alongside the Employment Act, is the Minimum Wages and Conditions of Employment Act (Chapter 276). The statutory instruments (SI) for the Minimum Wages Act were revised in 2006 to update the minimum wages. This SI provides information on who is eligible for the minimum wage, the level of the minimum wage and what allowances are required to be paid. Wages and allowances differ according to the type of job, and not all jobs are categorised, resulting in some confusion. There is also confusion over the eligibility to the minimum wage of casual workers (non-permanent workers who have contracts for less than six months), according to the JCTR.⁴³

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 contract attested by the Ministry of Labour
- Employees in management positions (as defined under the Industrial Relations Act).

Under the Employment Act all contracts should be attested by a Labour Officer, and “if a contract of service is not attested by a proper officer within forty days of the making thereof, the employer shall cease to have any rights under such contract” (Section 31 (2)). The attestation of a contract must be done by a labour officer to enable the contract to be explained to the employee so as to ensure that the employee has understood and entered the contract voluntarily (Section 29). From the reading of the

⁴² Currently Zambians require work permits to work in other SADC countries.

⁴³ Petruskis, C: Employee vulnerability in Zambia: A policy guide to casualisation, minimum wage and the dignity of work (Lusaka, Jesuit Centre for Theological Reflection, 2006).

Employment Act, the only time that a contract does not have to be attested is “Provided that where the parties to a contract of service which has not been attested in accordance with the provisions of this section are literate and entered into the contract in good faith, such contract shall be enforceable as if it had been attested under this Section” (Section 29). This therefore, shows that all illiterate employees have to have contracts attested, and it is the responsibility of the labour officer to ensure that the wages and conditions stipulated are fair.

Also governed under the exemptions are members of unions. These employees must rely on their union to negotiate fair wages. Additionally, the exclusion of domestic workers from being eligible to receive minimum wages results in them being very vulnerable to being paid low wages.

Under the minimum wage legislation, employees are categorised and paid accordingly. They are also eligible for various allowances, such as for transport, lunch and housing, in addition to statutory entitlements such as overtime, leave of absence, paid sick leave, maternity leave, retirement, redundancy and other benefits. The system is complex; for example, shop workers are categorised into eight grades as listed below; the lowest basic salary is K268,000 per month, ranging up to the highest of K850,000.⁴⁴ The plethora of payments due to employees may confuse employers. However, as noted by the JCTR, only permanent employees are entitled to some of these benefits, which may result in employees being deliberately kept on short-term contracts of less than six months so as to avoid the employer’s obligation to pay the benefits.

JCTR, when summarising the current labour regulations state that “this examination of the Minimum Wages and Conditions of Employment Act reveals how the labour laws fail to protect most Zambian employees, through exclusion of many employee categories, through minimum wages set below the cost of basic needs and through their silent nature concerning casual employees”.⁴⁵

The Employment Act also provides the legislation governing the practices of recruitment agencies, and the MLSS acknowledges its shortcomings as discussed earlier. Research carried out under this project found that the Employment Act is contradictory in relation to whether fees should be charged to jobseekers; does not prescribe procedures for the recruitment and placement of jobseekers, and that agencies acting as brokers did not have contracts attested by the labour officers, as the contracts were for periods of only three months. Another problem was that the regulations do not state the minimum qualifications required for a person or persons to operate an agency. The study⁴⁶ recommended that:

1. There is a need to review the Employment Act to reconcile the various contradictory provisions on fee charging to the jobseeker. In particular, regulation 15 (b) should be harmonized with the principal law to ensure that no fees, directly or indirectly should be charged to the prospective employee.
2. The Employment Act must review the definition of private employment agency in order to capture other entities in the labour employment market that are in one way or the other involved in recruitment e.g. labour consultants, audit firms etc. Further, in its definition of employment agency, the law should distinguish between a private employment agency and a public employment agency/ service.

The Government of Zambia is currently reviewing the statutory instruments for the minimum wage as well as the Employment Act and the Industrial and Labour Relations Act. Furthermore, the Ministry of Labour and Social Security is also introducing new regulations for private recruitment agencies.

44 Grade 1 is package wrapper, delivery vehicle assistant, general worker, handyman, office orderly watchman. Grade 2 is lift operator, motorcycle/scooter driver, sales assistant, packer. Grade 3 is assistant bicycle assembler, assistant dispatch clerk, driver, shelf packer, shoe repairer, assistance window dresser. Grade 4 is bicycle assembler, check-out operator, driver (heavy duty or public service license), telephone operator, typist, picture framer. Grade 5 is dispatch clerk, ledger clerk, costing clerk, orderman, sales person, tailor, upholster. Grade 6 is audio visual equipment repairer, machine operator, watch repairer. Grade 7 is credit controller, supervisor, window dresser, shorthand typist and cashier. Grade 8 is qualified book-keeper.

45 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).

46 Mutesa, F & Matenga, C: Recruitment agencies and practices in Zambia (Lusaka, forthcoming).

1.4 Existing knowledge base on forced labour and trafficking in Zambia⁴⁷

1.4.1 Human trafficking

The existence of trafficking of humans for sexual and labour exploitation is acknowledged in Zambia. Recognised as a country of origin and transit for women and children by the US Department of State^{48/49}, Zambia is bordered by seven countries, making it a target for traffickers wishing to move people easily through and between neighbouring countries. Research carried out by the International Organisation for Migration⁵⁰ into trafficking in Southern Africa found that Zambia is also a country of destination.

There is evidence that Zambian women and children are trafficked for sexual exploitation from Zambia to Malawi and then onto Europe.⁵¹ The traffickers appear to be predominantly Nigerian, based in Lilongwe, but pass through Zambia on their way to Malawi.⁵² Zambia is also a destination country for labour trafficking, as illustrated by the following two newspaper reports. In the first, 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 as he was charged with attempted kidnapping of the same children.⁵³ In the second report another Zambian national was arrested trying to take 15 children, boys aged between nine and 15 years, into Zambia. The man was fined Malawian Kwacha 24,000 (US\$200).⁵⁴

As a transit country, Zambia is implicated in the onward trafficking of refugees and other vulnerable persons from Angola, the Great Lakes region and the Democratic Republic of Congo to South Africa⁵⁵. 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.⁵⁶

In 2004 a Congolese woman was stopped at a national border of Zambia bringing in 14 Congolese girls who were being taken to South Africa with the promises of jobs.⁵⁷ The International Organisation for Migration, along with non-governmental organisations, provided support to the children and the principal trafficker was arrested. However, she was later released after being fined ZMK 2 million.⁵⁸

In March 2008 the media reported on 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 sixteen were still 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 olds,” Ms Mbangweta said [the immigration officer]. “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

47 Some information for this section has been taken from an ILO unpublished briefing paper on ‘Trafficking in Zambia’, 2006.

48 Zambia is registered as a ‘Tier 2’ country, meaning “countries whose governments do not fully comply with the Act’s minimum standards but are making significant efforts to bring themselves into compliance with those standards”.

49 US Department of State: The annual trafficking in persons report – 2007, <http://www.state.gov/g/tip>.

50 IOM: Trafficking in women and children for sexual exploitation in Southern Africa (Pretoria, 2003).

51 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.

52 IOM: Trafficking in women and children for sexual exploitation in Southern Africa (Pretoria, 2003).

53 Another Zambian in child trafficking scam, Nation Malawi, [Date unknown].

54 Outrage over lenient fine for trafficking boys, <http://www.irinnews.org>, [24 August 2005].

55 Ibid.

56 Child Trafficking: Does it exist in Zambia?, <http://www.allafrica.com>, [15 March 2005].

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

58 Permanent Secretary Condemns ZMK2m Fine on Human Trafficker, <http://allafrica.com>, [circa 2005/2006].

traffickers is behind the scheme to move the Congolese nationals to South Africa.⁵⁹

Evidence from research conducted by the International Labour Organization⁶⁰ in 2007 and from media reports, also shows that internal trafficking is rife in Zambia, and appears to be the most prevalent form within the country. The ILO research on child trafficking found that children were trafficked for a multitude of activities, including domestic work, agricultural work, street hawking and prostitution. The 2007 TIP report supports this by stating that “Child prostitution exists in Zambia’s urban centres, often encouraged or facilitated by relatives and acquaintances of the victim. It is likely that many Zambian child labourers, particularly those in agriculture and domestic service, are also trafficking victims”.⁶¹ The ILO research found that anybody could be a trafficker including 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 deception of the 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”.⁶²

The practice of children being placed in the extended family, sometimes known as ‘cultural placements’, is also noted by Fitzgibbon who states that “the transformation of traditional practices of placing children in wealthier households and long-standing patterns of seasonal labour migration to traffic children for profit is now a bitter African reality”.⁶³ The placement of children is a deeply rooted cultural tradition as a means of giving children a ‘better life’ and the movement of children from rural to urban areas is very common. The type of recruitment processes found by the ILO research appears to be prevalent throughout Africa. 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 victims family and are likely to take advantage of a condition of vulnerability e.g. illiteracy, poverty, lack of information”. The second is where the victim or his or her family contact the trafficker to seek assistance to leave a difficult situation at home. This latter situation, UNICEF states, “can lead to a possible link between smuggling and trafficking”.⁶⁴

Many factors lead to a heightened vulnerability to trafficking. Within Zambia, the following were found by the ILO/IPEC research⁶⁵ 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 with the intention of being able to either contribute money to their families, or simply to provide for themselves.
- Orphanhood is widespread in Zambia due to the HIV/AIDS pandemic.⁶⁶ The high rates of orphanhood lead children to becoming vulnerable due to a lack of support networks to protect them.
- Cultural factors contribute especially to internal trafficking. It is accepted that children are sent to live with extended family members or friends to work as domestic workers, often with the promise of an education. Cultural acceptance of the early marriage of girls can result in trafficking for forced marriage.
- Non-school going children and orphans can accept offers of either earning money to enable them to go to school, or false promises of being sent to school.
- Due to the high rates of poverty, HIV/AIDS and adult unemployment, children may become victims of neglect and abuse in the family, resulting in them being vulnerable to accepting offers of outside help.

The information currently available on the trafficking of adults in Zambia comes mainly from reports on the trafficking of women for sexual exploitation, such as the IOM report referred to above. This lack of

59 42 nabbed over human trafficking, Daily Mail, Lusaka, 5 March 2008.

60 ILO & RuralNet Associates: Working Paper on the Nature and Extent of Child Trafficking in Zambia (Lusaka, 2007).

61 US Department of State: The annual trafficking in persons report – 2007, <http://www.state.gov/g/tip>.

62 Ibid.

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

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

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

66 UNAIDS estimated that in 2006 there were 710,000 children orphaned directly due to AIDS related deaths of either one or both parents.

information on adults reflects the lower visibility and awareness of adult trafficking as well as the focus on children as an especially vulnerable group. This research, therefore, aims to address some of the gap that exists in information about the trafficking and forced labour of both women and men, youths and adults, particularly for economic exploitation.

1.4.2 Private recruitment agencies

Research on private recruitment agencies was conducted in the first phase of this project, in response to a request from MLSS, as explained above.⁶⁷ From the ILO's perspective, recruitment agencies represent a critical link in the employment relationship, where abuses can occur which may lead to trafficking and/or forced labour. Equally, where effectively regulated and functioning correctly, such agencies provide a valuable contribution to a well-functioning labour market. The main findings of the research included the following:

- Current legislation and policy do not adequately 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 2007⁶⁸. Many of the registered agencies were no longer in operation at the time of the research. The study found problems with the contracts signed by some workers who had been employed through recruitment agencies, including unfair wage deductions, although workers being sent overseas must have a contract that is attested by a labour officer. Additionally, it was learnt that there is no clear complaints procedures for workers.
- Due to a weak database at the MLSS, very little is known about the number of agencies operating, or in which occupations and sectors. The study found that there are two types of agencies. The first type "is that which performs the role of intermediary between the employer and the jobseeker. These agencies do not maintain an employment agreement/contract with the worker".⁶⁹ The second is the labour broker, which involves "a commercial agreement between an agency and the employer/user firm for the former to recruit certain categories of labour to be contracted to the latter. In this arrangement, the agency recruits jobseekers and enters into individual contracts with the jobseeker, (and is supposed to take full responsibility for them)".⁷⁰
- The legislation governing the operations of recruitment agencies is inconsistent on the issue of fee-charging. Therefore, agencies apply different practices. The most common arrangements were for the employer to be charged either a flat fee, in the case of maids being employed through a maid centre, or a one-off 20% to an employer for each worker's salary for the first month of employment. Some agencies did charge jobseekers fees for applications/ registration, training and placement. In the case of at least one maid centre, the fee of K50,000 charged to the employer was deducted from the maid's first salary payment, in effect resulting in the maid herself paying for the placement.

The research found that there were no registered agencies specifically focused on overseas employment. Four out of twelve 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 provided maids to Zambians living in South Africa, and a visitor from the United Kingdom who stayed at a guest house operated by a maid centre, travelled home with a maid. In another case:

Nine Zambians were sent to Malaysia to work as timber cutters on a plantation. While the application forms went sent via the internet, checks were made in regards to the company, and the Malaysian High Commission in Harare confirmed the legality of the company, but advised the agency not to comply with the company's demand for the jobseekers to pay a registration fee. The agency in Zambia was also advised on the

67 Mutesa, F & Matenga, C: Private recruitment agencies and practices in Zambia (Lusaka, forthcoming).

68 In April 2008, MLSS published a gazette requesting recruitment agencies to re-apply for their operating licenses.

69 Mutesa, F & Matenga, C: Private recruitment agencies and practices in Zambia, (Lusaka, forthcoming).

70 Ibid.

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 final returnee reported to the agency that the workers were working under hard conditions and they 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 found it difficult to receive its commission, as the company said it had only supplied nine, instead of the requested 26 workers.⁷¹

It proved very difficult for the researchers to investigate the operations of certain agencies that place advertisements regularly in the local press, and are probably operating at or beyond the margins of legality, as 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”.^{72/73/74}

1.4.3 Migration

Past studies on migration in Zambia have largely looked at regular migration, particularly that of skilled migrant workers moving overseas for employment. Historically, the southern African region has had extensive migration flows for the past 150 years, with migrants travelling to South Africa to work in the mines. “Male labour migration to the mines (South Africa, Zambia, Zimbabwe) and commercial farms and plantations (South Africa, Zimbabwe, Swaziland) is the most enduring form of legal cross-border migration within the region.”⁷⁵ Before 1970 there were 5,989 Zambian migrants working in the mines in South Africa. After independence Zambia withdrew its workers, and by 1970 there were none. According to the same report “the numbers of people legally crossing borders throughout the Southern African region has exploded in the last decade. In South Africa, for example, the annual number of visitors from other SADC countries has increased from around 1 million in the early 1990s to over 5 million at the present time”.⁷⁶

The same study looked at the ‘feminization of migration’ and found that during the colonial period women were generally prohibited from migrating. Nowadays, women are becoming part of the movement of skilled migrants. Although women generally have higher qualifications than male migrants, they are more likely to be found in less skilled and informal work. This results in women being more likely to use irregular migration channels. The study further adds that the traditional forms of employment for women migrants (internal and cross-border) have been agriculture, domestic work, the service sector and trade. In comparison, “men are more likely to have formal employment, particularly in the industrial (especially mining), agricultural and construction sectors”.⁷⁷

According to an IOM report⁷⁸, most Zambian migration is internal, and grew rapidly between 1969 to 1980 “due to the lifting of the restrictions on free trade. In the 1980s rural to urban migration streams were primarily directed to small developing towns”. During the 1990s, some people started to migrate

71 Ibid.

72 Ibid.

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

74 The recommendations from the report, and subsequent workshop, can be found in the main recommendations to this report.

75 Crush, J, Williams, V & Peberdy, S: Migration in southern Africa, Paper prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration (South Africa, 2005).

76 Ibid.

77 Ibid.

78 Ammassari, S: Migration and development: New strategic outlooks and practical ways forward. The cases of Angola and Zambia, IOM Migration Research Series, Number 21 (Geneva, 2005).

back to their places of origin due to high levels of unemployment in the urban areas. Despite this, Zambia has 36% of its population in urban areas.^{79/80}

In relation to cross-border migration, 34,825 Zambians are in OECD countries, compared to 342,947 South Africans and 195,754 Angolans.⁸¹ “Forty-nine percent of these Zambians are skilled, compared to 20% of Angolans. This movement of skilled Zambians originally comprised migration to countries within the region. But now more are going further afield to New Zealand, North America, Europe and Australia.” According to a study carried out by USAID in 2003⁸², of the 600 doctors trained after independence in 1964 only 50 remained in the country. While there has been some return migration in the past, such as teachers returning from Botswana, there is currently little return migration. The report, however, suggests that this may change if the country’s economic situation improves.

79 Ibid.

80 A forthcoming report from the Central Statistical Office on the Living Conditions Monitoring Service found that the majority of internal migrants are migrants due to being re-located by their job.

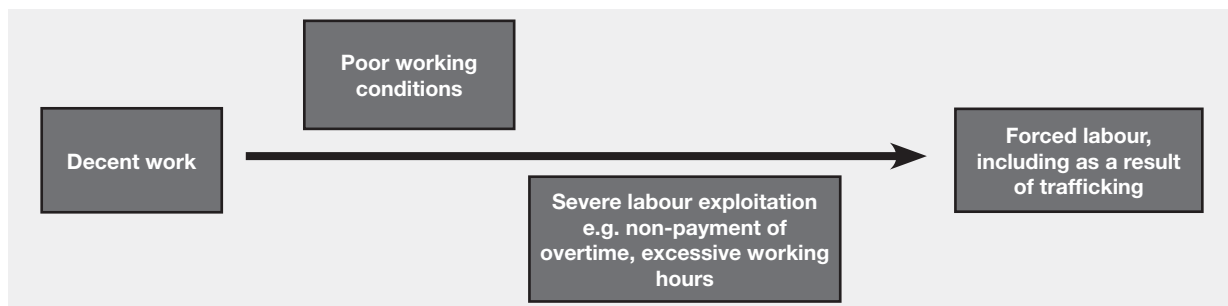
81 Dumond and Lemaitre, 2004, cited Ammassari, S: Migration and development: New strategic outlooks and practical ways forward. The cases of Angola and Zambia, IOM Migration Research Series, Number 21 (Geneva, 2005).

82 USAID (2003) cited in *ibid*.

Section Two: Analysis of labour complaints in Zambia

The following section describes the findings of research carried out within a small number of labour offices, and at the Human Rights Commission, that documented the types of alleged labour exploitation about which workers in Zambia have formally registered complaints; and aimed to assess whether or not any of these might amount to forced labour or trafficking.

Recognising that people in forced labour may not have the chance to report their abuse, the exercise aimed also to find out what broader types of labour exploitation take place in Zambia. It is often not easy to distinguish between severe labour exploitation and forced labour in practice. The following diagram illustrates the continuum between decent and good working conditions at one end of the spectrum and forced labour and trafficking at the other end. The information gathered and analysed through this research illustrates situations encountered at different points along the spectrum, moving away from decent work and towards forced labour. However, it is not possible to locate the cases precisely along the spectrum on the basis of the information available, but rather to indicate broadly the main types of labour exploitation that are taking place.



The information below should be seen within the context of the overall situation prevailing in the Zambian labour market. According to the 2005 Labour Force Survey, 88% of the labour force is employed in the informal sector. This sector can be “characterised as consisting of units engaged in the production of goods and services with the primary objective of providing employment and incomes to the persons concerned. These units typically operate at a low level of organisation with little or no division between labour and capital as factors of production, and on a small scale. Labour relations, where they exist, are based mostly on casual employment, kinship or personal and social relations rather than contractual arrangements with formal guarantees”.⁸³ Ninety-eight percent of those employed in rural areas are in the informal sector, compared to 65% in urban areas.

This exercise was undertaken in four Ministry of Labour and Social Security offices and the headquarters of the Human Rights Commission (HRC). The four MLSS offices were located in Chipata (Eastern Province), Kitwe (Copperbelt Province), Livingstone (Southern Province) and Lusaka City. These offices were chosen as being major towns within Zambia, and to coincide with the field sites of the primary research into migration, forced labour and trafficking that was also undertaken. 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 that they considered to represent an instance of labour exploitation, forced labour or trafficking.⁸⁴

Approximately 300 cases were recorded in each location. In total, information from 1542 complainants was recorded (1219 at the MLSS offices and 323 at the HRC). An identical form⁸⁵ was used in all five offices to record the data so as to have comparable information from each location. The quality of the data differed widely due to the amount of detail found in the original documentation, which varied

⁸³ Central Statistical Office: Labour force survey 2005 (Lusaka, Ministry of Labour and Social Security, 2005).

