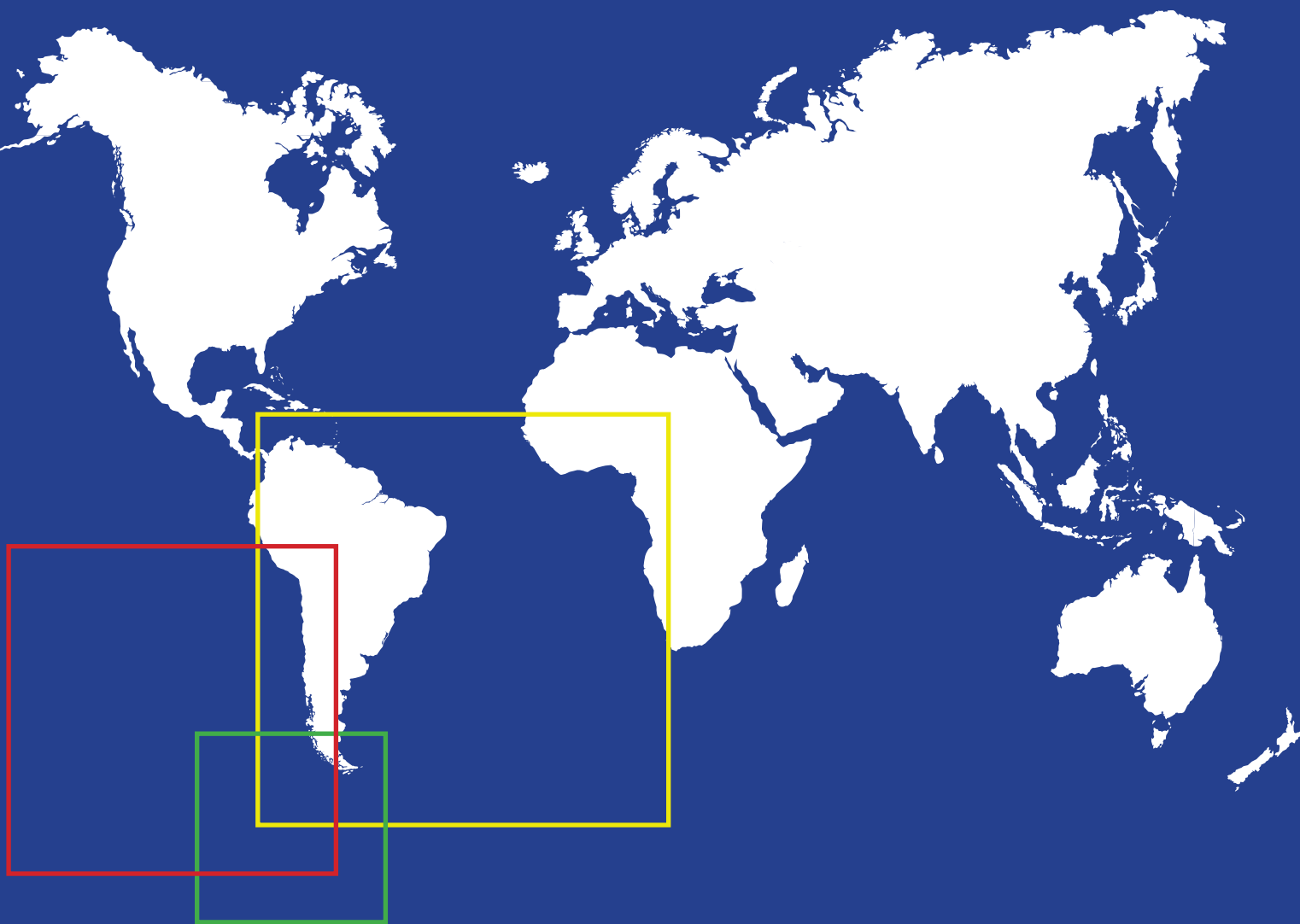




International
Labour
Office

Decent Work Country Profile ZAMBIA



**Decent Work
Country Profile
ZAMBIA**

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Preface

Decent work is central to efforts to reduce poverty and is a means for achieving equitable, inclusive and sustainable development. It involves opportunities for work that is productive and delivers a fair income, provides security in the workplace and social protection for workers and their families, and gives people the freedom to express their concerns, to organize and to participate in decisions that affect their lives.