⁸⁴ Some of the labour officers received over 500 complaints a year, with many not related to the focus of this report. It was therefore necessary for the labour officers to choose which complaints to record.

⁸⁵ The recording form can be found in Annex 4.

between offices. However, even with the rather limited information available in two of the offices, and details relating to a few interesting cases, the overall analysis is considered as informative and useful. Each research assistant also provided a short final report describing their findings. In a number of cases this report provided some additional insights based on the first hand experience of the labour officer.

It should be noted that the HRC receives complaints relating to the governmental/ public sector whereas the MLSS normally does not. MLSS has recorded very few public sector complaints, as government workers are expected to try to resolve the problem directly with their supervisors, taking up the issue if necessary with the public sector trade union, and not to complain to the labour office. Without the data from the HRC, the labour abuses carried out within the governmental sector would not have become apparent.

2.1 Details of complainants

2.1.1 Sex of complainants

Of the total number of 1219 MLSS complainants, 65% or 796 individuals were men, compared to only 11% or 131 individual females. The large discrepancy between the sexes was also notable when groups complained. In total nearly 17% or 203 groups were groups of men, with only 1% being female groups; 5% were mixed groups of men and women. The number of complainants in the groups spanned from two people to over 80. Due to the high number of groups, and the sometimes high number of individuals within the groups, the number of people covered by the complaints is far higher than the 1219 cases recorded.⁸⁶

Similar to the findings from the MLSS data collection, the majority of complainants to the HRC were male. In total, 214 men (66%) complained. This compares to 60 women (19%), 42 groups where no sex was stated, six male groups and one female group.

2.1.2 Age of complainant

The age of the complainant was often recorded at the HRC. This was not the case for the MLSS records, where the age of the complainant was rarely noted, unless the age was particularly pertinent to the complaint, such as a child complainant. Sometimes the age of the complainant was recorded where he or she was representing a group. The following table shows the age of the complainants as recorded by the HRC.

Age (years)	Number	Percentage
20 – 29	55	17
30 – 39	104	32
40 – 49	61	19
50 – 59	40	12
60 – 69	15	5
Unstated	49	15

The highest number and proportion of complainants were in their 30s, with only 5% in their 60s. This latter group, and some of the 50s age group, complained of unpaid dues and terminal benefits relating to past employment. The remaining age groups are individuals still in employment.

⁸⁶ As the number of people represented in group complaints was not always stated, it is not possible to say how many individuals were covered by the complaints.

2.1.3 Nationality

The majority of the complainants were Zambians. Of the non-Zambians, one was from Zimbabwe, one British, one Ethiopian, three Indians and three Malawians. The Chipata labour office believes⁸⁷ that a high number of the complainants reporting abuses within the agricultural sector in that Province are in fact Malawian migrant workers. However, they believe that they do not state they are Malawians, due to fear of being deported.

The nationality of the employer was not recorded. In a small number of cases it was noted that the employer was 'white', Chinese, Indian, and in two cases Peruvian.

2.1.4 Location

Considering that two of the research assistants were based in Lusaka city, it is unsurprising that the highest number of complaints came from this office, with a total of 444. The Lusaka offices receive complaints from elsewhere in the country as well as from Lusaka itself.⁸⁸ In the case of the MLSS, the cases referred to the headquarters were cases that needed particular attention. Regarding the MLSS provincial offices, 381 complaints came from Eastern Province, 342 from Copperbelt Province and 320 from Southern Province. Four cases did not record the location. While the HRC collected some cases from very rural areas, in general the complaints came from larger towns or villages. However, there are a number of labour offices in each province, and the complaints received by them were not collected. It is therefore difficult to conclude whether complainants living in hard to reach areas are able to contact the labour office, or whether these complainants, who may be vulnerable due to their location, are unable to report.

As stated below, this work was carried out in four areas, three urban and one rural. Some of the findings below reflect the differences between the rural and urban economies. For example, the predominance of complaints in Chipata (rural area) related to domestic work and agriculture (informal sectors), while the complaints from Livingstone (urban) related to hospitality and tourism (formal sectors).

2.2 The public sector

In total 27% of all complainants to the HRC related to the public sector. These complaints concerned a wide range of government departments, with the Ministry of Education having the highest number of complaints, with a total of 17 (20%). They related predominantly to unpaid housing allowances and unpaid dues. In a small number of cases, wages had not been paid to teachers for months due to the teacher not being added to the payroll. The military, including the army and air force, totalled nine complaints or 10%. These complaints mainly concerned unfair dismissal.

The reasons for the complaints in the public sector were not as varied as those recorded in the private sector. While unfair treatment does take place, particularly through unpaid wages and non-payment of terminal benefits, it does not appear that this is done deliberately to exploit the worker, but rather due to a breakdown in the administrative systems. Some complainants registered several problems, resulting in a total of 105 separate complaints recorded, with 52 of these (50%) being of unpaid dues. The following is an example of a complaint relating to unpaid dues:

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

The non-payment of dues relates to various allowances that workers are entitled to, such as housing,

87 Personal communication.

88 Twenty-one complaints came from Central Province, ten from Northern province, eight from North-Western Province and seven from Western Province.

repatriation, pension and subsistence. In a small number of cases, teachers complained that due to not being provided with a housing allowance, or housing, they were obliged to live in “mud huts”, rather than the housing they were promised.

The second highest number of complaints related to unfair dismissal, with sixteen complaints (15%), followed by non-payment of wages (eight or 8%). The reason for the non-payment appears to be a failure of administrative systems rather than deliberate exploitation. One teacher complained that they had been posted to the North Western Province, but only received their settling in allowance and not been added to the pay-roll for two years. Another similar case had a teacher teaching for one year seven months without a salary. However, in a number of cases, the worker resigned after not being paid for a number of months. On reporting their concerns to their superiors, they were told that there was no funding for their jobs. While the non-payment of wages to staff is clearly exploitative, it does not reveal forced labour in this instance.

Other complaints included casualisation, where workers are kept on short-term contracts even though they are working for long periods of time; problems with receiving their pension through the national pension scheme (NAPSA); having to work without appropriate protective clothing, and being accused of theft. This latter issue also became apparent in the private sector, and concerns were often linked to the complainant being handed over to the police for questioning. Two complainants reported police brutality following their arrest. In no cases reported to the HRC in either the public sector or private sector were the accused found to be guilty. Yet in all cases, they were dismissed from their workplace following the accusation.

While most of the information on the public sector came from the HRC, 23 cases were recorded by MLSS. However, 20 of these did not state which government department was concerned. The reasons for the complaints made to the MLSS were similar to those to the HRC. For example, one complainant reported unjustifiable deductions from their salary, forced overtime without extra pay and unpaid leave days for the previous 12 months. The case states:

The employee claimed that he was suspended from the [publicly owned] company and put on half pay without giving him the opportunity to be heard. Before his suspension, he was forced to work overtime for very long hours, against his will, due to manpower shortages but he was not paid for these hours. He felt exploited and arbitrarily suspended.

2.3 The private sector

Although there were some differences in the way that private sector complaints were recorded by HRC and MLSS, it is possible to categorise most of the complaints by the economic sectors concerned.

Sector	MLSS complaints		HRC complaints	
	Number	Percentage	Number	Percentage
Hospitality & tourism	172	14	17	7
Retail & trading	153	13	18	8
Construction	129	11	14	6
Agriculture ⁱⁱ , including fish & dairy farming	112	9	20	8
Mining	112	9	7	3
Domestic service	101	8	11	5
Security	96	8	40	17
Transport, including garage, drivers and fuel attendants	81	7	24	10
Education	54	4	18	8
Service sector ⁱⁱⁱ	41	3	9	4
Processing	28	2	4	2
Engineering	25	2	1	0.4
Manufacturing	21	2	3	1
Food and beverages ^{iv}	18	1	3	1
Social care, NGO ^v & FBO and unions	11	1	4	2
Financial	9	1	0	0
Religious groups	7	1	0	0
Utility	7	1	2	1
General contracts & workers	4	0.3	10	4
Scrap metal dealing	1	0.08		
Individual	0	0	6	3
Unstated	12	1	26	11

Some sectors were found to have much higher numbers of complaints than others. Leading the table for the MLSS complaints is the hospitality and tourism sector, with 14% of the complaints compared to only 7% at the HRC. For the HRC, the security sector had the highest number of complaints, with 17%, compared to only 8% at MLSS. Similar differences can be found in many of the sectors. This reflects why the person is making the complaint. As will be seen later, the complaints recorded by HRC are complaints that have often already gone through a labour office, or the complainant feels that a human rights abuse has taken place, and has by-passed the MLSS and made the complaint directly to the HRC. However, in a large number of the cases, the HRC refers the complainant on to the labour office as it is not within their jurisdiction.

ii In a number of the data sets, a difference was stated between small-scale agriculture and commercial agriculture. For the purposes of this analysis, the two have been put together.

iii The service sector includes: hairdressing, printing, marketing, health services, legal firms, administration, insurance, waste management, sport facilities and village scout.

iv Food and beverage includes breweries, bakeries and butcheries.

v Non-governmental organisations and faith-based organisations.

The following table based on the findings from the MLSS research⁸⁹ provides detail on the distribution of complaints by sector across the different research locations:

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

As can be seen from the above, Livingstone had a high number of complaints relating to hospitality and tourism, which is to be expected as Livingstone is considered the ‘tourism capital of Zambia’. Construction, both domestic and commercial, is particularly apparent in Chipata, with 17% of all complaints related to this sector. However, Chipata reported that a number of cases related to migrant workers from Chipata who lodged the complaint on their return home. In Chipata, 55 complaints related to domestic construction and nine to commercial construction. As will be seen later, a large number of these complaints relate to workers carrying out a specific task, such as moulding bricks, and not being paid at the end of their work. Chipata, in the Eastern Province of Zambia, is an agricultural area in Zambia, producing tobacco and other crops. The number of complaints were higher in agriculture here than in the three other provinces. Interestingly, the labour officer in Chipata noted⁹⁰ that a large number of the complainants are migrant workers from Malawi. While only three cases were recorded as Malawians, the officer related that the Malawians tend not to give their nationality, as they fear being deported. Due to similarities in language and culture, it is easy for them to report as Zambians.

The Chipata office also recorded the highest number of complaints relating to domestic service, which includes house maids and gardeners. Of these, 54 were males, eight females and one mixed sex group complaint. Even though the domestic worker sector is usually considered ‘female’ it also includes male gardeners and domestic watchmen, who may feel more confident than women to report their complaints.

In the Copperbelt, which has the highest concentration of mines and quarries in Zambia, this sector dominated in the complaints. The majority (83%) of the complaints came from those employed by mining contractors. The education sector, privately run schools and colleges, accounted for 13% of the complaints in Lusaka, compared to 1% to 4% in the other provinces, reflecting the high number of private schools in the capital. The security sector is evident in nearly all of the provinces. Also with a high number of complaints, spread evenly across the provinces, is retail and trading.

⁸⁹ This table includes only sectors that clearly show a variation by region.

⁹⁰ Personal communication.

2.4 Types of complaints

The types of complaints were largely similar across sectors, although with some differences emerged linked to the formality or informality of the type of work. For example, the domestic construction and small-scale agriculture showed more complaints of unpaid wages, compared to the commercial construction and agricultural sectors, where complaints related more to payment of allowances, terminal benefits etc. The following table states the reasons for the complaints. It should be noted that one complainant may report several complaints, such as unpaid wages, unpaid dues and poor working conditions. As stated earlier, it is not possible to tell whether or not the complaint is justified. In a number of cases where the complainant had contacted the labour office about unpaid dues, it transpired that no dues were owed.

Reason	MLSS		HRC	
	Number	%	Number	%
Non-payment of wages	525	34	67	16
Non-payment of dues ^{vi}	460	29	121	28
Low pay (under statutory requirement) and underpayment of salary	80	5	7	2
Unfair deductions	47	3	9	2
Termination without notice	65	4	23	5
Casualisation	15	1	5	1
Poor working conditions ^{vii}	103	7	27	6
Unfair/ unlawful dismissal ^{viii}	97	6	50	12
Physical and verbal abuse ^{ix}	63	4	17	4
Threats of dismissal, or dismissal when complaining about conditions or no pay			14	3
NAPSA problems & compensation	30	2	18	4
Accusations of theft	3	0.2	18	4
Police brutality ^x			5	1
Not allowed to join a union	4	0.3		
Withholding of documents	16	1	5	1
No contracts/ breach contract/ forced signing	26	2	18	4
Forced leave/ unfair suspension	5	0.3		
No letter of termination			4	1
Unfair multiple roles	8	0.5		
Deception as to the nature of the work	7	0.4		
Locked in the building during the shift	3	0.2		
Forced resignation			1	0.2
Dismissed after disclosing HIV+ status			1	0.2
Use of employment broker	1	0.1		
Refusal to grant retirement or early retirement	2	0.1		
Transported for work	2	0.1		
Employment of foreigner workers without permits	1	0.1		
Guidance on statutory conditions	2	0.1		

vi Dues include non-payment of allowances, terminal benefits, one month salary paid in lieu of notice, retirement benefits and dues that are meant to be paid to the deceased workers' family. Additionally, in some cases, where unpaid wages were an issue, the complaint recorded how many wages were unpaid. This was not the case in all recorded data.

vii Poor working conditions includes concerns such as no overtime pay, long working hours, employer 'hiring and firing' staff at will, no allowances or protective clothing. Workers were subject to unfair dismissal due to a multitude of reasons. In some instances workers were accused of being drunk on duty, or stealing, without any investigations carried out. Additionally, some workers were dismissed after being on sick leave, regardless of the fact that they produced a medical certificate.

ix Physical and verbal abuse also includes discrimination, racism, sexual harassment and nepotism.

x Police brutality was a complaint in the HRC findings usually after an accusation of theft, and subsequent arrest. Most of these cases were also claiming compensation for the beatings they received from the police. These are included as a consequence of a labour dispute, but are not related to labour in any other way.

At the MLSS, non-payment of salaries was the most frequent complaint, while the HRC found that unpaid dues were a bigger concern. The vast majority of the complaints related to some form of exploitation, whether it is unpaid terminal benefits, or no paid overtime. However, other complaints reflected unfair employment practices, such as terminating employment without notice, accusing staff of theft without following proper procedures to investigate the matter, and discrimination at the workplace.

Trying to determine whether a case is one of exploitative labour or actual forced labour is difficult without more in-depth information about each case to assess if the intention of the employer was to keep the worker in a job against his or her free will. The employer's lack of knowledge about the employment regulations was apparent in a number of the cases that relate to low pay. While some employers intentionally pay low wages, a number were not aware of the minimum wage, or changes to it. Furthermore, there were instances where the worker complained of being paid below the minimum wage when they were carrying out jobs that did not even qualify for the minimum wage.

Under 'NAPSA problems and compensation', there were many incidences where the worker had paid their contributions, but on termination of the contract found that these had not been remitted to NAPSA. One employer who was summoned to the labour office stated that he was holding onto the contribution and would repay it on termination of the contract, instead of the worker having to wait until they were 55 years old and of retirement age. It is impossible to draw any conclusions as to the employer's intention or why other complainants were unable to get their NAPSA.

The following sections present details of cases in which evidence of severe exploitation, and possible forced labour or trafficking, is present.

2.4.1 Unpaid wages

The amount of time that wages remained unpaid for varied from less than one month, to over five years. The amounts owed varied from between less than K50,000 to K8.9m. In some cases, the person complaining had been told by their employer that they don't have the money to pay them as they are not financially buoyant.

The complainants, a group of men, were employed as shop assistants for a supermarket. They stated that they had worked for five months without being paid their monthly wages on the grounds that the shop was facing liquidity problems. When their employment was terminated they weren't paid their wages or their terminal benefits.

Additionally, there were many cases where the employee resigned after only a short amount of time as they hadn't received their wages. Exploitation is clearly taking place though it is impossible to know the intention or reason of the employer in so doing.

The following cases illustrate clearly where exploitation is taking place and possibly forced labour, if the intention of the employer was never to pay the worker, but to keep them working by promising them wages at some time in the future. In the final case, the child complainants are in situations of forced labour, and under Zambian employment law the 12 year old should not be employed at all.

In Kitwe, a deaf man worked for a carpenter and had not been paid his wages or leave days for four months. The employee's mother complained on behalf of her son, who says that although he had worked for four months, the employer was selling furniture, he wasn't being paid. The mother felt that her son was being exploited due to his deafness.

A complainant 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 per 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, and when he pushed further, he was beaten and tortured. The case was reported to the police, but due to no action being taken, was referred to the HRC.

In Chipata, two Malawian boys aged 15 years old complained that they had worked for one year without being paid. They were due to be paid K500,000 but were threatened and beaten by the employer when they asked for their wages. Chipata also recorded one case of a 12 year old boy reporting that he had not been paid as a domestic worker for one month.

The situation of unpaid wages pushes workers into deciding whether they should stay with the employer with the hope of one day being paid, or leave to find work elsewhere that will be paid. However, they are more often obliged to stay in a job against their will so as not to sacrifice their wages. In either case, the situation is unacceptable. As can be seen from the above cases, and supported by many others, the workers most at risk of unpaid wages are those in the sectors that are difficult for labour inspectors to monitor. Additionally, in the situation of contractors, or general workers employed for a certain job, they may be promised their wages on completion of their work. This makes it easy for the employer to get the work done, and then refuse to pay the wages. It is therefore imperative that workers report cases to the MLSS whenever wages are unpaid, and for the MLSS to follow up quickly with such complaints. In one case, workers of an employer in another town even requested the MLSS to act as an intermediary in holding their money to ensure that they would be paid.

2.4.2 Threats of dismissal or dismissal after complaining

Fourteen cases under the HRC related to workers either being threatened with dismissal, or being actually dismissed after they complained about their wages. This was also noted in a number of cases by the MLSS, but was recorded as either verbal abuse ('the employer shouted and threatened') or sometimes as poor working conditions, for example that the company 'hired and fired' at will. Ironically, threats of dismissal can be an indicator of forced labour, as the person risks losing their job if they fight for the right to their wages or better working conditions. Workers, therefore, keep quiet and put up with the exploitation and abuse rather than speaking out. The following cases illustrate this:

In two cases in Livingstone, one man and one woman, working as a driver for a chief and a shop attendant respectively, reported threats of arrests after requesting their unpaid wages. In the case of the shop assistant, she had not been paid for four months.

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

2.4.3 Deception as to the nature of the work

This was recorded in only seven cases by the MLSS and none under the HRC, but as it may be indicator of forced labour, should be mentioned. The first case described below appears to be a case of trafficking. All three cases illustrate how workers agree to one job, but forced into another without a choice.

The employer found the employee working at a bakery in Mufilira. He then 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 for her position at the shop but meanwhile she was asked to 'help out' with the housework as a 'small token' and especially since his wife was currently nursing accident injuries. After 'helping out' for more than six months, her services were terminated without a reason and she was not given any transport money back to Mufilira. The employer was summoned to the labour office, but did not turn up. The labour officer, when summoning the employer questioned why he had to find a maid in Mufilira, rather than in Kitwe.

A 27 year old man was employed as a shop assistant for a month but was 'transferred' to the employer's house to work as a gardener against his will. He claimed that the employer promised him that the movement was temporal but three months later, a relative to the employer was brought in to work in the shop. When the employee asked when he would be returning to the shop, he was told to leave the employment.

The workers complained that they were engaged to do three weeks of piecework at K350,000 upon completion. Two days before completion of the work, the employer increased the volume of work and extended the period to four months, without telling them anything or renegotiating the wages. At the end of the four months, the employer maintained that he was going to pay them the agreed K350,000. He accused the workers of being lazy and failing to meet the deadline. The workers felt exploited.

2.4.4 Withholding of documentation

The withholding of documentation by an employer, while a justified complaint and linked to forced labour in some situations, does not necessarily result in forced labour; only if it prevents the worker from leaving the job. A number of the complainants had their documentation withheld, and upon dismissal their National Registration Card (NRC) or other documentation had not been released.

A man working in the commercial construction industry complained that his NRC card was withheld by this employer. The employer refused to release the card after the employee was dismissed.

As well as the retaining of NRC and driving licences, letters of termination were also withheld. Without such letters, workers are unable to request their benefits, such as NAPSAs and must present this letter at their new place of work. While the documentation is not being held to keep a worker in employment (on the contrary, they have been dismissed), the continued retention of such documentation can be damaging to the employees' chances of finding new work, as they must present their NRC to a new employer. Furthermore, all Zambians must carry their NRC at all times; the NRC is also the citizen's means to vote in elections.

While not evident in the complaints work, respondents in other parts of the research project stated that domestic workers and mini-bus drivers were particularly prone to having their NRC cards withheld during their employment period. This is claimed to be a 'security measure' to ensure that the employee does not steal. However, some respondents stated that it was easy to replace the NRC, so if someone really wanted to steal, they would. Additionally, it was noted that employers should hold copies of the document rather than the original.

A male driver was verbally dismissed after working for three years. He was not paid his terminal dues. He expressed fears that he would lose his driving licence and clothes that his employer confiscated as the employer "destroys or burns his employees' sensitive documents like NRC". HRC confirmed the information and the employer was not co-operative when contacted.

Under the National Registration Act, Chapter 126 of the Law of Zambia, Section 8 (3) states 'Any person who finds or unlawfully comes into possession of a national registration card which was not issued to him shall, without undue delay, return it to the person to whom it was issued or forward it to the nearest registration'. Under Section 13, offences and penalties, states 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. Withholding a NRC is thus an offence regardless of whether or not it is linked to the exaction of forced labour (in the case above, it was apparently not).

Withholding of documentation was of particular concern within the mining sector. Four complaints related to the retention of documents, preventing workers from finding other work. The document concerned is the silicosis certificate documenting the good health of the worker. Without this certificate, the worker is unable to work; the labour officer conducting the research stated that the certificate is a “passport into the mines”. The labour officer further states “those seeking employment in the mines must pay for their own silicosis [certificate] and produce it as proof before they can be admitted for employment. A silicosis certificate is valid for six months and must be renewed after medical review. When a miner is engaged with an employer, it is the duty of that employer to issue or renew the certificate for the workers and the certificate will have a seal of the issuing body, bear the name of the miner, validity period and the name of the company where the employee is engaged”. As it is impossible for the miner to find work without a certificate, “most contractors confiscate the original certificate so as to oblige miners to stick with them. This makes it difficult for miners to get a replacement because for them to get this, their employer must write to the Occupational Health Department that the miner has misplaced or lost his/ her certificate”.⁹¹ This withholding of documents may be an indicator of forced labour, insofar as the worker may be prevented from leaving the job by his inability to be employed elsewhere (i.e. this is the ‘penalty’). The employees are therefore forced to remain with an employer they no longer wish to work for. The cases below illustrate the related issue of workers being ‘forced to remain idle’ because of retention of their silicosis certificates.

A group of male complainants stated that when they returned from work after an industrial break, the employer informed them they had no tender in the mines and refused to give them their silicosis certificates so they do not find jobs elsewhere in case he gets another tender. The complainants were also awaiting their unpaid leave days for one year.

The employee claimed that he was dismissed after inquiring after his allowances and when he asked for his original silicosis certificate, the company claimed to have misplaced it. He felt the company did this to punish him so that he does not find employment elsewhere. He felt unfairly treated.

Additionally, as can be seen from the following complaint, these certificates are also used as a bargaining tool for employers:

The complainants were a group of males, working for a mining contractor complaining about unpaid redundancy packages for one year and 18 days worked. The complainants were made redundant after the principal employer cancelled its contract with the contractor. The workers were advised to find work elsewhere, which they did. Later, the contractor won another tender and recalled the employees, who refused to return as they had found new jobs. When the ex-employees started requesting their dues, the employer informed them that they owed him the money for the certificates, as they had used these to find work elsewhere. They felt this was unfair as the amount due to them was far above the cost of the certificate, and the obligation of certificate renewal was on the new employer. The complainants felt that the employer was bitter that they had found work elsewhere and he wanted to punish them.

2.4.5 Low wages

The level of the minimum wage depends on how a job is categorised (see section one). The following cases show severe labour exploitation through low wages; many of the complaints (80 by MLSS and seven in HRC) related to low pay, or wages paid below the minimum requirement. Employers are benefiting from the high levels of unemployment as some people are willing to work for any wage,

91 Personal communication.

however low. Additionally, for cases where the wages are agreed between the employer and employee who is not eligible for the minimum wage, no matter how low the wage is, it is difficult for the labour office to intervene, as the employer can argue that it was amicably agreed upon.

A group of casual workers worked for eight years for the same company. They worked from 0730 to 1730 with 30 minutes break; were exposed to fumes, smoke and had poor protective attire. No milk was provided to counteract the effects of the fumes. When they stopped working they were given matches as terminal benefits. The average salary was K40,000 per month.⁹²

A group of men working for a security company complained of low wages. They said they are paid as low as K80,000 per month. With uniform bond⁹³ paid and salary advance deductions, some of the group were going home at the end of the month with as little as K15,000.⁹⁴

A bartender worked for three months on an agreed salary of K90,000 a month. He claimed that his employer dismissed him after saying he was rude to customers. However, the complainant alleged that he was dismissed to avoid the employer confirming his appointment after his three month probationary period.

2.4.6 Transportation and non-repatriation

A number of cases involved workers being moved to their workplace, and a few complaints related directly to the transportation, or non-payment of repatriation allowances. In the case of repatriation, under the Employment Act (Chapter 68 of the Laws of Zambia), the employer is responsible for paying for the repatriation of their employees. In a number of cases, the employees were stranded as they did not have the funds to return to their home, and the employer had not paid their allowances. In a number of the cases, the MLSS intervened to enable the repatriation.

In three cases in Southern Province, the labour officer indicated⁹⁵ trafficking had taken place. However, it is difficult to verify this due to a lack of detail. In one of the cases, two male workers in the construction sector had been taken from Livingstone to Sinazeze and were not paid their wages. In another, a man, again in construction, had been taken to an unstated place, had his contract unfairly terminated and was not repatriated back. In the third case:

A group of 18 workers aged between 18 and 56 years were hired to cut grass and bushes along the side of the road from Livingstone to Kazungula. The men were taken by car from Mansa to Kitwe and then put on a train to Livingstone. The first they knew of their destination was while they taking a short-cut through the DR Congo. Their wage was K10,000 per area of 500 x 10m per day. This money was also to cater for food and accommodation.

A 'dubious' contract had been made available to the workers on arrival in Livingstone, and not before they left. What is unknown is whether the workers were deceived into the work that they were going to do; they were told that the vegetation would not be as dense as it was. The contract had various stipulations including "the payments made above are subjected to the 100% job performance according to the Company and the Company holds the rights to reduce the payment following performance in that month". Additionally, the company states that the worker should report to work at 06:00 or earlier, and "payments to employee to be effected one day after employer have been paid [for] the certified works". This appears to say that the contractor will only pay the workers once he has himself been paid. This may take some time after completion of the job, which may result in the workers having to remain in the Southern Province until then. According to the labour office, the employer was forced

92 This case was recorded in 2005, when the minimum wage was K83,200 per month.

93 A uniform bond is paid by the employee to the employer as security to give the uniform back after the employment has been terminated.

94 This case, and the next case, were recorded in 2006 and 2007 respectively, when the minimum wage was K268,000.

95 Personal communication.

to repatriate the workers back to Mansa and the Mansa Labour Office had been requested to follow up their subsistence and salary payments, indicating that the workers were not paid. Furthermore, the complaint was referred to the Zambian Police to explore whether it could be prosecuted as human trafficking, but no advice was received from the Director of Public Prosecutions on whether or not to proceed. This case is interesting as it appears to be costly and time-consuming for the contractor to transport workers such a long distance, rather than hiring workers living in the vicinity. However, it may be a deliberate strategy on the part of the contractor to disorientate the workers and make them less likely to complain.

The two following cases relate to domestic workers and trafficking. Domestic workers are particularly at risk of being exploited as they are working 'behind closed doors' where no monitoring is done by labour officers. Additionally, domestic servants are excluded from the minimum wage, which results in employers paying whatever they want. What is often ignored by employers is that domestic workers nonetheless have rights under the Employment Act and are entitled to various benefits, such as repatriation, holidays with pay and maternity leave, depending on how long they have been employed.

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

A female domestic worker was taken from Lusaka to Kitwe to work as a maid for the 'transporters' sister. After three months, the employer relocated to Lusaka and left the worker with the 'transporter' without paying her anything. The complainant was claiming her money from the 'transporter' as she had taken her from Lusaka. When summoned, the transporter refused to pay as she said she wasn't the one employing the woman. She was asked to appear before the office again, but never came back.

2.4.7 Poor conditions of service

Exploitation takes many forms under the general heading 'poor conditions of service'. This may include non-payment of allowances, non-provision of protective attire, no paid leave, physical or verbal abuse, hiring and firing at will and threats of dismissal. These different complaints all came under this general heading as illustrated by the following cases:

A male group on a farm were found, during an inspection visit, to be accommodated in poorly ventilated cargo containers with poor sanitary provision. The workers were given no protective attire and made to sign contracts without anyone explaining the contents to them. They also complained that their supervisors shouted at them during work.

A group of male contractors worked for a carpentry workshop for two years but claimed that when they had little work to do, their employer hired them to other contractors who would use their services doing things they were not employed for and not experienced in. They complained that their employer would then pocket all the proceeds from the contractor himself without paying them any bonus or wages for the work done.

A man was complaining that he was fired after refusing to re-locate to another farm. His working hours were from 0200 to 2000, and workers were insulted if they turned up late, such as at 0300. They were never paid overtime, and their basic salary was K170,000 a month. Upon termination he did not receive his terminal benefits or leave days but only K100,000 on top of his basic salary.

2.4.8 Casualisation

In total 20 complaints referred to casualisation, where workers are taken on, usually without written contracts, for short periods of time. Under the Employment Act, a casual worker should only be employed as such for six months. However, employers sometimes employ the same person repeatedly on short-term contracts to avoid paying certain allowances and to exploit their workers in other ways.

This complaint was apparent throughout the research, but was rarely recorded as a complaint on its own; issues of poor working conditions, no allowances and easy dismissal were usually raised alongside casualisation.

2.4.9 Other forms of exploitation

The problem of unfair dual or multiple jobs was noted by a number complainants. Their protest was that they were doing more than one job, and therefore should be paid for more than one. In both the following cases, the workers are unwilling to refuse to do the “extra” job for fear of losing their original job.

A Kitwe male security guard claimed his company’s client was forcing him to do gardening at his residence where the guard works, without being paid extra for the job. He alleged that when he told his company, they promised to talk to the client, but they never did. The complainant believes they never will as the client is one of their biggest and fears losing him.

A group of complainants on a farm complained of poor conditions of service and unpaid overtime, even though they worked 13 hours a day. Additionally, the workers complained of exploitation as the milkers were also working as harvesters for long hours but only drawing one salary.

A mention must be made of the three complaints related to being locked into the working premises during working hours. While at first sight this may appear to be a forced labour issue, workers are in fact free to leave at the end of their shift. It is their ‘choice’ to return. Locking in is without doubt a serious health and safety issue, and coupled with the fact that, in at least one of the complaints, the complainants referred to very poor working conditions, shows a level of contempt towards the workers.

A group of men working in the manufacturing sector in Kitwe complained that they were locked into the factory. The premises were inspected and temporarily closed.

The following sectors showed particular areas where exploitative or forced labour is particularly easy to ‘thrive’.

2.5 Sectoral concerns

2.5.1 Mining sector

As stated earlier, 83% of the complaints from the mining sector in Kitwe originated from workers employed by contractors. The concern over contractors in the mining sector was one of the reasons why this research was undertaken. Those complaining about mining contractors tended to be in large groups, reflecting the companies’ poor adherence to workers’ rights in general and their lack of responsibility as employers. The problem of contractors was noted in the research on private recruitment agencies, where so-called ‘brokers’ act as an on-going intermediary between the mining firm and the worker, in a ‘triangular’ employment relationship, rather than as recruitment agencies that only place the worker in the job.

Four agencies were contacted during the recruitment agencies study and it was found that they were

recruiting workers on temporary or fixed three month contracts. These contracts are often renewed on a continuous basis, resulting in the workers being considered casual workers, rather than permanent workers. The Copperbelt labour office recorded 24 complaints related to unpaid wages, seven to low wages, 13 to poor working conditions, three to deception as to the nature of the work, 10 to unfair deduction from their wages and 33 to unpaid dues, which includes unpaid leave days and allowances. Under poor working conditions the complainants reported long working hours without overtime pay, and no allowances.

The complainants worked as samplers for the mining company on a casual basis for over two years. They claimed that they did not sign any contract with the employer and were not entitled to any allowance. When they inquired about their job status, the Geological manager asked them to go and 'rest' at home for a few days while he attended to their concerns, thereafter they will be recalled. The employees complained that it was now over six months but they were not recalled.

The structural relationship of the contractor as an intermediary between the mining company and the workers allows the contractor to delay the payment of wages and dues by blaming the mining company for not paying on time. The triangular relationship results in the mining companies not being responsible for the workers, and can result in the contractor not adhering to labour laws as they are difficult for the labour officer to monitor. However, the labour officer conducting the research for the area stated that the "most recurrent cases were from almost the same contractors who continued abusing workers despite several warnings from us. Some of them have since had their contracts terminated by the mine owners due to our intervention".⁹⁶

Complainants claimed that they were given a job of constructing a conveyor belt underground but were not told how much they would be paid. When the job was completed after two months, the contractor paid the K350,000 each but their pay statements indicated that they were supposed to get K550,000 each for the job. The accountant, when approached, said the contractor had taken some of the allocation for himself. When they contacted the principal employer, he maintained he didn't know anything about the pay slips and that as far as he was concerned, he did not agree on the payment with the employees. When asked why they went ahead to work without agreeing on the wages first, the complainants indicated that they were desperate for employment.

A group of workers were not paid for four months. When the employer was summoned he accepted the claims but stated that he has not been paid by the principal employer. Following insistence from the employees that the matter be followed up, the labour office made inquiries and found that the principal employer had paid for the work.

The labour officer in Kitwe concluded that "it is a common sight to see a group of miners, trekking to the labour office or court to compel their employers to pay them their dues. This is so common to the extent that complainants have earned an acronym BNP or Boys No Pay and are thus called whenever they are seen marching to the government institutions to lodge a grievance".⁹⁷

2.5.2 Domestic Service

The problem of exploitation of domestic workers was apparent in both the MLSS and the HRC findings, with 8% and 5% of the total number of complaints respectively. The MLSS findings clearly showed differences between the provinces in relation to the hiring of domestic workers.

96 Personal communication.

97 Personal communication.

**Investigating forced labour and trafficking:
Do they exist in Zambia?**

Sex	Chipata	Kitwe	Livingstone	Lusaka
Males	54	6	9	6
Females	8	9	4	3
Mixed group	1			

Reasons for complaints	Chipata	Kitwe	Livingstone	Lusaka
Non-payment of wages	55	10	10	3
Non-payment of dues	10	1	2	4
Other ^{xi}	1	7	1	6

As the above indicates, Chipata had the majority of the complaints made by domestic workers. The non-payment of wages is the biggest problem for domestic workers. The majority of the domestic service complainants had, rather surprisingly, male, but this may be explained by the inclusion of gardeners and domestic watchmen in this category. However, it may also be because female domestic staff feel less confident about reporting their abuse. The report from the Chipata labour officer stated that “claims for payment of terminal benefits were few and this was attributed to the fact that the labour laws do not provide for payment of such dues as well as the short term nature of employment relationships in this sector. It was observed that the few complainants who demanded payment of terminal benefits had their claims reduced to payment of accrued wages and leave pay as per agreed terms of employment with the employer”. The labour officer further stated that the wage range is between K60,000 to K120,000, “far below the stipulated minimum wage of K268,000 per month”.^{98/99}

The Chipata labour officer stated that “some case records indicated rampant exploitation of children; some employers engaged children as young as 13 years from the rural areas and surrounding high density townships of the district to work as their domestic servants/ maids and hawkers. These children were usually subjected to non-payment of wages, psychological and physical abuse by the employers. This practice is not only perpetuated by the employers but also by some of the vulnerable households who send their children to perform these duties so as to supplement the family incomes”.

A 15 year boy was recruited as a domestic worker, but wasn’t paid for three months. He was originally recruited to sell things for the employer, but later the employer refused to pay him.

A male domestic worker complained of non-payment of wages for six months amounting to K300,000. Although not part of the complaint, it should be noted that this complainant was due to earn K50,000 per month.

A male domestic worker was not paid for six months. He was working as a janitor for the employer’s unfinished house. When he went to ask for his wages, the employer refused stating that the janitor was staying in his house for free. The employee felt exploited, particularly as he had left his own home to safeguard that of his employer’s.

A male in Kitwe, working as a gardener, 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 his food and second-hand clothes.

xi Other includes: low wages, termination without notice, poor conditions, no repatriation, unfair deductions, unfair multiple roles, excessive working hours, unfair dismissal, threats and deception as to the nature of the work.

98 As noted earlier, domestic workers are excluded from the minimum wage. However, it is still seen by some as an indicator of how much should be paid to workers excluded from the minimum wage.

99 Personal communication.

It is interesting to note that in the last two cases the employers believed that giving goods and service in-kind, rather than paying a cash wage, was payment enough.

The following case shows the difficulty that can arise in domestic work, in clearly demarcating work that should be paid from an 'expected' (unpaid) contribution to the household. In this case, the employee expected to receive a salary for the last five months. When summoned to the office, the employer refused to pay the woman. However, the case became complicated, with the employer, who had considered herself like a mother to the employee, demanding that the worker pay the money back that she spent on her over the years.

A female domestic worker was not paid for five months, and the employer was summoned to the labour office. She admitted the claim but insisted she took the complainant, who was an orphan, as her own daughter, and was keeping her at her home and put her into school, until she completed it in 2005. She felt the claims were unfair as the relationship between them was more than that of employer-employee. The matter was advised to be taken to court, as the employer refused to pay and instead demanded a reimbursement for the 'favours' that she did for the employee.

The researchers on recruitment agencies for this project contacted a small number of maid centres. Maid centres are employment agencies that often, though not always, train maids, and then find jobs for them. The research found that the agencies were aware of high levels of exploitation and abuse by employers. The complaints by the maids included "low pay, lack of rest, inadequate food (for live-in maids), refusal to use household toilet facilities, and sexual harassment".¹⁰⁰ The research also found that domestic workers face the problem of having their NRCs withheld as a form of security. "Three of the four agencies operating as maids centres said that they encourage employers to withhold National Registration Cards of the workers. Some agencies have even put this as a requirement in their employment agreement/ contract form."¹⁰¹ One contract, amongst other things states "Maids/ servants should be treated humanely and not to be made to work like horses (non-stop). They too need rest".

However, even when maids are recruited through maid centres, exploitation can still take place:

A group of female domestic workers complained that they were contracted out by a maids centre. They claim that they were not paid for six months despite the clients paying the maid centre for their work.

2.5.3 Agriculture

Like domestic work, agriculture, and in particular small-scale agriculture, is difficult to monitor to ensure that abusive labour practices are not taking place. Chipata was found to have the highest number of complaints within the agricultural sector, at 14% of all complaints; Lusaka came second with 10%, although this included complaints from all over the country and not just Lusaka; Livingstone had 9% and Kitwe 4%. The majority of the complainants in this sector were male.

The Chipata labour officer stated "most of the complaints were lodged by the Malawian migrant labourer's against the local tobacco farmers in the District. Nearly all the cases reported related to employers who had refused to pay the agreed wages after the harvest and sale of the produce".¹⁰² As referred to above, it is believed that the Malawians reporting are a very small number compared to the large number that are working in Zambia and have been exploited. However, due to their entering the country without travel documents and work permits, they fear deportation if they report their abuse. Furthermore, the labour officer is of the opinion that many of the migrant workers, when recruited, bring their families and when "the parents started work on the farms, they too compelled their children and immediate family

100 Mutesa, F & Matenga, C: Private recruitment agencies and practices in Zambia (Lusaka, forthcoming).

101 Ibid.

102 Personal communication.

members to join them farming to lighten the work as tobacco farming is labour intensive and demands meticulous attention. The children did not have access to schools”. The following cases all illustrate the exploitative practices within this sector:

Two boys, aged 13 and 15 years of age were employed to herd cattle for nine months, and were due K775,000. They were not paid at the end of the nine months.

A man was not paid his dues after carrying out small holder agriculture, amounting to K1,500,000 for the cultivation of maize and tobacco. He was thought to be a migrant worker. In a similar case, a migrant labourer was owed K8.9 million.

The complainants were a group of men numbering 93 in total and were employed on a farm in the remote areas of Mumbwa District. They had been drawn from the surrounding villages to the farm and performed jobs ranging from planting, cleaning the surroundings, looking after farm animals as well as other chores. Since the farm is far from the villages, the employees were required to stay on the farm away from their families and visits to their families are restricted. They alleged to be receiving wages below the minimum wages of K268,000, while they indicated that their supervisors use abusive language regularly. Their complaint consisted of: low wages, psychological abuse, restrictions on freedom of movement as they aren't paid any transport allowance and no transport is provided, no protective clothing, and no food rations.