In this regard, monitoring and assessing progress towards decent work at the country-level is a longstanding concern for the International Labour Organization (ILO) and its constituents. The 2008 Declaration on Social Justice for a Fair Globalization details that member States may consider “the establishment of appropriate indicators or statistics, if necessary with the assistance of the ILO, to monitor and evaluate the progress made” (Paragraph II.B.ii.).

In September 2008, the ILO convened an international Tripartite Meeting of Experts (TME) on the Measurement of Decent Work, and consequently, adopted a framework of Decent Work Indicators, that was presented to the 18th International Conference of Labour Statisticians (Geneva, December 2008). The Governing Body endorsed the proposal to test the framework in a limited number of pilot countries, by developing Decent Work Country Profiles.

The project on Monitoring and Assessing Progress on Decent Work (MAP) (2009–2013) with funding from the European Union (EU), works with government agencies, employers’ and workers’ organizations, as well as research institutions to strengthen the capacity to self-monitor and self-assess progress towards decent work. The MAP project covers ten countries in the world, including Zambia, and facilitates the identification of decent work indicators that are relevant at the national level, supports data collection, and uses the collected data for an integrated policy analysis of decent work (Profiles) in order to make them relevant for decent work country programmes and national policies. The project also provides guidelines and manuals on measuring and assessing progress on decent work from the pilot countries’ experience.

The Decent Work Country Profiles cover ten substantive elements corresponding to the four strategic pillars of the Decent Work Agenda (full and productive employment, rights at work, social protection and the promotion of social dialogue): employment opportunities; adequate earnings and productive work; decent hours; combining work, family and personal life; work that should be abolished; stability and security of work; equal opportunity and treatment in employment; safe work environment; social security; and, social dialogue, employers’ and workers’ representation.

The Profiles compile in one document all available data on decent work, statistical and legal indicators, as well as analysis of gaps and trends on decent work. They facilitate the evaluation of progress made towards decent work and inform national planning and policymaking.

The Profiles provide key information for designing and monitoring the Decent Work Country Programmes (DWCP) and represent an advocacy tool to mainstream decent work into national development policies. The compiled decent work indicators can serve as a reliable baseline at the stage of defining

decent work targets, and as a powerful instrument for the monitoring and evaluation of the DWCP and national policies.

The Decent Work Country Profile for Zambia aims to critically assess progress towards the achievement of decent work in Zambia and to further inform social dialogue at the national level.



Mr. Fackson U. Shamenda

Minister of Information, Broadcasting
and Labour



Martin Clemensson

Director
ILO Country Office for Zambia, Malawi
and Mozambique

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The Decent Work Country Profile for Zambia has been prepared by national consultants under the coordination of the Zambia DWCP Advisory Committee, with the active participation of the Ministry of Labour and Social Security, the Central Statistical Office (CSO), with the technical assistance of the ILO experts.

National partners identified a list of decent work indicators relevant for Zambia during the *Tripartite Consultation Workshop on Measuring Decent Work* (Siavonga, January 2010). The legal and statistical indicators were compiled according to the national list of decent work indicators and analysed within the social and economic context that has prevailed in Zambia during the last decade (2000–2010). The draft Profile was discussed by constituents during the *Tripartite Validation Workshop of the Zambia Decent Work Country Profile* (Lusaka, December 2011), with the participation of the Ministry of Information, Broadcasting and Labour, the CSO, the Ministry of Finance and National Planning, and representatives of the Zambia Federation of Employers (ZFE), the Zambia Congress of Trade Unions (ZCTU) and the Federation of Free Trade Unions of Zambia (FFTUZ).