2.6 The response of the authorities

The researchers also recorded information about how the complaints were dealt with. In the case of the MLSS complaints, the first step is for the labour officer to request a meeting with the employer, in order to mediate and try and resolve the issue. In many of the cases, the problem was resolved through mediation. In cases where the employer does not attend the meeting, the complainant is advised to take the case to court. The outcome of these cases is unknown to the labour officer. In the instance of the HRC, the majority of the cases were still under investigation, although those that had been investigated were often referred to another authority, such as the MLSS or the Industrial Relations Court. While the predominance of the cases had yet to be resolved, it was apparent that the majority did not relate to a human rights abuse, but to a labour dispute.

The above data clearly show a picture of widespread exploitation of workers in Zambia, with those within the mining sector, domestic work and agriculture particularly vulnerable to exploitation. These workers appear to be treated without respect and are exploited for the benefit of their employer. Under the ILO Forced Labour Convention, a number of the cases described above would amount to forced labour, particularly those that relate to children, workers who have been trafficked, and those who had documents withheld to prevent them working elsewhere. The non-payment of wages may also be an indicator of forced labour. Although the vast majority of workers voluntarily took on the work in the first instance, they did not agree to work while not being paid, so their 'consent' is invalid. If they left the situation, they would forfeit their wages (a penalty); and with few employment options few are likely to do this. While the intention of the employer is difficult to establish, the non-payment of wages and dues alone is exploitative, and at a minimum, this must be addressed.

Section Three: Forced labour, trafficking and migration in Zambia

The first section of this report provided background information on forced labour, trafficking and migration in Zambia, and gave the legislative context. The second section presented the findings of an analysis of over 1500 labour complaints received by the Ministry of Labour and Social Security in four offices, and the Human Rights Commission. The vast majority of the cases related to exploitative, and in many cases, severely exploitative labour conditions, and non-respect of labour law. A minority appeared to be criminal cases of forced labour and trafficking. However, it is recognised that victims of forced labour and trafficking are unlikely to have the freedom to visit a labour office to register a complaint, so this segment may be under-represented.

To find out more about the trafficking and forced labour of adults and youths aged 15 years and over, the project commissioned primary research with a specific focus on forced labour, trafficking and migration. The need to include migration in the scope of the research was based on the findings from the recruitment agencies research, which found little information on the issue; and on the close link that is often found between trafficking, migration and forced labour. This chapter is based largely on the commissioned research carried out by Mr Chrispin Matenga and Ms Gertrude Mwape.

While this study component aimed to find out about forced labour, the findings relate more specifically to trafficking, and labour exploitation following migration. In only a small number of cases was forced labour found that was not linked to trafficking or migration. However, the distinction between people moving independently and ending up in exploitation, and being trafficked, is often blurred. Without precise facts, it is often difficult to ascertain the exact nature of the situation. For example, numerous respondents reported cases of Zambian women involved in prostitution in South Africa, but there was little data to explain how they got there. The following sections attempt to distinguish between migrants and trafficked victims, but in some cases, it is difficult to make this distinction.

3.1 Research methods

3.1.1 Data Sources

The study collected both primary and secondary data.

Primary data

Primary data was collected through fieldwork in Lusaka (the capital city), Ndola, Kitwe and Chililabombwe (Copperbelt Province), Chipata, Katete and Chadiza (Eastern Province), and Livingstone (Southern Province). The field research focused on persons aged 15 and over, and adults who are or have previously been in situations of forced labour, forced sexual exploitation and severe economic exploitation due to migration/trafficking both outside and within the country.

Similar information was solicited from key government departments, community based organisations (CBOs), non-governmental organisations (NGOs), community workers, local leaders, religious leaders and other community members.

Secondary data

A comprehensive and systematic review of relevant literature was conducted. The secondary data was primarily used to sharpen the researchers' understanding of the problem of migration, and trafficking of persons within, from, into and through Zambia into possible situations of forced labour, forced sexual exploitation or severe economic exploitation. A literature review was also important in providing insights and identifying gaps in the current information on migration, trafficking and forced labour.

3.1.2 Research tools

In order to obtain the data, the study used the following rapid assessment instruments: observation list; key informant interview guides; semi-structured interview guides for migrants/trafficked persons and former/migrants/trafficked persons; topic guides for focus group discussions (FGDs); and interview guides for maid centres and former/domestic workers.

Observations

These research tools proved critical in the field as they enabled the research team to take a first hand look at the conditions of the persons migrating/trafficked into situations of forced labour, forced sexual exploitation or severe economic exploitation in the study sites.

Key informant interviews

The objective of key informant interviews was to gather information from experts who, in their professional work, have interacted with victims of forced labour and trafficking and/or have knowledge of migration/trafficking and labour exploitation, both outside and in the study sites. These included officials from the Ministry of Labour and Social Security, the Ministry of Home Affairs, the Ministry of Community Development and Social Services and the Department of Immigration; representatives of the Zambia Congress of Trade Unions, the Cross-Border Traders Association of Zambia, Victim Support Units of the Zambia Police Service, maid centres, NGOs and CBOs; cross-border truck drivers; and religious leaders.

Semi-structured interview guidelines

Semi-structured interview guidelines were developed for interviews with:

- People aged 15 years and over who are or have been in situations of forced labour, trafficking, migration and severe labour exploitation.
- Representatives of maid centres, in order to understand their views on internal migration/trafficking for domestic workers and their exploitation and abuse.
- Domestic workers and former domestic workers, in order to give insights into migration patterns of domestic workers and their working experiences.

Focus group discussions

These were particularly useful in assessing community perceptions of migration, human trafficking and forced labour. The discussions were held with local community members and focal points of CBOs and NGOs in the study sites.

3.1.3 Sampling procedure

Respondents from whom data was solicited were purposively selected from the households, communities and organizations because of their knowledge and experience in issues relating to forced labour, trafficking and labour exploitation.

Given the scarcity of information on Zambian migrant workers and trafficking victims, the study sought to use a snowball sampling method to find respondents. Given that the specific population under investigation is hard to find, 'snow-balling' was the preferred and perhaps the most credible sampling method. The snow-ball method involved consultations with key informants and some institutions and organizations that referred researchers to known return migrants/victims. These respondents gave leads to other persons who they knew as being in a situation similar to theirs. The findings of this study should be viewed taking this methodology into account.

3.1.4 Profile of respondents

The list below shows the breakdown of respondents by category.

- Fourteen focus group discussions (FGD) were conducted with local community members. These were conducted in Lusaka (three), Ndola (two), Chililabombwe (two), Chipata (three) and Livingstone (four). Each FGD had approximately 10 participants.
- Sixty key informant interviews were conducted. The key informants were from various sectors that were either working on issues of trafficking or migration or were likely to have come across the issues in the course of their work. The respondents interviewed were from governmental bodies, civil society (NGOs, INGOs, CBOs), religious organisations, the media and private enterprises.
- Twelve cases of trafficked persons or migrants, including both internal and cross-border, were interviewed.
- Thirty one domestic workers were interviewed from Lusaka, Ndola, Chipata and Livingstone.
- Five maid centres participated in the study. Of these, three were from Lusaka and two were from Ndola.

3.1.5 Limitations of the study

The findings presented in this report are subject to a number of limitations. Some of the major limitations are:

1. The reluctance by some organisations with information on victims of trafficking to release such information on grounds of victim confidentiality.
2. The difficulty of interviewing a number of known victims due to their relocation.
3. The timing of the study, at the height of the rainy season. Certain areas within the study sites were rendered inaccessible and some appointments were missed due to travel disruptions. It was not always possible to reschedule such appointments.
4. The limited timeframe of four weeks, which proved inadequate. Some respondents said they would only make themselves available for interviews after a week and this made it difficult to obtain their views.

3.2 Understanding of the terms ‘trafficking’, ‘forced labour’ and ‘migration’

The majority of the respondents were asked what they thought the terms ‘trafficking’, ‘forced labour’ and ‘migration’ meant. Most were able to give approximate explanations of the issues, although the precision of the responses varied. Two respondents suggested the following definitions of trafficking:

“Human trafficking, that one I heard it on [the] radio or [the] television where someone is promised a job somewhere or promised some economic gain then they [are] made to move from one place to another, but when they reach [the destination,] things sort of change.”

“I will not be able to define it, but the way I understand it is that human beings are being trafficked or transported into other neighbouring countries or other different countries ... it’s like when they used to move slaves, it’s almost the same.”

Forced labour was often viewed as a self explanatory concept:

“Forced labour is when you are forced to work against your wish. You are manipulated and you do not even get what you deserve after that work.”

Although one respondent suspected that it may be more complex:

“Forced labour is like forcing someone to do work. It may be too technical for one to understand.”

But when specifically asked about whether forced labour is a problem in Zambia, the majority of the respondents stated that it was, because people are forced to do work that they would not choose to do, but have to in order to survive. This is a widespread misperception of the concept of forced labour.

Finally, the definition of migration was the most well understood term. Suggested definitions included:

“Migration implies moving from one place to another, it can be a narrow and wider concept. [In the] wider concept you are talking of [movement] from one country to another.”

“Migration is basically the movement of people from one place to another. It could be from one country to another country. Or within the country from one place to another. Due to economic hardship, people want to go and look for greener pastures.”

People’s general knowledge about forced labour, trafficking and migration differed depending on their job. In the case of ‘key stakeholders’, their knowledge was due to their work. However, it was noted by some that it was difficult to gather information on the problems due to their underground nature and the illegality of the practices.

“Usually here at the office it is very difficult to see people involved in forced labour. We see some sort[s] of child labour. There are children who usually come from the other side of the border. Maybe if you went outside for some time, you would see some of them moving around, in and out, busy selling. Those may be ... child labourers.”

Other respondents had information about trafficking and migration because of their day-to-day activities. The first is a truck driver:

“Our job is to pick them [up] and drop them in Johannesburg and [then] we have finished our business. They pay us money just like that. They usually have passports, most of them used to have Congolese passports.”

“They would come and say that they are looking for young men who would like to go and work in South Africa and when you ask ... the type of job these young men would be doing, [they] would say going to work in a restaurant.... Now he [took] one and the mother of this young man ... complain[s] that her son is suffering a lot. I do not know who this Indian is looking after him.”

3.3 Profiles of forced labour and trafficked victims, and traffickers

3.3.1 Profiles of forced labour and trafficked victims

When prompted, most key informants stated that women and children were the main victims of trafficking in Zambia. Some respondents were of the view that both the educated and the uneducated were vulnerable to trafficking due to the high poverty levels in the country. It is, however, interesting to note that most respondents did not consider men to be victims or vulnerable. One respondent suggested that this was because “men had a stronger will than women”. The issue of forced labour was rarely seen as separate from trafficking as the majority of the respondents felt that victims of forced labour were also victims of trafficking.

“[Most] victims are women. I think maybe starting from 16 – 20 years, somewhere there. I think generally for women and girls it’s just for sexual exploitation mostly. For men, generally, it would be for labour where maybe the element of forced labour comes in because the promises that were made [before] they were moved [are not fulfilled].”

“The group that is usually vulnerable should be women, women are vulnerable.... even may be young men, those who are strong and can work on farms. Even the educated ones are also trafficked, it is not only those who have not gone to school, the skilled are also trafficked.”

Respondents suggested that victims’ ages were across a wide range, between eighteen and the late thirties. They noted that many children were victims of trafficking, particularly for domestic work.

The majority of the trafficked victims referred to were Zambians, who had been trafficked either within Zambia, or to other countries, such as South Africa. However, the Congolese were often cited as victims of trafficking, particularly in relation to being taken to South Africa. While other nationalities were mentioned these appeared to be more isolated cases.

3.3.2 Profiles of traffickers

According to key informants, traffickers do not fit a specific profile and come from a cross-section of society. Family members, relatives and friends were cited as major culprits by most respondents. The traffickers were said to be either male or female and that both Zambians and foreigners were involved. Church organisations, charitable institutions, truck drivers, owners of bars and tourism enterprises or rich individuals were also believed to be possible traffickers. Some respondents stated that public officers in law enforcement agencies could be traffickers.

“It could be anyone. Male or female. Well placed people with networks.”

“Some come as Pastors and also charitable organisations. The Acappela Boys Choir, we heard how they were exploited in America by a charitable organisation that wanted to raise money.”

“Usually family members, friends, and people you don’t know, people you just meet on the street. For internal trafficking, usually within the family system, but for international trafficking, various nationalities are involved.”

“Truck drivers, they know the border situation better.”

“The rich are the ones engaging in trafficking because they travel, they are always globe-trotting, always browsing [the] internet.”

“Mostly it is, you know, the knowledgeable people who have been exposed to this work and they have been promised billions of dollars.”

3.4 Reasons for migration and trafficking

When asked the reasons that people migrate or are vulnerable to being trafficked out of Zambia, responses included the search for better economic or employment opportunities and 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. Similarly, investment or employment opportunities; trading; tourism; prevailing peace; relaxed laws and running away from a poor economic situation in other countries were cited as factors that attract people to migrate into Zambia. As one respondent put it:

“While we think our economy is good, there are other countries whose economy is better than ours, so some of our people go out for greener pastures... a lot of doctors, nurses, teachers are going out for greener pastures because here maybe their salaries, the money they are getting are not good.”

“Like now we have this poverty. Now we have this HIV/AIDS. So you find most of these double orphans, they do not have anyone to take care of them, most of these children now are running households, so they become very vulnerable to be trafficked.”

3.5 Means of transportation

Informants in all categories maintained that migrants and/or trafficked victims can be transported by air, rail or land to their destination. Land transport was more common for people migrating within the region than by air. According to informants, not only is road transport cheaper, it was also preferred because it was easier for irregular migrants and traffickers due to weaknesses in border controls, as opposed to travelling by air where controls are strict at airports.

The issue of truck drivers being involved in helping people migrate, or trafficking women for prostitution was mentioned repeatedly. Two truck drivers stated that they were not allowed to carry passengers, because their insurance would not cover any accidents. However, another said he regularly took people to South Africa.

Lusaka Airport was mentioned by a number of respondents as either receiving trafficked victims, often in transit, or as a point of departure. In one instance in early 2008, Zambia Police's Victim Support Unit was alerted to a 17 year old girl found on an aeroplane without any documentation. She was due to fly to the UK, and had been told by her boyfriend that she would be met by his parents, then go to school in the UK. According to initial information gathered prior to an investigation into the case, the girl had managed to pass through check-in and immigration without being stopped. She said she had been told to follow two women and a man who were also checking in. It is unknown whether they were involved.

3.6 Routes and channels for migration and trafficking

3.6.1 International routes

Migration takes place using both legal and illegal channels. Respondents in Chililabombwe observed that it was not uncommon for Congolese nationals to use remote footpaths rather than formal border crossings. In Livingstone, it was said that some migrants, both Zambians and non-Zambians, enter and leave Zambia using the Victoria Falls border without travel documents with the aid of individuals popularly known in Livingstone as “*mauazi*”.¹⁰³ One informant recounted the following incident:

“I was coming from South Africa via Botswana through Kasane and this Zambian lady approached me. [There] were a lot of us and she said to me, “My brother I have over-stayed [my visa] but if I give [the immigration officers] my passport they will take me to [the] police”. I told her that, looking at the set-up here, you can go through. She asked how. I told her, let us go in and she came with me into the building and she walked out of the other side and I told her just pick [up] your goods and go, nobody will ask you, and that's how she managed. In Botswana they won't ask you for a gate pass. On the Zambian side of the border, it is the same.”

While the above case illustrates how easy it might be to cross borders without documents, some respondents reported cases in which Zambians had been deported from countries where they were staying illegally or were involved in illegal activities.

Certain borders are preferred by irregular migrants and traffickers due to weaknesses in border controls and hence the reduced likelihood of being detected. Being a landlocked country, surrounded by

¹⁰³ The “*mauazi*” are described as local resident women who smuggle goods and aid the border-crossing of people without travel documents using the railway path under the border bridge.

seven countries, Zambia has many border crossing points, some barely manned. Most cross-border migration is southwards with the majority of migrants destined for South Africa. The most popular and direct border points for migrants going southwards are Chirundu and Livingstone. Other well known border crossings are Kazungula and Mwami. However, there are less direct routes and borders such as Chanida in Eastern Province, Kanyemba in Luangwa and Kariba. It is believed that, for fear of detection, traffickers are increasingly using these border points for their journeys southwards. Respondents stated that trafficking takes place across all the main border crossings.

The following case reveals an international case, possibly of trafficking, with a detailed transport route:

A group of Ethiopians were flown from Addis Ababa to Lubumbashi in the Congo. In Lubumbashi they were met by a Congolese national, who took them through the border at Kasumbalesa into Zambia. At this border post they went through one by one, and re-grouped on the other side, to prevent suspicion among immigration officers. From there they travelled by road, and were heading for Chirundu when they were intercepted at a roadblock in Kafue. They maintained they were heading from Zimbabwe. It was believed that the Congolese was intending to hand them over to another person at Chirundu. The group were sent back to the Congo.

In another case, 31 Somalis tried to cross the border into Mozambique using remote bush paths. They had no travel documents and had arrived through the Zambia / Tanzania border. Reportedly, most of the Malawian migrant workers who come into Zambia are illegal immigrants and come through what is known as 'zalewa' which is an illegal route, avoiding the border. When they are caught they are arrested and deported.

3.6.2 Domestic routes

As far as internal migration and trafficking is concerned, routes vary widely. Some movement is within each province. For example, in Eastern Province there seems to be a lot of movement of children from villages to farms, especially in the Chipangali area in Chipata. It also appears that girls are moved from Katete to Chipata for prostitution.

There is also movement between provinces. Information was gathered that showed people move from Eastern Province (particularly Chipata and Petauke) to Lusaka and Copperbelt provinces in search of work as maids. The following case involves an 18 year old girl who was taken from Chipata to work as a maid in Lusaka.

Beatrice¹⁰⁴ was recruited as a domestic worker by a doctor who was looking for domestic staff for her brother, who was diabetic and partially blind. An intermediary was sent to find a girl. Beatrice's mother knew the intermediary, and believed that because the doctor was a good person, her brother would be. Beatrice was sent from Chipata to Lusaka by bus and was met by the 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 up whenever she made a mistake. The girl wasn't paid, was unable to communicate with her mother and was not allowed 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. They felt they needed to find someone to assist her. The police in turn reported the case to Social Welfare.

Beatrice was removed from that home and taken to a centre while efforts were made to contact her parents in Chipata. After a month the mother came to take her home.

104 All names have been changed to protect the identity of the respondents.

The man was arrested by the police, but maintained that he was disciplining her. He is receiving counselling from social welfare due to bad experiences from his past.

The informant who reported the case of Beatrice revealed that it is quite common for people to bring young villagers to work for them. In her words, “Many people do it”. This view was supported by other key informants as well as community members in the study.

A key informant in Chipata told of cases in which young people move from Chief Nabwalya’s area in Mpika (Northern Province) to Chipata in Eastern Province. They migrate during school holidays in search of employment as domestic workers in a bid to earn money to enable them to pay for their education. They either walk or use bicycles. Some of the young migrants are reportedly paid very little (e.g. K50,000 per month) and some resort to sleeping at bus stops. This could lead to them being involved in illicit activities, explained a key informant.

Other cases were identified in which migrants move from Mongu, in Western Province, to look for work in Chipata, and then move on to Chililabombwe in Copperbelt Province. One respondent said:

“We have these relatives; I have my nephew in the village, [I say] let him come, I will secure employment for him. It’s very common.”

The story that follows was narrated by a government officer. It is about children who were trafficked from the Northern Province to Ndola in Copperbelt Province:

“Two boys aged 17 years and 14 years came from Kaputa (Northern Province) in 2003. A farmer went to get them to work on his farm. After one year of working at his farm, the boys weren’t paid anything apart from the food they were given. When they tried to enquire he’d say, “The food I give you is enough – you never used to get this food where I got you from”. The younger boy started doing piece work but the money he was promised wasn’t enough. So wanting quick money he stole about four goats to sell. Unfortunately he was apprehended by the police. The older boy was left on the farm alone for three to four months. He survived on piece work and sometimes had no food. Eventually a ‘good Samaritan’ referred him to this office.

Government officers carried out investigations on the farm where the boy had been to ascertain the truth. The boy was kept at a place of safety (a probation hostel) while waiting for the case of the younger brother to be disposed of in court. Since the younger brother was a juvenile, our office had to [decide] on the best punishment to give him. When he was released we facilitated their transportation and resettlement in Kaputa. The Kaputa officer communicated that the younger boy was put in school while the older boy was given skills.