The main results of the Profile were important inputs for designing and implementing the Zambia Decent Work Country Programme. Besides, the Profile for Zambia represents an important advocacy tool for mainstreaming decent work into national development plans.

The International Labour Office would particularly like to thank the representatives from the Zambia Employers' and Workers' organizations, the Ministry of Information, Broadcasting and Labour, the Ministry of Finance and National Planning, the CSO, and other agencies for their contribution to the Decent Work Country Profile.

The ILO would like to thank the EU for financing this study and supporting the entire process of preparation and validation of the Profile, under the ILO/EC Project "Monitoring and Assessing Progress on Decent Work" (MAP).

In addition, the International Labour Office would like to thank the ILO officers from Lusaka, Pretoria and Geneva who have contributed to the development of the Profile.

Some statements made in the Decent Work Country Profile for Zambia may not reflect the positions of the above named institutions and individuals. Any errors or omissions remain the sole responsibility of the International Labour Office.

Executive Summary

The Decent Work Country Profile for Zambia aims at assessing progress towards decent work across ten thematic areas ranging from employment opportunities to social dialogue. In order to capture all the dimensions of decent work (employment promotion, rights at work, social protection and social dialogue), the Profile is based on statistical indicators and legal framework indicators compiled from national sources. In general, Zambia has made significant progress in number of areas on decent work while many challenges remain to be addressed.

In order to include monitoring decent work in the national planning framework, the Zambia Decent Work Country Programme Advisory Committee narrowed the list of relevant indicators to twelve. The priority Z-DWCP indicators have been selected for national monitoring purposes (Table E.1).

Economic and social context for decent work

Zambia registered positive economic growth during 2005–2010, averaging between five and six per cent. This had almost doubled compared to the GDP growth of the previous period and since the economic decline of the 1980s. The positive growth can be traced to structural reforms, macroeconomic policies and the increase of the mining production and to a lesser extent the agriculture production.

The mining sector has been the main driver of growth, with an average increase of nine per cent between 2000 and 2006. Agriculture, which is the main employer accounting for 71.29 per cent of total employment, has not contributed much to the growth with an average increase of 2.1 per cent per annum in the same period. In 2009, however, agriculture grew by more than seven per cent in 2009.

Despite positive developments a number of challenges remain. First, much of this growth has

been based on extractives, principally copper, and has been fuelled by the rise in copper prices. However, it has not been accompanied by sectoral diversification in other areas besides mining. Second, much of this growth has been based on exports of extractives which provide more than 70 per cent of Zambia's export earnings. Third, the recent growth in Zambia has not generated commensurate employment. Fourth, the levels of poverty in Zambia remain high. The vulnerability of an economy dependent on mining was made evident during the global economic and financial crisis (GEFC) which resulted in reduced global demand for copper following the decline in copper prices. The HIV/AIDS pandemic continues to be a major challenge in tackling poverty and decent work issues in Zambia. Although the prevalence of HIV/AIDS among the working age population has decreased, it nonetheless remains high at 14.3 per cent according to the Zambia Demographic Health Survey Report 2007/8.

Zambia has made great strides in improving access to basic education for its citizens and is poised to meet the Millennium Development Goal on universal primary education with primary school attendance already increasing by 67 per cent between 2000 and 2009.

Zambia has ratified 43 ILO Conventions, including the eight fundamental Conventions, and two of the four governance Conventions. Labour administration in Zambia, which is a key tool to achieve decent work, remains underfunded.

Employment opportunities

Employment creation is a high priority for the Zambian Government, as reflected in the National Long Term Vision 2030 (Vision 2030), the National Employment and Labour Market Policy (NELMP), the Fifth National Development Plan (2006–2010) and the Sixth National Development Plan (2011–2015). In Vision 2030, Zambia aspires

Table E.1 Priority decent work indicators for the national monitoring system

Indicators	2005			2008								
	Total	M	F	Total	M	F						
Employment-to-population ratio, 15-64 years (S)	82.47	87.29	77.88	68.60	72.40	64.90						
Measure of discrimination by disability*	n.a	n.a	n.a	n.a	n.a	n.a						
Informal employment (S)	90.91	87.14	94.95	89.00	85.00	94.00						
Female share of employment in ISCO-88 groups 11&12 [Legislators and senior officials; Corporate managers]	–	–	39.24	–	–	26.70						
Occupational injury rate, fatal	1,364	–	–	982	–	–						
Union density rate (S)	n.a	n.a	n.a	n.a	n.a	n.a						
Youth not in education and not in employment, 15-24 years (S)	9.64	5.19	13.74	15.50	11.90	19.00						
Minimum wage as per cent of average/median wage	25.47	25.00	26.67	35.07	35.14	34.90						
Child Labour as defined by ICLS resolution, by age, sex and economic activity (S)	36.43	37.30	35.55	33.73	34.81	32.63						
	2002	2003	2004	2005	2006	2007	2008	2009				
Labour inspection rate	20	11	10	11	21	46	34	36				
	1998			2002			2004			2006		
	T	M	F	T	M	F	T	M	F	T	M	F
Working poor (S)*	73.1	70.6	76.1	64.7	63.7	65.9	69	66.4	71.8	66.4	62.5	70.8
	2001	2002	2003	2004			2005			2006		
				T	M	F	T	M	F	T	M	F
Share population aged 55 years and above benefiting from a pension (S)	7.30	7.00	7.20	8.5	16.2	2.0	11.2	16.7	2.2	12.3	18.7	2.6

* There is currently no published data available for the employment situations of workers with disabilities to enable measurement of discrimination by disability. **Working poverty rate has been used as a proxy for working poor.

Sources: CO (LFS and LCMS, administrative records).

to reach sustained full employment by 2030 with an unemployment rate of below 10 per cent of the total labour force. The results of the 2008 Labour Force Survey (LFS) shows that the Vision 2030 unemployment rate target has already been surpassed in that the 2008 unemployment rate was already 7.9 per cent. However, this does not mean that unemployment is not a problem in Zambia. According to the LFS, both youth and urban unemployment rates were found to remain high at 14 per cent and 18 per cent, respectively.

Unemployment was estimated at 7.9 per cent in 2008. Both the unemployment and youth unemployment rates are higher in urban areas and among males. In a context where agriculture is the main economic activity, the unemployment rate is not sufficient to describe the labour market state, and

is combined with other indicators such as underemployment, informal employment and working poverty to provide insights into decent work conditions.

Informal employment has declined only marginally, implying that formal employment has not grown commensurately with the economic growth. The informal economy is characterized by low productivity and high levels of underemployment. Low productivity in agriculture is a result of the seasonal nature of production and the dependency on rain-fed crop production, as well as the use of basic technologies.

Adequate earnings and productive work

The general levels of wages for the majority of workers in regular employment are insufficient to

provide the basic living wage. Although the working poverty rate declined from 73.1 per cent in 1998 to 66.4 per cent in 2008, it was still high. In rural areas, the poverty rate was 79.5 per cent in 2006 compared to 29.2 per cent in urban areas. The rate is also higher among females than males and overall, poverty levels are the lowest amongst paid employees.

The share of paid workers with monthly earnings below two-thirds of median monthly earnings, excluding agriculture, generally remained more or less constant between 2005 and 2008. This rate went up in urban areas, while it declined significantly in rural areas partly due to the opening of new mines in the North Western Province and other rural areas of Zambia. The average wage was found to be higher among males and in urban areas. Although some advances have been made towards wage equity, women were still earning less in comparison to their male counterparts. This gap is partly due to the concentration of more women in low-status jobs, and the segmentation of the labour market into feminine or masculine occupations.