What usually happens is that people go to villages and ask for children who are well disciplined. Parents readily surrender children. Kaputa is a very remote area near Mpulungu harbour and the boys were excited about coming to town for the first time.”

Labour migration for agricultural work does not only occur in the Eastern Province. During an FGD in Kaniki (Ndola) it was revealed that during the rainy season people migrate from Luapula Province to the Copperbelt on foot. They reportedly pass through Mokambo and Congo and then into Zambia again to work on farms. Some of them allegedly marry off their daughters so that they have somewhere to stay. It was also noted that Mazabuka in Southern Province is attracting migrant workers due to the expansion of sugar production.

Information also related to some people moving from the Copperbelt to Lusaka. In one case reported in Sakania¹⁰⁵, a man sent his 14 year old daughter to Lusaka to work for the sister of a policeman based in Sakania. The girl was promised schooling. Her transport was paid for by the woman who employed her. The child's father is a widower who has two other children and does piecework on farms. The girl was happy to go because of the suffering she was going through. However, no one had heard what had happened to the girl since she left.

Other routes mentioned included people from Ndola moving to Solwezi in search of work in the newly opened mines. Others are moving to mines in the Congo, although an immigration officer said that "I have never suspected a Zambian of being trafficked to Congo". It was also mentioned that prostitutes from all over the country are moving to areas where there is economic activity, including Solwezi and Eastern Province at harvest time.

"Most girls engaging in this vice are not local but from Chipata and Lusaka. They stay at a rest house in town. The main targets are the truckers that stop here to refresh themselves before crossing the border into Mozambique. Others are the farmers when they harvest and have a lot of money. The parents in a lot of cases know what their children are doing."

"The truckers in certain cases bring their own prostitutes from Chanida. The average age is 20 to 30 years old. There is great demand for the coloured women from Mozambique. The women stay for a week or so and then leave. They have rooms which [suggests] that they are kept by someone in town."

3.7 Nationalities of migrants, trafficked victims and traffickers

The research gave some indications of the most prominent nationalities among foreigners who have moved to Zambia. Some communities have been in Zambia for a long time (e.g. Somalis, Indians and Lebanese), but others have settled or expanded more recently. One focus group discussion in Lusaka revealed the following:

"We know of those from Mali who are not so many because [some] have left and gone to Mozambique due to the slowing down of business they are involved in."

"There are also those that come from Tanzania, Burundi and those from Rwanda who came as refugees. And those from Tanzania, we would not know how long they have been here, the same for those from Mali, Burundi and Rwanda."

"As for the Chinese what we know is that they have come as investors in the community. We know of the Chinese, both male and female, who are so many in numbers."

"The Congolese came as refugees when there was war in Congo, while those from Mali came with visitors' permits which they renew every three to six months. Those from Tanzania use Kasesha border, while those from Burundi use Mpulungu border. These people's documents are usually illegal. We know this because we buy fish from there."

According to one key informant, there is a lot of movement of Chinese, Congolese and South Africans into Zambia¹⁰⁶, and another felt that East Africans were the most prominent migrants into Zambia.

¹⁰⁵ Sakania is a border post between Zambia and the DRC in the Copperbelt Province.

¹⁰⁶ From a list made available by immigration in Ndola the following West African nationalities were recorded at Chanida border in the last quarter of 2007: Liberians (two), Ghanaians (one), Malians (35), Guineans (34), Nigerians (three), Senegalese (nine), Sierra Leoneans (three), Burkinabes (one), Ivorians (two), Gambians (one), Mauritians (four).

Another noted that there is a number of Burundese and Congolese women travelling (through Zambia) to Swaziland. Some of the women end up in bars in Tete in Mozambique.

The predominant nationality that was mentioned in relation to migration and trafficking, was the Congolese, particularly in the Copperbelt region, which borders the Congo. One informant from this area said:

“In this place are so many people from Congo. These people from Congo they come to do business here and they cheat Zambian girls by giving them gifts and thereafter make use of these girls.”

According to another respondent, Zambia is a transit point for Congolese who traffic fellow Congolese:

“Zambia is used as a transit point. There is a business in Zambia of selling fellow Congolese. They organise Zambian papers and then sell the people to Belgium and even RSA [South Africa]. I came to know through friends....”

The participant who raised this said he did not know what the Congolese are being sold for. This might be an isolated case as no one else made mention of it.

An officer in Ndola narrated the unusual case of a number of Pakistanis (18 years, all male) who were claiming to be tourists. They went to Mozambique through Chanida Border Post to go on to South Africa. It was not clear whether they went to work. Some reportedly went on to the United States of America and could have been victims of trafficking. When government officers noticed the pattern of movements, the ‘tourists’ were sent back to their countries of origin. The person who was facilitating the movement was arrested and deported in 2006. This story was confirmed at Chanida Border Post.

3.8 Travel documents and work permits

Respondents were asked whether they thought that migrants use genuine travel documents. The majority thought that Zambians travel on genuine passports and documents, as they are easy to access:

“Most Zambians go with genuine documents. Passports, others on those travel documents of emergency. The one who holds that kind of a document can have access to reach South Africa. Mostly a few Zambians we have received in the region that have been repatriated or removed from South Africa or these neighbouring countries. Those who over-stay.”

“I think they do [travel on genuine documents] because genuine documents, we must be talking about passports, it is easy for a Zambian to get a passport in that [one pays] K72,000, and is cheap. In my work I have signed a lot of recommendation letters for acquiring passports.”

In relation to the use of genuine documents for other nationalities, the Congolese were particularly noted for travelling on fraudulent documents, due to the difficulty in obtaining them. One informant, speaking about Congolese migrants, revealed the following:

“They do not move with genuine documents, sometimes they cross without documents. They are smuggled ... like in South Africa, someone can cross freely on the border as long as one has R500 in the pocket, they can cross freely...You can pay the police there and they would even show you the direction on how you ought to move for you to be safe.”

Asked how common it is for Zambians to find work with work permits, outside the country, the respondents were unanimous that it was not so common. However, it was stated that the issue of work permits depends on one's profession and the country one is migrating to. Some professions such as teaching and nursing require the migrant to obtain work permits before travelling. There was a view that only professionals obtain work permits while the majority who go for unskilled jobs may work illegally. One respondent estimated that only thirty percent of Zambian migrant workers obtained work permits to work abroad.

Generally, respondents were of the view that getting work permits to work overseas was difficult. Europe was cited as a difficult place to obtain work permits as the procedures were prohibitive, although it was possible for professionals. Countries to which Zambians migrate were stated as: UK, US, Australia, Norway, Holland, Denmark, Germany, South Africa, Botswana and Namibia.

3.9 Discovering and intercepting traffickers

An immigration officer explained that while there are often strong suspicions of trafficking, it is very difficult to prove. It is especially so with children. At Chanida Border, for example, the researchers were told of two men and three children aged 10, 13 and 16, who had travelled from Tanzania via Tunduma/Nakonde through Lusaka to Chanida. They were cleared from the Zambian side but did not have money to enter Mozambique and so were denied entry. Whilst there is concern about such children, the immigration department cannot do much as these are transit passengers and it is not their problem once they exit Zambia.

The following two cases relate to Kasumbalesa border post between the Copperbelt and the DRC.

"I remember last year we intercepted a lady that was travelling with about seven children. This lady claimed to be X, any way, she is Zambian although she did not have any documents of identity, but she had gone to Congo and she came back with those children. At the time she arrived here, maybe she told the children [to] go one by one so that they do not seem to be moving as a group so those children managed to pass through, but at the road block that is where they were intercepted."

"A young man was travelling with five young ladies, he was the group leader, he is the one who presented the passports to the officers here, then we found that [he] was not old enough to lead the group ... so we brought in measures for him to produce money for each person, which he found difficult. He went, later he came back but still I was not satisfied that those people could travel, I took them back to Congo, they were Congolese, I explained to the officers there. After explaining to them there is human trafficking even there, they do not know it, so I told them that I suspect that those people are being trafficked, so what I would like to do is to come with letters of authority for them to travel from their parents. They were in the ages 15 – 20."

The same immigration officer reported that when they have suspicious cases, they ask that each person present \$500 to prove that they can afford to look after themselves. If they can't find \$500 they are turned back. The immigration officer is aware that this restriction is harsh, but says:

"At the moment there is no specific law which empowers us to maybe arrest any person just at the port of entry. To say no, you are involved in trafficking, we will arrest you. That one is very difficult unless maybe internal offences where somebody has already gone in then they find him moving with such a group of people, maybe there they can arrest. But here it is just better to refuse entry so now we are allowing no entry, you must go back."

This quote clearly indicates that immigration officers feel that there is no adequate legislation to deal with the problem of trafficking.

3.10 Types of work undertaken by migrants

3.10.1 Zambians migrating out of Zambia

Medical practice (nurses and doctors) and teaching were the most common professions pursued by qualified, professional migrants. A high proportion of doctors and nurses migrate to the UK and a large, but declining proportion of teachers, migrate to Botswana. In relation to nursing, it was suggested that many Zambian nurses migrating to the UK were ending up in poorly paid jobs in elderly people's homes.

Migrants with few or no professional qualifications take up work including babysitting, cleaning, care for the aged, restaurant work, prostitution and various menial jobs.

“Those do dead end jobs where you cannot rise in life. You end up as a street sweeper, you work in restaurants, and you know those dead end jobs. It's just a hand to mouth kind of situation. You cannot save; you cannot send money to your relatives back home. Most Zambians who have migrated to South Africa, Namibia, Botswana, the UK, the United States and Australia. In my opinion it's the ones who are skilled [that migrate]. The educated ones are the ones migrating. For the unskilled one[s], especially for the ladies, mostly they are ending up in prostitution.”

For those who find jobs before they have left Zambia, the respondents stated that they got the information about the job through advertisements on the internet, newspapers and contact through friends. For those migrant workers who move without finding a job first, they ultimately find employment through the help of family and/or friends. Some respondents felt that those who migrated without first having a job, even though they were helped by friends and family, were vulnerable to being exploited.

Would-be migrants also sometimes accept offers of educational scholarships, after seeing them advertised. However, little was said about what happens to the migrants after taking up the scholarship.

“It may be you want to improve your education; somebody can come and tell you that they are offering a scholarship, some school somewhere abroad, naturally you are interested. [When] you get there you find something else.”

Prostitution is often related to women's migration, as a means of earning money. It is difficult to ascertain whether this is independent migration for 'voluntary' prostitution or trafficking into 'involuntary' prostitution. One case was reported as follows, of a Zambian working in prostitution in Malawi:

“The other was in Malawi. You know these who go to sell.... As I said they end up in prostitution so what happened is that they were staying at this lodge. Some cheap guest house. The married ones complained to their government to say no, our husbands are spending nights in those guest houses. There was an operation of some kind by the Immigration and the Police. They went there around 04:00 hours so that they had to forcefully remove these women from their rooms. And they were thrown into the buses which were waiting outside. And they drove them up to our border there in Chipata.”

While not migrants, another sector of informants that have information about trafficking and migration are cross-border traders, as they regularly travel to other countries to buy goods for sale. One truck driver said of his passengers:

“Yes, most of the people we carry across the border are these who say “I am going to South Africa to buy some goods for sale”. Most of them are Zambians ... they say they go to buy beer or blankets. They are genuine traders.”

Cross-border trader associations were interviewed in Lusaka, Kitwe and Livingstone. In general, the traders found it easy to cross borders and were aware of suspicious activities, and of many Zambian women in prostitution in countries bordering Zambia. One female cross-border trader, who brings second-hand clothes from Tanzania through Nakonde border post, said:

“You hear about nightclubs in Tanzania with Zambian prostitutes. They go there on their own using truck drivers and when they get there they are abandoned. They are taken as the truck drivers’ girlfriends. I have not heard about Zambian women in South Africa.”

This trader reported that there were five hundred cross-border traders working in the same market as her in Kitwe. The Cross-border Traders Association has approximately one thousand members, of various nationalities. One respondent from the association said that the profits from trading are very slim, which may result in traders having to resort to other means of making money, such as prostitution. The same respondent reported a case of a woman from the Copperbelt who is involved in prostitution in South Africa. However, she has overstayed her visa, and does not have the money to pay for the extra days she has stayed there. This has resulted in her being trapped, and unable to return to Zambia.

3.10.2 Zambians who migrate within the country

In all the study areas, it was revealed that Zambians are migrating from their communities in search of economic opportunities and employment in other parts of the country. There is both inward and outward movement, depending on the available opportunities. Domestic work was often raised as a type of work undertaken by migrants, especially those moving from rural to urban areas. However, it was also noted that there is some migration from urban to rural areas.

In Chililabombwe, respondents mentioned that people migrated from outlying rural and peri-urban areas to seek employment as maids. It was also mentioned that being a mining town, Chililabombwe also attracted many Zambians from other towns seeking employment in the mines. Respondents also were also of the view that people from Chililabombwe were migrating to other parts of Zambia looking for employment. It was suggested that those with qualifications in the mining sector were moving to places as far as Solwezi and Lumwana where mining activities were on the increase. Other movements involved commercial sexual workers who migrated into and out of Chililabombwe.

Livingstone appears to attract many migrants from the Southern Province and beyond. The types of jobs found by migrants include domestic work, tourism enterprises and farm work, general white collar and menial work, trading and commercial sex work.

“As you know Livingstone is a tourist capital, all the lodges and industries involved in tourism, also attract a big inflow of internal migrants, as well as external migrants.”

As the capital city, Lusaka is viewed as a haven of opportunities for many Zambians. People who migrate to Lusaka take up a wide range of jobs from professional to general unskilled labour, depending on their qualifications. Domestic work appears to be the dominant occupation for women who come from other parts of the country and especially from rural areas, although prostitution was mentioned on numerous occasions.¹⁰⁷ In the case of domestic work and prostitution, the majority of the cases related to women travelling independently in search of work.

Precious, a 31 year old woman, left school after she completed grade 7 due to lack of [financial] support. She was kept by a cousin after her parents died; all her four siblings had also died. A friend she met in a nightclub encouraged Precious to move

¹⁰⁷ For more cases see Annex 1 and 2.

to Lusaka as there was more money there than the Copperbelt. Precious was already in prostitution, and used to earn K20,000 to K30,000 a night. Precious moved to Lusaka, stayed with a friend and contributed to the rent. She has a son whom she has not seen for over ten years as he was taken by his father. She now charges her clients K50,000, and if they are generous or have money they can pay up to K150,000. She does not pay anyone and any money she makes is her own.

3.10.3 Non-Zambians who migrate to Zambia

While Zambia has experienced out-migration due to perceived lack of opportunities, the country also attracts foreign migrants from within the region and overseas.

Zimbabweans migrating for economic opportunities have travelled to Lusaka and the towns bordering their country. Many of them, especially women, are engaged in the trading of groceries. It was also suggested that many have also engaged in prostitution. In Livingstone, respondents said that Zimbabweans were doing domestic jobs such as washing and ironing of clothes, full-time domestic work or working as 'cheap labour' in the lodges on a casual or more permanent basis. Others with skills were employed in the tourism sector. The Zimbabwean migrant workers are, however, paid very little by their employers.

"I am sure they are being exploited because they are so desperate there back home. So, if you [gave] them a K50,000 [note] from here, it is a lot of thousands, not thousands, millions [of Zimbabwe dollars] actually. And as for them, as long as there is a roof over the head, a meal on the table, they can bath and sleep."

In Chililabombwe, bordering the DRC, the Congolese immigrants were mainly engaged in trading activities and smuggling of essential goods. It was also reported that a few Congolese young men were engaged in agricultural work in small farms around the border town. It was suggested that West Africans typically come to Zambia to mine and deal in gemstones; South Africans to work in mining; and Malawians to work on farms (especially tobacco), in the construction industry or in vending.

3.11 Terms of employment and working conditions of migrants and trafficked victims

In general, respondents agreed that the terms of employment and working conditions of migrant workers are poor and often severely exploitative. While many Zambian workers are exploited by their employers, migrant workers from other countries are made more vulnerable by their often illegal status within Zambia. Scared of deportation and arrest, they are often more willing to continue doing jobs from which other workers would resign. Likewise, Zambian migrant workers were deemed to be vulnerable due to being away from home, often without the financial means to leave the situation or return home. The fact that people are willing to migrate to find work also makes them vulnerable due to their desperation for work.

The terms of employment and working conditions vary according to the type of job. For example, migrant workers from Malawi often labour on the farms for the whole farming season and they are only paid after the harvest. Sometimes they are not paid at all. The pay offered to them is reportedly very low, at a level for which Zambians would not work e.g. K600,000 for nine months' work. This translates to about K67,000 per month.

Some contractors to a named mine in the Congo were reportedly employing Zambians under poor working conditions:

"People employed here were promised housing allowance, transport allowance well as a salary. There were no houses at the mines. They moved to the mine area and put up small shelter. 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 had he only offered them salary and transport allowance, not housing allowance. The group that was affected consisted of seven people.”

The following list illustrates the main complaints reported by migrant labourers. In a number of cases, the situation of the worker is one of forced labour, as they are unable to leave the job without being penalised. However, the majority of the cases refer to exploitative labour conditions without being forced labour.

i. Working excessively long hours

This complaint is common, particularly in relation to domestic workers. This is illustrated by the experience of a domestic worker called Misozi.¹⁰⁸ It is about how her Sunday – a day of rest for most people – is typically spent:

Typical Sunday for Misozi

Started at 05.00 hours
Sweeping the house
Waxing/putting cobra (floor polish)
Washing plates
Light the brazier to boil bathing water for husband and wife
Wake up wife then husband
Around 10.00hrs bathe the children
Use the neighbours’ outside bath, not allowed to use the bath in the house.
Given the husbands underclothes to wash¹⁰⁹
Wash clothes (only drink tea after finishing) after 11.00 or 12.00 hours.
Wash plates begin to prepare lunch.
Used to bathe after 18.00 hours despite finishing earlier.

Misozi had to work even when she was sick – “How can I pay you and become your worker?” the wife would ask. In another example, a domestic servant would have to wait for the husband of the house to come home, to cook him his food, as he would only eat freshly prepared food. Sometimes he would arrive home at 02.00 hours. The domestic worker would then have to be up at 05.00 hours to prepare the bath water and the children for school.

In another example, a 25 year old trafficked male was deceived into going to work in his mother’s cousin’s store in another part of the same province. The man was promised K400,000 a month. However, he worked from 06.30 to 19.30 hours with a break of one hour at lunch. Despite the promises of pay, he never received any salary or benefits.

ii. Not being paid for long periods / not being paid at all

The research suggests that this practice is very common and extends to cases of workers having to carry out more than one job, while only being paid for one. A number of cases that have been taken to Labour Offices are related to workers not being paid. In one case involving two trafficked boys working for a farmer, the farmer refused to pay them after they had worked for him for a year.

In the case above of the trafficked man working in a shop, he said:

“My money was being kept by my boss, who told me that he was going to give me the money after three months because the business in the store was not doing too well, which was a lie. I was never given my pay. My boss said he took care of me and

¹⁰⁸ See Annex 3 for the full case of Misozi.

¹⁰⁹ The washing of underclothes was mentioned by a number of domestic workers, who stated that it is taboo to wash someone else’s underclothes. In particular, a woman should only wash her husband’s underclothes, and no other man’s.

because we were related he could not pay me. This was after he promised to give me the money after three months.”

It was repeatedly asserted by key informants and community members that Malawians are used as cheap labour on Zambian farms. It appears quite common for Malawians not to be paid after the harvest as promised. Some of the cases have been referred to the Labour Office. There was speculation that many Malawians find it difficult to report the exploitation they have suffered because they are illegal immigrants. It was also revealed that some Zambian employers use the workers’ illegal status as a deterrent to complaining, threatening them with deportation if they complain about not being paid.

It was also revealed that migrant workers from Luapula Province who seek work in the Kaniki area of Ndola (Sakanika Border Post), are paid very little. For digging one lima (50m x 50m or half a football field) they are paid K70,000, yet to till a similar piece of land with a tractor costs K270,000. In one case reported to the Labour Office in Chipata, a man living in Chinyala was claiming his wages from an employer who contracted him to do farm work for a period of one year. The employer threatened to kill the employee after he had finished his work, and beat him up. He was reportedly Malawian.

While many cases of exploitive labour were identified during the research, cases of child labour were also detected – many related to trafficking. One case involved a 12 year old girl who had lodged a complaint with the Labour Office because she had not been paid for a month. While this case was one of forced labour, as due to the age of the child, she was highly unlikely to be working out of choice, the employer was also breaking employment law, as the girl was below the age of legal employment.

iii. **Other forms of abuse and poor working conditions**

Some children involved in cattle herding are abused and/or beaten when the animals they are taking care of stray into other farmers’ fields. Reports were noted of farm workers from Malawi being threatened with death and deportation. Domestic workers also complained about being insulted by their employers. Complaints were also made regarding the lack of protective clothing, and included complaints from domestic workers that they had to clean toilets without any protective gloves.