The statutory minimum wage also falls below the basic need level. Moreover, they are very low, not regularly reviewed and insufficient to meet workers' basic needs. On average, it took four years for the Government to review the minimum wage and its coverage in the 2000's. Furthermore, implementation is a challenge, as some employers do not respect the minimum wage knowing that the Government does not have the capacity to inspect violations and punish wrong-doers in this respect. Many rights, such as secure contracts and minimum wages, are not being granted in most jobs, particularly those in the informal economy.

Decent hours

The maximum number of hours that a person can work which is allowable by law is 48 hours per week. The percentage of workers working more than 48 hours per week declined from 16.48 per cent in 2005 to 12.84 per cent in 2008. The rate in respect to excessive hours of work was found to be slightly higher among males and in urban areas.

Workers in domestic service are among those who have to work long hours for little pay, with some working a total of 66 hours. Live-in domestic workers are in a worse situation as they have no specified time frames for their work, despite protective legislation. Long working hours and low overtime pay are characteristic of the large commercial farms in the rural areas even though overtime pay is provided for under the law.

Persons whose work involves night shifts also face long hours. However, the law provides that shift workers such as security guards and nurses, are entitled to days off in order to compensate for long hours. Time related underemployment declined from 16.58 per cent in 2005 to 9.57 per cent in 2008 indicating a decrease in people willing to work more hours.

Combining work, family and personal life

Zambia has put in place various laws and policies to encourage the combination of family responsibilities and work. The Employment Act (EA), minimum wage legislation and various collective agreements provide for paid leave and benefits, maternity leave, as well as remuneration for women on maternity leave. Employers bear the cost of maternity leave directly.

The burden of attending to family responsibilities falls disproportionately more on women than on men with legislation explicitly placing the burden of family responsibility on women. For instance, in the case of a sick child, the legislation provides leave only for women to go on paid leave in order to nurse the hospitalized child.

The practice of women taking the lead in family responsibilities stems from the socio-cultural fabric of Zambian society where women are seen as the caregivers of the family but are also expected to do their share of fieldwork. The socio-economic relations that relegate unpaid family responsibilities to women mean that despite their increasing entry into wage employment, women continue to be primarily responsible for the household chores and for the care of children, as well as of elderly family members.

Work that should be abolished

Caused by high poverty levels, child labour has become a major issue of concern in Zambia with children being compelled to work in order to supplement family incomes. Furthermore, the HIV/AIDS pandemic has contributed to the increase in the number of orphans who have no option but to resort to child labour for their livelihood.

Zambia has enacted various laws and regulations to combat the worst forms of child labour and sets the minimum age for employment at 15. The Anti-Human Trafficking Act of 2008 prohibits forced labour and the trafficking of children, while slavery is prohibited under both the Constitution and the Penal Code which also prohibits the sexual harassment of a child, pornography and prostitution.

The Government has also put in place an institutional mechanism to coordinate and enforce measures to combat child labour. Employers have been equally concerned with the scourge of child labour and several companies in the tobacco industry implemented a project whose objective was to combat child labour.

Some progress has been made in reducing the incidence of child labour in Zambia. Between 2005 and 2008, the share of children in employment decreased from 45.84 per cent to 33.73 per cent while the percentage of children attending school increased slightly.

Stability and security of work

The Employment Act protects employees against unlawful termination of employment as well as unilateral changes to terms and conditions of employment. The EA covers the permanent and pensionable terms of contracts, fixed-term contracts, as well as those under collective agreements. It does not cover workers employed in the security sector of the public service, nor does it apply to casual or informal workers, or to persons employed under an apprenticeship contract.

The Minimum Wages and Conditions of Employment Act sets the minimum wage to protect workers who are not covered by the EA. Despite the

existence of various pieces of legislation that target the protection of workers, Zambia still has a long way to go to ensure that the majority of Zambians enjoy stable and secure employment. The number of workers with unstable and insecure jobs declined from 2005 to 2008 but was found to remain high at 59.10 per cent of all paid employees with job instability being higher among females and in rural areas.