3.12 Trafficking of Zambians to other countries

Many respondents expressed the view that some Zambians end up in exploitative or forced labour conditions in foreign countries. South Africa, in particular, was cited by many for being notorious for such practices. There are also stories narrated by some respondents and on the internet of young Zambian ladies trafficked and exploited in the USA and Europe. In most of these cases, the victims were trafficked by fellow Zambians, in many cases by people known to the victims. In the majority of cases the victims are female who are sexually exploited or end up in exploitative domestic servitude. One respondent from an NGO stated that, based on information and cases they had referred to the police, they had dealt with about 70 cases of trafficking. The research documented numerous cases of Zambian women being trafficked outside of Zambia for prostitution or labour exploitation. The girls and women often travel after a friend or relative encourages them to travel with them, and promises them either jobs or an education. There is also some evidence, albeit limited, that once outside of Zambia, Zambian women are also vulnerable to being trafficked.

“A Congolese woman got some Zambian girls abroad, I think it must be Europe, not in Congo, to find them something like schools or finding them sponsors for them but instead it ended up that the girls were used as prostitutes and at the end of the day it was the woman that was being paid.”

The following paragraphs relate to exploitative situations into which Zambians have been trafficked. Typically, the end result of the trafficking is entry into prostitution, after the victims have been lured by offers of jobs or an education. All of these cases relate to females, and no cases of males being trafficked outside of Zambia were found. However, this does not mean it does not happen – we can only conclude that the research did not detect such cases if they exist.

3.12.1 Offers of a job

One of the key informants narrated a case of trafficking of a Zambian girl from Emmasdale residential area in Lusaka to Ireland.¹¹⁰

“The girl was trafficked to Ireland three years ago through a Zambian female friend. The girl was lured by this friend to leave for Ireland with assurances that she would find a good job and even get married to a white man. With this prospect of a job and a good marriage, the mother allowed her daughter to go.

However, when the girl arrived in Ireland, she was sexually exploited. There was no time to rest as they had to ‘work’ the whole day and the whole night servicing clients. They were locked in the house and they were not allowed to go out.

One day the girl finally got hold of a phone and made a distress call to her mother back home and told her the ordeal she was going through. The girl was rescued through government intervention after the mother reported the matter to the authorities. Although the girl is back in Zambia, she is still affected as she was introduced to illicit drugs during her captivity. She now moves from one bar to another and has completely lost her dignity and hope in life.”

A 22 year old Zambian lady, Janet, was trafficked from Lusaka by a Zambian woman resident in South Africa. She was lured with promises of good trading prospects in South Africa, but ended up in sexual exploitation in a brothel. She was rescued by a Nigerian man, who paid for her to return to Zambia. They remained in touch and after sometime she returned to South Africa to live with him. Things did not work out, as he started to beat her and complained that she never had any work (she did not have a work permit). She finally found a job in a restaurant, but was forced to have sex with the owner. She managed to leave South Africa and return to Zambia. She reported that the original trafficker takes new girls to South Africa regularly.¹¹¹

In a further case of trafficking for prostitution, the woman was promised a job by a Christian organisation:

“The woman was taken from Lusaka to Malawi by a Christian organisation. She ended up in a brothel where she stayed for one year. Someone, a Malawian, went to recruit her. He got her relevant documents. She was told that she would be working for a Christian organisation with children and that she would be paid in US dollars. The woman was rescued through INTERPOL. She called home using someone’s phone. The woman crossed Mwami Border using provision that one can go in as far as 10 kilometres. When she got back she was given counselling. Her family was happy and there was no stigma. While in Malawi she was in confinement. There were no other Zambians there. Traffickers often don’t put people from the same country together.”

3.12.2 Education

The lure of education has also resulted in people being vulnerable to trafficking, both internally and across borders. In this following case, it is a relative that promised a good education:

“The young lady was in college doing her first year. She has an aunt in Italy with whom she would communicate. Her aunt lured her with a picture of 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

¹¹⁰ There is also a highly publicised case involved two Zambian girls being trafficked to Ireland by two Congolese men. This case may be the same case.

¹¹¹ For full case study see Annex 1.

she would take her to a very good university. Upon arrival in Italy, the girl had peace for only three days or so. Then her aunt asked her whether she knew what she does for her living to which the girl said no. The girl reminded the aunt that she promised to take her to a university. Instead, the aunt introduced the young girl to prostitution. The girl was given fancy clothes for prostitution and was told by her aunt that if she doesn't do it then she would starve. When the men started visiting her she resisted. The aunt started beating her and threatening her that she would die. The girl had to run to the embassy where they bought an air ticket for her and she came back."

3.12.3 Hair salons

It was repeatedly suggested that Zambian females are travelling to South Africa to work in hair salons, plaiting hair. However, it was thought that many have to resort to prostitution. The incidence of trafficking in such cases is unclear, as many may travel independently with the hope of finding such work. One respondent knew personally of girls who had been working under exploitative working conditions in South Africa:

"The other story I heard [while in Johannesburg] is about the girls who work in a salon, when they go [to South Africa] they got passports from them and made them work like animals. They abuse them and make them stay in a place which cannot accommodate six people, and they slept on one double bed, just squeezing on one bed. The salon belongs to a Zambian lady who gets the girls from here to go and work for her. I met two of them. I asked why people worked like that in that salon because they would beat them if they made mistakes and even insult them. In fact, what the two did was to run away and go [to] Pretoria. While there they got papers as refugees and afterwards they reported to the Police that they lost their passports and then they went to the Zambian Embassy where they gave them travelling documents and that is how they came back again to run their own salon as partners. They told me the story themselves. Something must be done here in Zambia because most of the Zambian ladies have a bad reputation for prostitution and the[re] are a lot [in South Africa] so [it would be good] if something can be done because we will not have a good reputation if this continues, because most of them are taken here by people who lie to them."

3.12.4 Labour exploitation

In Livingstone, a 21 year old lady and her friend, living in one of the compounds in Livingstone, 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 that she endured for close to a year. During this time she was paid K50,000 per month and stated "concerning food, 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".

During a FGD in Ndola it was revealed that in 2000 and 2001 South Africans used Zambians to recruit 20 young Zambians for a programme known as Camp America:

The recruitment agents reportedly came as representatives of a church. The young people were taken to America, where their passports were taken away from them. The Zambian who recruited the children is now in South Africa. He cannot come back because the parents of the children who were taken to America have been wondering about them. It is not known what these children are doing in the USA.

3.13 Trafficking and forced labour within Zambia

As noted above, internal trafficking appears to be the most common form of trafficking in Zambia, affecting both children and adults. Compared with trafficking over international borders, there appear to be more cases of trafficking of boys and men and a wider variety of forms of exploitation.

Many Zambian women and girls involved in prostitution in Zambia appear to be working voluntarily, and are therefore not victims of trafficking or forced labour. However, the research highlighted isolated cases of internal trafficking for prostitution:

Mary, a 27 year old woman, was moved to Lusaka by a former neighbour known to the family, who had moved to Lusaka and was engaged in business. The former neighbour went to Mary's family and asked if Mary could accompany her to Lusaka, where she would also be engaged in business. She did not specify what business but fostered the impression that it involved buying goods in Tanzania for resale in Lusaka. The family agreed and Mary accompanied the woman to Matero, a compound in Lusaka. In Matero, the woman explained what was expected of Mary and the three other ladies that were at the house. In the evening they all bathed and went out to bars and nightclubs where they would be picked up by men. All the money that the men gave would be seized by the madam in the morning.

After some time, Mary learnt from an older prostitute who was at the same establishment to hide some of the money that she earned. They used to move in a group of four women. The madam would charge the men commission for finding them partners and then confiscate the money from the women. This created conflicts between Mary and the madam until she made friends and moved away after saving some money.

Currently Mary rents a place of her own in Chawama and is able to send some money back to her relatives to help out from time to time. She says that she never told any of her relatives what transpired with the woman who brought her to Lusaka. They all continue to think that she is engaged in legitimate trading.

While the majority of cases reported relate to sexual exploitation and domestic servitude of women¹¹², there are also a few cases of both young and adult males being trafficked. As described in section two, a group of eighteen men appear to have been trafficked from Mansa to Livingstone to slash the grass on the side of the road, although the lack of specific details regarding the case make it difficult to confirm it is a trafficking case. An informant also referred to the following case:

Landilani is a 22 year old boy of a family of seven children, from Mushoro village in Chipata. At the age of 19, his father arranged for Landilani to be employed by a businesswoman he knew in Chipata who would come to their village buying gemstones. He was not in school. Landilani travelled to Chipata by open van (pick-up), paid for by his prospective employer. When he got to Chipata, Landilani and the employer agreed on a salary of K150,000 per month. He was accommodated at a restaurant where he had his meals. He further served as the guard at this restaurant. His duties included sweeping, cleaning, washing plates, watering flowers, and work at the farm such as moulding and firing bricks.

Landilani worked for three months in Chipata without receiving his salary apart from an occasional K10,000 to buy clothes. He was enticed to leave this employment by the nephew of the employer and promised a job in Katete, being put in charge of pool tables in a nightclub, at a salary of K350,000. He ran away from his Chipata employer to work for the nephew at the night club.

112 See annex for more cases.

**Investigating forced labour and trafficking:
Do they exist in Zambia?**

Landilani started out by working at his new employer's gemstone mine for two weeks, staying at Katete boma (administrative district). His job was digging in the mine and collecting food from Chipata for the people employed at the mine. After two weeks, he was moved to the night club. The employer rented a room for K20,000 for him but said the food was Landilani's responsibility. He worked at the night club for two years without receiving a salary. Landilani's work hours started as early as the patrons and lasted as late. At times he just slept on the chair while people played pool. On average he would cash in K150,000 to K180,000 per day.

When Landilani started to ask his employer for his money he was told to stop work as another person had been recruited in his place. Landilani was offered transport to the village. In the meantime, Landilani's younger brother had been recruited by his first employer in Chipata to replace him there. Landilani advised his brother to quit as it seemed not paying staff was a family trait. The young brother quit and came to work in Katete.

To survive, Landilani began doing piece work and received food from friends. He also paid a bailiff to collect his outstanding salary. The bailiff and the employer were friends and this case stalled. The employer only paid K100,000 towards the settlement of the claim. Unfortunately for Landilani, the bailiff ran away with all company money, swindling a lot of people in Katete.

As well as trafficking of adult males, a number of cases of boys being trafficked were also found. In places such as Chipata, Katete and Petauke, children have to herd cattle for the employer for about four years, after which they are paid in kind by being given a cow. These children have been moved from their homes to live with the employer. The following cases were reported by a Labour Officer¹¹³ in Chipata:

The boy was 17 years old who 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 destination] the man changed [his story], he was just using the boy". The boy was not paid for a year.

A 15 year old boy lodged a complaint that he was recruited from Madzimoyo area to a hotel in Chipata to sell fritters. The employer refused to pay him wages for three months. The employer was summoned to appear before labour officers and the employer paid the boy.

Two boys aged 13 and 15 years lodged a complaint that they were not being paid their wages. The children said that they had been recruited from Chaparamba and Kudzana villages to herd cattle in a location about 80km away. The employer had not paid the children their wages up to the time of the complaint. The issue was resolved, with the employer paying the boys K325,000 and K450,000 respectively.

Another case reported to the same Labour Office involved a couple who were trafficked from Petauke to Ndola. The owner of the farm made an arrangement that they would only be paid after the harvest, but after the harvest they were not paid. They continued working because they had no option. They couldn't leave the farm because they had no money. The employer had recruited them from the village where his relatives lived. The case was referred to the Labour Office; they were paid and they returned to their village.

The above cases clearly show that Zambians are being trafficked for sexual exploitation, domestic

¹¹³ These cases were collected during the trafficking and forced labour primary research, and are not complaints received through the research described in section two.

servitude and other forms of forced labour such as fishing, herding cattle and other jobs. While the dimensions of sexual exploitation and domestic servitude are fairly well understood, the study reveals that there is still a poor understanding of the nature and extent of other forms of forced labour and trafficking. As is the case in most trafficking situations, the victim initially agrees to travelling as they are promised a job or education. It is only upon arrival that they find out that the promise has no merit, by which time they are often unable to leave, due to the distance from home and lack of money for transport.

3.14 Domestic work sector: A special focus

As the domestic work sector is known as one in which labour exploitation is particularly prevalent, it was given special attention in the research. In Zambia, the services of domestic workers are sought in many households, especially in middle-class and wealthy households. The reservoir from which they draw domestic workers are the poor households in the peri-urban areas of major towns as well as the rural areas. The same research methods were used as in the other parts of the research. Domestic workers were asked to recount their personal experiences (see profiles in annex).

3.14.1 Operations of maid centres in the domestic work sector

All of the five maid centres interviewed stated that they had never recruited domestic workers from outside Zambia. Those in Lusaka mainly recruited people from nearby outlying areas such as Chongwe and Chilanga but sometimes as far away as the Copperbelt.

All the centres claimed to recruit only those 18 years and above. Asked why, two centres expressed some knowledge of the law that employing someone below that age would be construed as child labour. The rest of the centres stated that they recruited those above 18 years of age because they enjoy good health and are energetic.

Two maid centres indicated that no domestic workers are forcibly brought by their relatives or other agents for recruitment at the centres. One centre said they did not allow anyone to forcibly bring any person for recruitment at the centre. Another acknowledged that it used to have people brought in by relatives with some form of coercion but those people would run away from the centre. The centre has since stopped recruiting people brought in that manner. Another centre also acknowledged that it was quite common for parents to forcibly bring their children or relative to enrol at the centre. Such parents mention that they could not afford sending such children to school and are generally motivated by the desire to earn an income. It was common practice for such parents to go and collect the salary from the child at the end of the month.

All of the maid centres interviewed performed a dual role of training as well as placing workers after they are trained. Training of domestic workers included cooking, baking, laundry, child minding, cleaning, first-aid and house security.

Two of the five maid centres charged an application/registration fee that ranged from K2,000 to K10,000 to prospective domestic workers. The rest did not charge such fees. However, all the centres charged training fees to domestic workers. This fee ranged from K50,000 to K100,000 and was deducted from the worker's first month's salary. All the domestic centres also charged employers a one-off flat fee for hiring domestic workers from their centres. The fees ranged between K80,000 and K150,000 for each worker employed.

Three out of five maid centres said they did not place domestic workers outside the country. The remaining two centres affirmed that people from outside the country do occasionally collect domestic workers from their centres.¹¹⁴ One said that Zambian nationals living in South Africa come to collect maids from the centre, while in another case a visitor from the United Kingdom who stayed at a guest house operated by the same maid centre left the country with a maid. The other centre had had at least

¹¹⁴ This was also the case in the recruitment agencies research.

four domestic workers picked up by people from South Africa and Egypt.

Asked whether they kept track of the domestic workers who went abroad, both the agencies claimed they got in touch by telephone with the employers. However, in all these cases, the centres did not know what legal requirements they needed to fulfilled, if any, but affirmed that travel arrangements and all paper work were handled by the employers.

3.14.2 Exploitation in the domestic work sector

Domestic work is largely unprotected in Zambia, as the workers are ‘behind closed doors’, where little monitoring of working conditions takes place. Although the government published a statutory instrument in 2007, which raised the minimum wage¹¹⁵ for non-unionised workers based on a 48-hour working week, the legislation does not apply to domestic workers.

Common complaints made by domestic workers include: salary not being raised after probation, delayed payment of salary, lack of rest, finishing work late, no overtime allowance for working on public holidays, inadequate food or being fed on left-overs, not being allowed to use household toilet facilities, and sexual harassment.

Domestic workers are often considered as ‘general workers’ who can be expected to do any work the employer asks them to do. Most of them are not given a job description and employers can add on more tasks as they please. Many are not granted leave (paid or unpaid), nor are they members of pension schemes (NAPSA¹¹⁶). They also face job uncertainty as they are often fired easily, and often do not receive conventional employment benefits. As a 23 year old maid in Livingstone complained:

“We as maids or domestic workers have no NAPSA. If you ask, they say you will get less money if they start paying contributions. They say so choose to get less by K20,000 or K30,000. So I just say I need the K20,000 or the K30,000.”

The employer can also decide to pay them whatever they want, no matter how low the salary. One maid in Livingstone lamented that she was only paid K5,000 per week by her employer. On average, salaries ranged between K80,000 and K180,000 in Livingstone. In Lusaka, the salaries were much higher, even up to K500,000 in a few cases.

Generally when the domestic worker has to take time off work to attend to personal matters such as illness or death in the family, the employer deducts money from their salary for the days they take off. Some domestic workers are afraid of taking time off as they fear they may lose their jobs. As one Livingstone maid said:

“My job is bad because I have no public holiday. I only rest on a 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 hours to 18.00 hours. 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.”

Some domestic workers’ identity cards are withheld by the maid centre or the employer, ostensibly as a security measure. Two of the centres said that they encourage employers to withhold National Registration Cards (NRC) of the workers, while two others take custody of the identity cards themselves. Only one centre said it was against human rights to withhold an employee’s identity documents and therefore did not recommend the practice. Discussions revealed that it is common practice for an employer to take away the NRC of an employee. It would appear that in most cases it is the original card which is taken, although a few people said a photocopy is made. Employers say they take the cards for security reasons as there is a lot of theft by domestic workers. While the retention of NRC cards is an offence, it is not forced labour if the employee’s card is returned to them on request. However, if the card is retained to stop the worker leaving, then it is a situation of forced labour.

¹¹⁵ The minimum wage was set at K268,000, plus various benefits.

¹¹⁶ National Pensions Scheme Authority.

It is apparent that domestic workers of varying ages are employed, with child domestics facing particular problems.¹¹⁷ The following cases were related by domestic workers themselves. They reveal varying degrees of exploitation and abuse, and are no doubt indicative of the plight of many domestic workers throughout Zambia.

Alice is 28 years old, is separated from her husband and has four children. Her education ended in Grade 6 and she soon got married thereafter. Alice started to work as a maid after being put in touch with an Indian family that wanted somebody to look after their household. She said she had no problem with this family. In her next job, the working hours were from 07.00 to 17.00 hours for a family with three children. She worked for three years and was dismissed when she had a boil. She was told that she might continue having boils and so it was better for her employer to find someone else. At the time of her dismissal, her salary was K200,000. During her time working for this family, Alice lost her child but the employer was not sympathetic. Alice was told that these are her own problems and she must deal with them herself. For the three days that Alice was attending the funeral of her child, the employer deducted pay from her salary at the end of the month. Alice further complained of being verbally abused by the employer when she did anything wrong. She had no written contract with the employer. Asked if she had anything to add she stated that it was important to be given time off to deal with personal issues at the very least.

The following case involves Purity, a girl who agreed to work as a maid for her aunt when she was 18 years old. She is now 24 years old and lives on her own. She is now in her second job after leaving her aunt, and is in good employment. However, she was mistreated by the former employer. Purity's story starts with her moving to her aunt's.

"It was in 2002 when I was in grade 8 (term three). My mum told me her sister was planning to come and get me so that I could start living with her. I was told that my auntie was going to be paying for my fees until I completed my grade 12. It was my auntie who promised to pay for my school expenses but did not fulfil her promise. Instead she turned me into a maid.

Both my parents agreed because auntie was giving us the help we needed most. I agreed to move to my auntie's home. My aunt abused me when she got me from my parents' house. She registered me with a school but did not pay for my school fees. So when they started chasing the students that had not paid I was one of them and would have to go home.

My aunt used to wake me up at midnight to cook kachasu¹¹⁸ which she used to sell. I used to work tirelessly and sell her kachasu while her two children went to school. I told her to pay for my grade 9 examination fees but she said she did not have the money. She paid for her daughter who was also in grade 9. I explained my problem to my headmaster who understood and paid for my examinations. I sat the examinations and passed to go to grade 10 at a boarding school but my aunt said she did not have the money to send me. She, however, sent her daughter to the school where she had been selected. She enrolled me at a certain basic school and I used to go in the afternoon but was chased after some days because she did not pay the fees. So I went back home.

I used to be chased out of class every now and then until grade 11 (term one) when I was chased for good and that was when I started selling kachasu full time. I started stealing money from my aunt and raised enough for a bus fare from Petauke to Lusaka. I decided to come to Lusaka instead of going back to my parents because

117 An ongoing case being dealt with by the Victim Support Unit involves a number of children who had been trafficked from Southern Province to work as domestic workers in Lusaka. The children were promised schooling, but were found to be starting work at around 04.00 hours and working all day.

118 A local brew.

I had heard that my dad was sick and was not earning enough money. So I thought my other auntie in Lusaka would take me to Lusaka but she was also having a tough time. I told her about my experience with my aunt in Petauke and she let my parents back home know. That is how I looked for work as a house maid and worked for someone who mistreated me. This was last year.

I experienced abuse with my former employer who used to tell me to sit outside when there was nothing to do. I used to start work at 08.00 hours and knock off at 18.00 hours instead of 16.00 hours. When I washed the clothes, she would check them one by one and tell me to start washing them again saying they were not clean enough. And if I had pressed them and she was not satisfied, I would iron them again. When she cooked vegetables and meat as relish for lunch, she would give me vegetables only. When it was 16.00 hours (time to knock off) she would tell me to start sweeping the house again saying it was not clean enough. And when it came to my pay, I never got paid for three months. This lady was also keeping her two sisters who I also used to wash and cook for. She never gave me loans or (salary) advances.”

3.15 Responses to forced labour and trafficking in Zambia

Throughout the research, key stakeholders and individuals were asked about government, or non-governmental activities that were taking place to either prevent or protect victims or prosecute traffickers. While government policies and legislation are still being developed, there is currently little support provided to victims of trafficking, and weak legislation to enable effective prosecution. Prevention programmes do exist. While not usually related specifically to trafficking, they include programmes to enable children and adults to receive an education, find work, or improve their lives. All these actions can help to prevent trafficking, but to improve prevention, those working on such programmes should have some knowledge regarding trafficking and forced labour. This would enable them to identify actual and potential victims and provide them with appropriate assistance.

3.15.1 The role of the Government of Zambia

Although little information exists on the extent of trafficking across the country's borders, human trafficking has been recognised as a serious and growing social problem by the Government of Zambia. The government has established an interagency committee on human trafficking, chaired by the Ministry of Home Affairs. The committee meets, although infrequently, to promote coordination and information sharing among agencies. There is not yet an established specialised human trafficking unit in the country. However, the Victim Support Unit (VSU)¹¹⁹ of the Zambia Police Service is, among other things, directly responsible for conducting investigations into suspected human trafficking offences and has a presence at every police station in the country. Government agencies responsible for combating trafficking include the police, immigration authorities, and the Ministries of Justice, Labour, and Education.

The government, through its Social Welfare Department, provides counselling, shelter, protection to victims of trafficking and children involved in commercial sexual exploitation and refers victims to NGOs that provide such services. The government has no formal screening or referral process. In some cases, victims are placed in protective custody at victim support shelters operated by NGOs. The government officials no longer treat victims as criminals when they ascertain that individuals are victims of trafficking and therefore theoretically they are not detained, jailed, deported or prosecuted for violation of other laws in the country. However, the respondents' views were varied on this point, with some saying that immigration officers treat victims of trafficking, and under-18s in particular, as vulnerable, while others felt that victims were not treated any differently to adults and possible criminals. It was noted that due to there being no facilities at border posts for victims of trafficking, immigration officials are severely restricted in the way they can assist victims.

¹¹⁹ The VSU was set up in 1994 after the police reform programmes, became fully operational in 1996 and got legal backing in 1999 under the Police Amendment Act.

The weak laws on trafficking make it difficult for prosecution to take place. Furthermore, while immigration and police officers have been trained on trafficking, there still appears to be a lack of knowledge regarding the fact that legislation, albeit weak, does exist.

“Since there are no specific laws dealing with human trafficking as of now, I do not know whether the policies the government was trying to put in place concerning human trafficking have already been done. If they have not been done then it would be better to stiffen the penalties on those who are involved in human trafficking.”

3.15.2 The role of civil society

There are very few non-governmental organizations (NGOs) that prioritise the issue of trafficking, although some deal with the problem when working on other issues, such as child labour. The International Organisation for Migration (IOM) has to date taken a lead in the work on trafficking in Zambia and works to protect trafficked victims through its work on migration, including through information campaigns about the risks of unauthorised migration.¹²⁰ In Zambia, IOM is providing technical assistance to the Government on border management and capacity building and the training of immigration and police officers on human trafficking. It has supported public awareness campaigns on trafficking through a government-owned radio station and posters. IOM has also provided office equipment to enable the renovation of police stations so that trafficking victims can be interviewed in a separate interview room.

Other organizations such as Tasintha, the Young Women Christian Association (YWCA), Kwehuna Women's Association, Children in Distress (CINDI), Children in Need (CHIN), Community Youth Concern (CYC), MAPODE and others, are directly, or indirectly involved, in anti-human trafficking activities. The YWCA especially, is instrumental in matters of internal trafficking vis-à-vis domestic workers. Furthermore, the International Labour Organization, through the IPEC project, carries out work with communities and grass-root organisations to protect and prevent children from child labour, particularly the worst forms of child labour.

3.15.3 Assistance programmes for returned migrant workers and trafficked victims

There are no specific programmes providing assistance to returning migrants and/or trafficking victims in place in Zambia. For victims returning from abroad, some seek help from Zambian diplomatic missions while others suffer in silence. Upon return to the country, it appears that very few reveal their experiences.

In a number of cases, migrants who had problems related to the non-payment of their salaries sought the help of the Social Welfare Departments and/or the Labour Offices in their respective towns. The Social Welfare Departments help to repatriate some to their place of origin. In Livingstone, the case of migrants from Mansa was also handled by government agencies including the Labour Office. Others sought the intervention of the police, particularly the Victim Support Unit. The study reveals that government agencies and NGOs work together to help migrants who find themselves in difficulty. On the Copperbelt it was learnt that many domestic workers seek assistance from para-legals under the Catholic Church.

In some cases, foreigners have had to leave the country due to the expiry of their work permits, before they had been paid. Some of them had reported this to the Labour Office in their respective towns.

It appears that most returned victims of trafficking do not experience stigma, largely because they do not disclose what has happened to them. In one case, a woman who had been trafficked into prostitution in South Africa returned pregnant. No-one was aware of what had happened to her and there was therefore no reason to stigmatise her. However, a girl who had gone to stay with her sister in

120 Truong, T: Poverty, gender and human trafficking in Sub-Saharan Africa: Rethinking best practices in migration management (UNESCO, 2006).

**Investigating forced labour and trafficking:
Do they exist in Zambia?**

Botswana and had been sexually exploited, stole money from her sister in order to get back home. She was almost ostracized by her family, although one family member defended her. What is unknown is whether she was being badly treated for being in prostitution or for stealing. If the latter, had the family been sympathetic to her forced exploitation, they would have understood why she stole the money.

While there are few programmes that specifically support Zambians who have been trafficked overseas, there are a number of shelters run by NGOs in Zambia that cater for the needs of trafficking victims, whether Zambian or not. In one case, there is a shelter specifically for trafficked victims, which remains empty when there are no cases. Alongside accommodation, the shelters provide counselling and rehabilitation services. However, there remain only a small number, and they are predominantly in Lusaka.

In summary, this section of the research found that Zambians migrate internally and leave the country in search of economic opportunities. The desperation to find work often results in workers finding themselves in severely exploitative or forced labour conditions. The study found that Zambian women are victims of trafficking to other countries, predominantly for sexual exploitation, and that males and females are victims of trafficking for multiple forms of exploitation within Zambia. While some work has been done by the Government of Zambia and civil society to address the issue, more needs to be done to protect victims, and prevent future cases.

Section Four: Conclusion and Recommendations

4.1 Conclusion

This project aimed to investigate whether forced labour exists in Zambia, and if so, in what forms. Unlike some countries where ‘traditional’ forms of forced labour, such as debt bondage and serfdom, persist, these are not prevalent in Zambia. While many respondents interviewed in the course of this research expressed their belief that forced labour exists in Zambia, because people are forced into jobs they do not want, in order to survive, this does not correspond to forced labour under ILO Convention No. 29. Under this Convention, to qualify as a forced labourer, a worker must be unable to leave the job because of a menace of penalty and be doing a job against their free will.

Analysis of the labour-related complaints registered at the MLSS and HRC shows that some forced labour problems exist. While most cases indicate labour exploitation, and in some case severe exploitation, the lack of detail provided in the records makes it difficult to draw any firm conclusions about whether or not this amounts to forced labour. However there are cases where workers were working without pay for extended periods, and unable to leave due to forfeiture of the wages due; or unable to complain because of the threat of dismissal; or have been promised one job, only to be made to carry out another. In the majority of these cases, the workers are no longer doing the job voluntarily as they cannot leave without losing their pay or benefits. The high levels of unemployment in Zambia, and the high number of workers in the informal economy, clearly make it easy for employers to exploit workers’ vulnerability and treat them in ways that are unacceptable and unlawful.

The monitoring of labour conditions is difficult in a country the size of Zambia, with many places inaccessible for parts of the year. While the MLSS has recently expanded its labour administration and inspection workforce, and provided transport to provincial labour offices, inspections and monitoring remain difficult and time-consuming. Additionally, the largely unregulated private recruitment agency sector, including maid centres, makes it difficult to monitor a group of workers that are particularly vulnerable to exploitation, forced labour and trafficking due to the nature of the relationship between them, the recruitment agency and the ‘real’ end employer.

Currently, MLSS is able to respond to the majority of the labour complaints made at their offices, and provide mediation to try to resolve the matter. However, these cases may only be the tip of the iceberg. It seems likely that exploitation is far more widespread, much of which may not come to the attention of the authorities.

For example, domestic work is clearly an area where exploitation is prevalent, where monitoring by labour officers is particularly difficult, and the setting/ enforcement of a minimum wage problematic. The research uncovered much evidence of exploitation of child domestics. This problem is a cultural phenomenon, and while in some cases a child sent to live with extended family may be better off in regards to school attendance, this tradition makes child exploitation easy. However, the risk of labour exploitation is rarely acknowledged and key informants felt that the majority of the population do not regard the sending away of children, who may ultimately end up in severe exploitation, as child trafficking. It is thus essential to make people aware that their children may be at risk if they are sent away to live with extended family or strangers.

Evidence was also found of child and adult trafficking, within Zambia or to South Africa and neighbouring countries, predominantly for domestic work and prostitution. Immigration officers reported stopping numerous individuals whom they believed to be traffickers, but felt unable to prosecute, due to weak laws or lack of awareness. They felt they had no choice but to send the victims, and the trafficker, back where they came from. There is however evidence of raised awareness among immigration, labour and police officers about trafficking. This must be capitalised on to ensure that progress continues to be made.

The research found a number of cases of men and boys being trafficked for construction work, agriculture, domestic work and retail. Labour migration is very widespread, both internal and cross-

**Investigating forced labour and trafficking:
Do they exist in Zambia?**

border. Migrant workers, being away from their home and desperate to find a job, are particularly vulnerable to exploitation. But there is very little official information available about the situation of Zambian workers abroad, and returned migrants are often unwilling to speak truthfully about their experiences abroad. Further research is required in this area. Cross-border traders interviewed for this research revealed that many women traders resort to prostitution in order to earn extra money.

In conclusion, the research confirms that forced labour and trafficking do exist in Zambia. Many Zambians, desperate for employment, are willing to accept any job offer. Employers sometimes exploit workers' vulnerability and impose severe conditions of work and other means to keep them in the job against their will. Their desperation stems from poverty and until poverty is alleviated, forced labour and trafficking are likely to continue. However, specific measures can and must be taken to reduce their incidence and impact in the short and medium term. These measures should be undertaken in the context of broader efforts to provide all workers with the decent work they deserve.

4.2 Recommendations

The following recommendations resulted primarily from a stakeholder consultation workshop held on 2nd April 2008, to allow key stakeholders to provide feedback on the draft research report and to give their suggestions for the way forward. Additional recommendations were made by the coordinator, consultants and research assistants engaged in the project.

Private recruitment agencies

i. Legislation, policy and enforcement

1. Enhance the National Employment and Labour Market Policy by including provisions for the regulation of private recruitment agencies
2. Ratify the Convention on Private Employment Agencies 1997 (No.181)
3. In recognition of the significant role that private recruitment agencies perform in the labour market, the current ban on them should be lifted¹²¹
4. Institute an efficient monitoring and supervision mechanism for private recruitment agencies within the MLSS
5. Only award licenses to operate private recruitment agencies to those applicants who have the requisite skills and experience, so as to enhance standards of professionalism in the industry
6. Harmonise licensing responsibilities so that only the MLSS is authorised to issue licenses to private recruitment agencies. In particular, the Registrar of Companies at the Ministry of Commerce, Trade and Industry must guide the applicants for company registration to the MLSS, if they are planning to operate as private recruitment agencies
7. MLSS and law enforcement agencies must take proactive measures against illegal employment agencies to prevent opportunities for forced labour and human trafficking
8. The various institutions/organizations who deal with private recruitment agencies and victims of their abuses, such as MLSS, IOM, law enforcement agencies and civil society, must better coordinate their efforts

ii. Capacity-building

9. Provide specialized training to MLSS, law enforcement agencies and social partners in order to detect and prevent deceptive and abusive practices by recruitment agencies
10. Conduct sensitization workshops/seminars on best business practices for the MLSS and employment agency stakeholders
11. Conduct training and sensitization for maid recruitment and training centres
12. Encourage and support private recruitment agencies to establish a professional association for the purpose of setting standards and self-regulation within the employment agency industry

iii. Research

13. Undertake an in-depth study on the operations and characteristics of employment agencies recruiting for the overseas market

¹²¹ This recommendation has already been acted upon by MLSS.

14. Conduct an in-depth study on the characteristics and current state of the Public Employment Exchange services with a view to revitalize their operations in Zambia

Migration, forced labour and trafficking

i. Legislation, policy and enforcement

15. Domesticate the ILO Forced Labour Convention, 1930 (No.29) into Zambian national law
16. Ratify the UN Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990, the ILO Migration for Employment Convention (Revised), 1949 (No.97) and the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)
17. Strengthen bilateral agreements on labour migration to address the problem of trafficking from both source and destination countries
18. Review the operations of the Industrial and Labour Relations Court, with a view to making it more efficient and effective in handling industrial relations disputes
19. Better manage immigration at border posts, and increase personnel to this effect
20. Develop and disseminate information pamphlets on workers' rights and employer's responsibilities in relation to the Employment Act, Minimum Wages Act and other relevant legislation

ii. Capacity-strengthening

21. Strengthen the institutional capacity of the MLSS, through increased recruitment and retention of competent staff, opening up more labour offices countrywide and improved funding for field stations, including provision of vehicles
21. Develop an electronic database in MLSS to record labour complaints, and improve the quality of data collected,
23. Introduce an integrated specialised training of law enforcement officers including labour inspectors on forced labour and trafficking
24. Ensure regular interaction of the tripartite partners (workers' and employers' organisations and MLSS) at all levels, as opposed to the current consultations which occur only at the level of the Tripartite Consultative Labour Council.
25. Broaden the membership of the government task force on trafficking to include civil society stakeholders; develop clear programmes to implement the national anti-trafficking policy
26. Develop a database that would enable the tracking and support of all Zambian migrant workers leaving the country to work abroad

iii. Other measures for prevention of forced labour and trafficking, and victim protection and assistance

27. Strengthen the social protection system in order to mitigate the vulnerability of citizens to forced labour, trafficking and labour exploitation
28. Intensify community awareness raising and sensitization programmes through various media, public education and advocacy programmes

- 29. Establish programmes for the social and physical rehabilitation of victims
- 30. Ensure the specific targeting of domestic workers in development programmes

iv. Research

- 31. Conduct further research on the situation of Malawian migrant workers in Zambia
- 32. Carry out research to investigate forced labour in prisons

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Annex 1: Profiles of migrants and trafficked victims

Lengwe

Lengwe, 21, said, “I was just picked [up] together with my friend. These people came and asked our parents [if they could take us]. That is how we went there. We went to work as fishermen somewhere in Namibia along the Zambezi, after Ngwazi. When we got there, initially they looked after us well, but after we got used [to being there] they started treating us badly.

We were promised to be paid seventy pin (K70,000) every month. We stayed for the first two months without getting paid. They were looking for people who they would train and they taught us. We were being paid thereafter but not regularly, most times we went without pay. They just wanted to find a way in which to get us [to] work for them.

We would start work around 05.00 hours, until the sun sets. We would catch fish and take out the boats in the morning. Then we would repair the nets and throw them into the water ready to catch fish. They would shout [at us] so that you get offended. We had no days off. Concerning food, sometimes we would not be given food. Sometimes as you come from the bush where we were sent to do some work you would find that they [had] already had [their] food and nothing would be left for us. It is very difficult going to a place where one does not know.

We lived in grass thatched houses. When one got sick they gave us their medicine. These people were troublesome a lot. They would shout at us very much. We never used to say anything.

We stayed there for one year. Then I came up with an escape plan. I looked for money because we were not being paid for the work. So I had to look for money that I [could] use for my transport and that is how I came back. We had to tell them we were leaving. We told them that we were leaving work because I was needed somewhere. They agreed and we had to leave. They did not prevent us from leaving. They said nothing concerning the issue of benefits. We came by those vehicles that bring fish at Maramba.”

Prisca

“I went to see a friend of mine named Charity who stays at flat number A. I found her with her neighbours who I know; Jenny, Mary and Kunda. Upon reaching [there] I greeted them, then they started saying their mother in Lusaka wants a worker for their older sibling who is selling in shops. Kunda then left, and then we remained with Jenny. Then Jenny asked me whether I could go to Lusaka because she said I would be living much better than I am here. She said that if I wanted to, I would be staying as though it is my house. We then went into Mary’s house, and Kunda came after she was called by Mary and was told that I had accepted the job. Kunda called Ketty [her mother] and told her “the girl you were looking for the job has been found, so we will come with her at 16.00 hours tomorrow”. I went back home.

The following day at 16.00 hours we went to Ketty’s house. After greeting her she told her mother “this is the girl I was talking about”, then Ketty said “young lady, you have to wait until you travel to Lusaka”. Then Kunda began to explain that “this girl is good and obedient – even the neighbours will tell you”. Ketty said “you can come on Monday late in the evening so that we can travel to Lusaka on Tuesday”.

On Monday in the evening I went to the same lady’s place [Ketty’s], but first they gave me instructions not to say bye or tell any one. I first took the clothes [to Ketty] and I came home, after a while I went back again. Then I remained at the market with Ketty while she slept. We went to Lusaka the following day in the morning and the one who escorted me went to sleep elsewhere and I remained at the home she took me to. However, the following day my mum phoned and told them that she wanted me back

because the way they took me, it was more like stealing me. She threatened to report [them] to the police if they did not return me but they responded by saying they could only send me back after three weeks because there was no transport money.

The following day she gave me the phone and asked me to call my mum, I called my mum on Wednesday in the morning, she asked me where I was and I told her I was in Lusaka. She asked me who brought me to Lusaka and I told her that it was these very people from Lusaka and I further told her that it was my friend who introduced me to them and the instructions that I was given before leaving. My mother had even reported [the matter] to the police, and the woman responded and told her that she was going to send me back on the Thursday in the morning and that is how I came back on a Thursday.”

Janet

22 year old Janet is unemployed. She completed grade 12 in 2005 and lived in Lusaka’s Kaunda Square compound with a woman she calls her aunt. Before being trafficked to South Africa, Janet had done many jobs, including working as a fuel attendant at a petrol filling station. Prior to this, Janet lost her mother and due to this she was kept by different people, including a step-mother who treated her badly. Due to the poor treatment, Janet decided to live alone.

One day in 2006, a Zambian lady, who lived in the neighbourhood and was known to Janet, approached Janet and told her that there were better prospects for trading in South Africa than Nakonde, where Janet used to order clothes for sale. The Zambian woman stated that she was a business woman, and married to a Nigerian based in South Africa. With the trust built over a year and a half of seeing this lady going and coming from South Africa, Janet was finally convinced to accompany her to South Africa. Before the journey, the lady also asked Janet to buy a ticket for her, on the understanding that she would be refunded upon arrival in South Africa.

Upon arrival in South Africa, the story changed. Instead of going to her ‘husband’s’ home, the woman suggested that they go and stay in a hotel because her ‘husband’ had travelled to East London and had taken their house keys with him. So they went to a hotel called the Summit Club in Johannesburg. However, after a day, Janet realized that the place was not a normal hotel but actually a brothel, due to the activities which were taking place there. She also discovered that the majority of ladies lodging at the brothel were Zambians, although there were a few from Botswana and South Africa. The next day, the Zambian lady changed her story again and informed her that her ‘husband’ had another woman and never wanted her in the house anymore. She said she had no money, which was why they had to go to a brothel as a means to earn some money. Janet was then provided with fancy clothes for prostitution and started receiving clients. Her first client at the brothel club was a white man and after the act she was paid R280. To her surprise, the lady grabbed the money saying she would keep it for her and would use some of it to pay rent and eat. Despite Janet pleading with the lady to spare her at least R180 towards the cost of transport to go back home, the lady would not compromise.

Another day, Janet was visited by a Nigerian client who claimed he liked Janet. This client was nice to her and bought some drinks and asked what she was doing and how she found herself in that place. Janet explained, and the man felt pity and explained that she was too young to be working there. He further asked whether she had been to school and advised her not to be found in such places, and invited her to go and stay with him. He said he could provide her with transport money, but Janet declined and told him that she could not trust him. The man, however, left Janet with R400 when he left and gave her his number.

After four days he returned and gave Janet R2000 for the purpose of buying a ticket back home and various things she wanted back home, and advised her not to come back to South Africa in such a manner because she was wasting her life. Thereafter, she came back to Zambia.

When Janet was back in Zambia, she started communicating with the same man who helped her. The man was Nigerian, he invited her to South Africa and promised that she would find something to do or get a job since they pay well there and they became like friends thereafter. Janet responded favourably

and the man bought a bus ticket for her to travel and this time she travelled alone. Upon arrival he picked her [up] and she stayed with him. However, her 'better life' in Johannesburg was short-lived as the man started complaining of the costs of keeping her. He suggested that she found something to do other than just staying at home and being fed. As time went on, the man became arrogant and violent and would not leave anything to eat. Quarrelling and fighting broke out frequently, so Janet ran away and found work as a waitress at a shopping mall. Thereafter, Janet moved from one work place to another because she did not have a work permit. At one point Janet got a job in a restaurant where the owner was in the habit of having sex with his workers and if one resisted they would be fired. Whilst at this restaurant she came across a white customer who enticed her to become a model. However this led to her dismissal when her boss discovered that she was communicating with clients on matters other than what she was employed for.

When things became hard for her, Janet decided to return to Zambia in December 2007. She currently stays with a family she knows but she has never told the owner of the house about her ordeal in South Africa, as she feels she is not able to discuss such things with her. However, she has told the daughters of the house owner.

Mutinta

Sixteen year old Mutinta lives in Livingstone with her parents and is currently doing her grade 9. Mutinta was living happily with her parents until her elder sister, who used to live in Zimbabwe, visited Livingstone in November 2006. "My sister suggested that I join her in Zimbabwe and start school there, but my parents only allowed me to go for a holiday since I would be going into grade 10 the following year. But my sister was in such a hurry and when my mother had gone to the village in Mukuni Village, she took advantage and asked me and my young brother to go with her to Zimbabwe, saying that our mother and father had agreed that we leave that same day.

We left Livingstone the same day using the Victoria Falls border. My brother and I did not have any passport, so while at the border my sister instructed us to claim we were going to see the Victoria Falls on the other side. That is how we crossed but when we reached the Zimbabwean side of the border, it was a bit difficult for us, but my sister talked to someone who assisted us across without any documents. When we entered Zimbabwe we went straight to the railway station where we boarded a train. When we reached my sister's home all seemed okay and I was told that I was going to be staying at home with my brother-in-law (my sister's husband) and that he would take care of me. It was at this time that I became suspicious that something was wrong. After some weeks my sister's husband wanted to start sleeping with me in the same bed. It seemed to be an arrangement made by my sister. It seemed that my sister was unable to conceive, so they wanted to use me to bear them a child. I refused to sleep with my brother-in-law, but my movements were now being restricted as they thought I would run away.

However, we later moved from Zimbabwe to Johannesburg in South Africa. Whilst in Johannesburg my brother disappeared. I also ran away from home into the streets where I was picked [up] by the police who took me to some centre and then to the Zambian High Commission offices. When the authorities tried to get hold of my sister and her husband, we found they had moved out of the place where they were staying. The Zambian government helped me return through the department of social welfare. However, I am worried about my brother as we still don't know where he is".

Precious

Precious is a 31 year old woman whose education ended in grade 7 due to lack of financial support. She was kept by a cousin on the Copperbelt after her parents died. She comes from a family of four and all her siblings have since died.

A friend met her in one of the nightspots on the Copperbelt and encouraged her to relocate to Lusaka to earn more money. Precious says that she was already in the 'sex for money trade' before she came to Lusaka in 1999 and used to earn K20,000 to K30,000 per night.

When she moved to Lusaka she stayed in Garden compound with a friend, and used to contribute towards the rent. Precious has a son whom she has not seen for over 10 years and who was taken by the father. On the Copperbelt she just used to stay at home and not do any work. Life was difficult for her and she was not able to buy what she needed let alone what she wanted. Now she is able to raise her own money.

She moved into Chawama over the Christmas holidays in 2007 as she feels that it is safer than Garden compound. She also has friends that she stays with. In both Garden and Chawama she stays with friends and has not accumulated any property except for the clothes which she buys to make her attractive to clients.

Precious charges her clients the going rate of K50,000 and if they are generous and have money they can pay up to K150,000. The most she has been able to get from a client has been K200,000 for an overnight session. She does not pay anyone and any money she makes is her own.

Mary

Mary is a 27 year-old woman who was forced to stop her schooling in grade 9 when her father died. She was born and brought up in Kitwe on the Copperbelt until she moved to Lusaka in 2001. While in Kitwe she was raised by her grandmother who is still looking after her younger sister. Mary has no children.

Her move to Lusaka was arranged by a former neighbour known to the family, who had moved to Lusaka and was engaged in 'business'. The former neighbour went to Mary's family and asked if Mary could accompany her to Lusaka where she would also be engaged in business. She did not specify what business this was, but fostered the impression that it was buying of goods from Tanzania for resale in Lusaka. The family agreed and Mary accompanied the woman to Matero, a compound in Lusaka. In Matero the woman explained what was expected of Mary and the three other ladies that were at the house. In the evening they all bathed and went out to bars and nightclubs where they would be picked up by men. All the money that the men gave her would be grabbed by the madam in the morning.

Later on she learnt from an older prostitute who was at the same establishment to hide some of the money that she raised. They used to move around in a group of four women. The madam would charge the men commission for finding them partners and then confiscate the money from the women. This created conflicts between Mary and the madam until she made friends and moved away after saving some money.

Misozi

Misozi is a 21 year old woman, married with a one year old son. Her husband sells tapes. Misozi comes from a family of five girls. She attended school up to grade 2 in 2002 when her uncle, who was sponsoring her education, lost his job. Misozi says her father is alive but refused to pay her school fees. Misozi stayed with her grandmother in Chipata and used to collect and sell firewood with her grandmother. This proved to be too heavy and so moved into the charcoal trade in which the work is lighter. From selling charcoal she moved on to sell fritters.

In 2003 when she was 15 years old a neighbour (Bana Miso) told Misozi that her older sister based in Lusaka wanted a maid. Miso asked for permission from Misozi's grandmother so that she could go to work in Lusaka. Misozi travelled to Lusaka by bus, paid for by her Lusaka employer, who met her at the bus stop and took her home. This is when the terms of employment were 'negotiated'. Misozi was told her salary was K100,000 per month. She stayed in the house and slept in the same bedroom with the children, on a sack on the floor and one blanket. Misozi had to look after six children, the youngest was two years old.

Her work was to look after the children, keep the house clean, wash clothes, prepare meals and buy the groceries. Misozi claims that her employer allowed her to utilise the change from the shopping for

her personal use. At the end of her first month instead of the K100,000 she expected, Misozi was paid K50,000.

The following month her employers' two female relatives came to stay and Misozi was effectively out of a job. She was stopped from doing anything and was given a tablespoon of nshima¹²² and seven Siavonga kapenta¹²³ and bad beans. During this time she suffered verbal abuse and ill treatment. She complained to her employer's husband, who did nothing. After the suffering continued, Misozi went to the police who visited the house. They agreed that she should be given transport money to go home. The employer provided her with K50,000 which, coupled with the first month's K50,000, enabled her to travel home.

During the time Misozi was in Lusaka, she was not able to contact home or inform people at home how she was. When asked if she would have continued had the conditions improved, Misozi stated that if it wasn't for the relatives she would have continued working, even for K50,000.

122 Maize meal porridge, the staple food in Zambia.

123 Small fish, usually dried.

Annex 2: Profiles of domestic workers

Maureen

33-year-old Maureen lives in Sakubita compound in Livingstone. Maureen has three biological children and one additional dependant. She is currently separated from her allegedly abusive husband. Maureen stopped school in the year 2000 in grade 10 after getting pregnant in Mazabuka where she used to stay with her parents. She got married to the man who got her pregnant.

Maureen moved from Mazabuka to Livingstone in 2006 when her father passed away, and at the same time separated from her husband. She said she was forced to move because she wanted to get away from her husband as he constantly beat her. She eventually got a job as a maid in Railway compound through the help of a church-mate. She commutes every day to her employer in Railway compound where she works for eleven hours daily.

Maureen gets paid K120,000 per month, which she uses to feed her children. Her daily chores include washing dishes, sweeping the house and taking care of the children. There are four children under the age of 18 years who she has to look after. Maureen also goes to work at the employer's field during the rainy season. She admitted that she is made to do work that she does not want to do, such as going to work at the field. Maureen has been working in her job for slightly over a year. She never signed any contract with her employer. Other than her salary, which she gets monthly, she is not entitled to anything else. She has never had any salary advance or loan from the employer. She is not registered with the National Pensions Authority (NAPSA). The only day off for Maureen is Saturday when the family she works for go to church. During the period she has worked she has not gone on leave.

Maureen has not experienced any abuse from her employer but has been abused by family members of her employer. Her employer's brother once attempted to forcibly have sex with her but she called for help. Maureen says she is not happy working as a maid but there is nothing she could do as she has to get an income to help look after her children.

Bridget

Bridget got a job as a live-in-maid in 1993 in Lusaka after migrating from Chongwe. The family she was employed by had five children and the youngest was seven years old at the time. Bridget's work started at 05.00 hours and went on until everyone was in bed. Bridget had to wait up for the husband and serve his meals. Because he did not like his nshima placed in the oven she would have to begin the cooking and let it simmer until he came home and then quickly finish cooking it. She would serve the nshima and ensure the house was locked up. Sometimes the husband would come as late as 02.00 hours and she would have to be up at 05.00 hours to begin to prepare the bath water and the children for school. On one occasion, the employer's husband travelled to the Copperbelt but this was not communicated to Bridget who spent the night on a chair waiting for him, only to be told that he had gone out of town.

She left this household and started working at the market until a colleague told her about a white couple who wanted a helper. She worked for this couple for six months, but claimed that the conditions were so bad that she had to resign. In this position she was not allowed to eat any food from the household, the only opportunity to rest was at 16.00 hours when she could take a tea break. The employers insulted her a lot and she was not comfortable working in their house.

Bridget then got a job through friends in Woodlands, working for a family where she was employed by the woman of the house. She says that she had no written contract, but a verbal understanding of the scope of the work was discussed. Bridget was given work that was not agreed upon, such as cleaning the car and digging the garden.

Getting her month's salary (K210,000 rising to K250,000 by the time the job ended) was difficult as she had to remind her boss every month. Her employer would then shout at her and find fault with the work she did. When Bridget got her salary it was always in instalments or what is termed "pay slow" (a term

that sometimes has demeaning connotations).

In this job there was no time off or leave days. For example, when she took her child to the clinic then that day would be deducted from her wages. There were no benefits given or any leave pay. Despite these conditions she explained that it was very difficult, if not impossible to leave, because she had no way to feed her family, and had to put up with whatever came her way.

At the end of the two years' work in Woodlands where she endured verbal abuse she decided she had had enough when the husband of her employer attempted to have sex with her. She explained that while in the kitchen preparing food the man stood close to her and began to propose to her. He offered to pay her K250,000 in secret alongside the other K250,000 she got if they became lovers. When he attempted to hold her she threatened to tell his wife, at which point he retreated and said he did not mean anything by it and his wife did not need to know.

Alice

Alice was born in Kitwe in 1980. She separated from her husband and they have four children (two boys and two girls). She came to Lusaka in 1990 when her father was transferred to Lusaka. Her education ended in grade 6 and she got married soon after. Alice started to work as a maid after being put in touch with an Indian family that wanted somebody to look after their household. She said she had no problem with this family.

In her next job the working hours were from 07.00 to 17.00 hours for a family with three children. She worked for three years and was dismissed when she had a boil. She was told that she might continue having boils and so it was better for her employer to find someone else.

At the time of her dismissal her salary was K200,000. During her time working for this family, Alice lost her child, but the employer was not sympathetic. Alice was told that they were her own problems and she must deal with them herself. For the three days that Alice was attending the funeral of her child, the employer deducted amounts from her salary.

Alice further complained of being verbally abused by the employer when she did anything wrong. She had no written contract with the employer.

Brenda

Brenda is 28 years old and was born in Mufulira. She is a widow with one son. Brenda's education ended in grade 7 when she became pregnant, and she later married. Brenda started working as a maid in 2000 when her husband died. She worked for four years without any problems.

Brenda then worked for another family, the job having been found through a maid centre. In this position she faced problems, including being paid in instalments, suffering a lot of verbal abuse from the employer, and only being allowed to cook food for lunch when the employer was present. The employer used to lock up the food saying that the maid was a thief.

There was no written contract but a verbal agreement. The oral contract stipulated that the working times were from 06.30 to 17.00/18.00 hours every day. Brenda was made to wash the husband's underpants, which was work she had not agreed to, and is considered taboo. There was no time off even when she was sick, but for every day absent the employer would deduct amounts from the wages. Brenda finally left when she was sexually harassed by the employer's husband, and she resisted his advances.

Godfridah

Godfridah is a 35 year old woman born in Luanshya. She is separated from her husband and has two children, a boy and a girl, who stay with Godfridah's mother. Godfridah came to Lusaka in 1987 after

failing to complete her education in grade 10 when she fell pregnant. She later got married.

Godfridah worked as a maid for the manager of a farm in Mazabuka, but was employed by the company. She found the job by going round asking for piece work. Her husband joined her in Mazabuka and was a businessman. The starting wages were K150,000 per month and rose to K360,000 by the time that the manager left the firm and went to Siavonga. The couple went with him to Siavonga, where the salary was pegged at K400,000. They only stayed a few months as Godfridah's husband decided to move to Lusaka.

During her time working, Godfridah went on leave and she would be asked to look for a temporary replacement while she was on leave. The hours of work were from 08.00 to 17.00 hours at the farm.

Later Godfridah joined another family. Her main job was to look after an ailing mother within the household, feeding her, making the bed, keeping her clean and sweeping. Her wages were K140,000 per month and she had an oral contract. She worked throughout the week including Saturday and Sundays. Working hours were 06.00 to 19.00 hours.

Godfridah resigned from her last job because a fellow worker (a cook) was harassing her, wanting to have sex with her. When she threatened to tell her husband, the harassment stopped for a while and then continued. Unfortunately this man had been in the job for so long that he had become familiar with his employer and even fought with him on occasion. Godfridah alleges that she would not get the support from such a man to pursue her case and so opted to resign.

Grace

Grace is a married 47 year old mother of five children, who was born in Chipata. Her education went up to grade 9 when she stopped due to lack of sponsorship when her parents died. She started typing at the Central College of Commerce but her husband asked her not to work. She only began to work after her husband had an accident and they needed money.

Grace heard about a vacancy through friends. When she began to work, her salary was K150,000 per month with working hours of 07.00 hours to 15.30 hours. She was told to clean toilets with her own hands and wash soiled pants (after monthly periods) of the madam. Further she was asked to work both inside and outside, including picking up dog droppings.

There was no time off, loans or advances. She was verbally abused and the husband wanted to have sex with her and offered money. Grace was not entitled to breakfast or lunch and the salary was very poor considering she had five children to look after.

Rhoda

Rhoda is a 25 year old woman born in Mazabuka. She is married with two children. Her education ended in grade 5 when she was no longer given financial support to attend. She began work in 2002 when her neighbour introduced her to an employer. Her wages were K100,000 and she worked for 14 months until the employer moved to another town. She then worked for another employer in Libala at the same rate of K100,000 per month.

In both positions she did not have any contract and mainly looked after the children of the house. She had to do some work that she did not agree to, including washing underclothes which she felt was disrespectful. She was sometimes insulted and fought with the employer. The working hours were 07.30 hours to 17.00 hours with Saturday half day and Sunday off. It was agreed that there would be leave to deal with personal problems.

Catherine

Catherine was born in Luanshya 33 years ago. She came to Lusaka in 1995. She is a grade 12 graduate, married with one daughter and was widowed in 1998. Catherine worked for a private company in 2001 when she was living with her brother. She felt that she could not do any other job due to lack of training or skills and started to work for a South African family for eight months until they moved. She then began to work for a Swedish family for one year.

Both jobs were acquired through the maids centre, and the salaries were in the region of K350,000 per month which is higher than the norm. She was required to work eight hours per day with time off for lunch which was provided by the employer.

Catherine then worked for a Zambian family and was paid K200,000 per month for nine hours without a break for lunch or tea. During this time, leave was difficult to arrange. Catherine felt that if you take leave of more than two days, you might be replaced, so did not ask for it. There were very few allowances except when working for the expatriate employers who provided an occasional allowance. In all the positions she never signed a contract directly with the employers but with the maid centre.

Annex 3: Examples of cases taken from section two

Unpaid dues/wages

A man worked as a small scale farmer in Chipata and was owed K1,500,000. When the employer was summoned to the labour office he declined to come. The labour officer recording this case stated it was one of forced labour, although details were not available.

Some complainants, a group of men, were employed as general workers in Solwezi for a road construction company. Having done a considerable amount of work on a road, the employer disappeared without paying them wages for a period of seven months. They alleged that the employer constantly informed them that he was awaiting payment from the government.

A woman worked for the transport sector for one year and three months, but was only paid for three months. She continued working as she was promised she would be paid. When she resigned, management refused to give her her dues. She believes that the company is doing this to all their workers to “use them”.

A man working in the processing industry had not been paid for 12 months, and was due wages amounting to K4,125,000.00; and two men in two separate cases but both working in trading were not paid for two and three years respectively.

Threats of dismissal or dismissal after complaining

In Chipata, a group of truck drivers complained that they had worked for three months without any pay. When they questioned their employer, their jobs were terminated and their unpaid wages and terminal benefits were not forthcoming.

An inspection in Kitwe found a group of men and women working in the retail sector. The employees were found to be paid below the minimum wage. It was also found they were forced to sign contracts and anyone who questioned the lack of allowances in the contract was asked to find employment elsewhere.

A man working for a mining company was dismissed after he complained about the low salary, although he was very hardworking. He was dismissed without being paid leave days and one month salary. He had worked for three years.

Poor conditions of service

A 23 year old man working in the retail sector alleged that he had to work fourteen hours per day from Monday to Friday and twelve hours at the weekend, without rest. He was not paid overtime and despite knocking off at 20.00 hours on weekdays, he was not provided with a transport allowance. Instead, he had to borrow his transport money from the shop takings and this was subsequently deducted from this salary of K170,000 a month. He also alleged that the employer was in the habit of asking him to leave the job if he wasn't happy.

A group employed as cleaners complained of poor working conditions. They were hired and fired at will and were working on a casual basis. No contracts existed and there were no allowances. Their salaries were K150,000 per month. If a worker fell ill, he/she was immediately replaced.

A group employed in a shop reported long working hours from 08.00 to 18.00 hours, with low wages and no chance of leave. If workers went on leave they were dismissed. Workers complaints were not tolerated, and workers were frequently hired and fired to ensure that no terminal benefits were due.

The mining sector

The employees were engaged as pipe fitters and welders for three weeks of piecework, but were not paid for the work. The employer left for the mines in the North Western Province without paying the employees.

Workers were forced to pay K20,000 each towards the chief security officer's wedding and K50,000 each towards the purchase of his vehicle.

Agricultural sector

A man recruited from Malawi was not paid his repatriation allowance after completing his agricultural activities. The complainant stated he was Zambian, but the Labour Office said that he was Malawian.

A group employed as cleaners were asked by their employer if they would work on her farm during the holidays. She promised to pay them K150,000 and to provide accommodation. Although they were accommodated, they never received their salaries.

Annex 4: Data collection proforma for MLSS complaints

Ministry of Labour and Social Security/ ILO Complaints relating to labour issues

Details of Complainant	
Age (yrs)	
Sex	Male () Female ()
Nationality	
Date of Complaint	
Sector/Type of Work	
Location	
Type/ Reason for Complaint	
Action Taken by MLSS?	Yes () No ()
Type of Action Taken	
Complaint referred to another authority? If so, which one?	

The same form was used for the collection of complaints at the Human Rights Commission.



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

Programme on Promoting the Declaration
International Labour Office
Route des Morillons, 4
CH – 1211 Geneva 22 Switzerland