The casualization of the labour force that followed the privatization process has contributed to the deterioration of conditions of work. Increasingly, parts of the private sector are doing away with secure long-term employment contracts preferring casual and short-term contract staff who tend to provide cheaper labour.

Equal opportunity and treatment in employment

The Government has put into place various pieces of legislation and policies to reverse the marginalization of women as well as other marginalized groups in the labour market. The EA prohibits dismissal based on pregnancy or maternity leave and the Industrial Labour Relations Act (ILRA) prohibits the termination of services of an employee on the grounds of race, sex, marital status, religion, political opinion or affiliation, tribal extraction or status of the employee. The Persons with Disabilities Act of 1996 prohibits discrimination in employment based on disability.

Most employers claim that they do not discriminate based on disability or gender. Employment in the mining sector is male dominated. Employers in the tourism industry also attest to being equal opportunity employers in their recruitment policies and claim that no one is discriminated against based on gender, disability or due to a HIV/AIDS status. Many establishments do not employ disabled persons due to the prevailing perceptions regarding the manual and laborious nature of the work in tourism establishments. However, it is also evident that the employment of people with disabilities remains a serious challenge as the majority of establishments lack disability friendly premises.

Considerable progress has nonetheless been made to promote equal opportunity and treatment in employment in Zambia in the national legislation. Women's share of the labour force in Zambia rose to some extent from 45.93 per cent in 1998 to 48.7 per cent in 2008. Some progress has also been made towards wage equity in Zambia. However, women continue to experience difficulty in accessing employment opportunities largely due to their relatively low educational standards, exacerbated by barriers experienced in pursuing higher education, which is a prerequisite for entry into most professions.

Safe work environment

The Factories Act, the Occupational Safety and Health Act and the Mines and Minerals Act are the main pieces of legislation dealing with safety and health issues. A number of ILO Conventions pertaining to a safe working environment have been ratified and implemented by the national legislation.

The biggest challenge to maintaining a safe work environment in Zambia lies in the inadequacies of the institutions tasked to enforce regulations. Enforcement of safety and health legislation is severely constrained by inadequate funding which results in the lack of support infrastructure with which to carry out inspections, thus limiting the ability to carry out statutory functions.

Reported occupational injuries (fatal and non-fatal) in Zambia globally rose between 2000 and 2009. The injury rate declined between 2000 and 2002 and reached its highest point in 2006 when the number of injuries rose to 1,388. The number of reported occupational injuries declined in 2007, rose again in 2008 before declining marginally in 2009. The pattern for fatal injuries was slightly different in that the number of deaths rose in 2009.

Social security

The Zambian Government has set the broadening of social security to include currently uncovered groups at the core of its efforts to reduce poverty. The National Pension and Scheme (NAPSA) is

the largest social security scheme in force with an estimated coverage of eight per cent of the labour force. However, coverage of social security in Zambia is limited to employees in the formal sector. The benefits of social security schemes include cash transfers such as pensions, employment injury benefits, short term cash benefits (sickness and maternity benefits etc.), as well as benefits in kind such as health services.

The majority of the population therefore does not have access to any form of social security as they earn their living from informal employment, including subsistence agriculture. Because of the low coverage, very few people contribute to and benefit from pension schemes. The share of the population aged 55 years and above who benefit from a social security scheme rose from seven per cent in 2001 but was still low in 2008 at only 12.3 per cent. The share of the economically active population contributing to a pension scheme was 10.2 per cent in 2008 with no significant increase observed since 2001.

The Government and cooperating partners have put into place several social assistance programmes targeting incapacitated households but these are not intended for the working poor category which includes workers of the informal economy. The schemes consist of a combination of transfers in kind and in cash aimed at vulnerable groups, as well as poverty alleviation measures covering approximately four per cent of the population.

The Government budget has not provided the scope necessary to extend social security to those that are not covered at present. As a result, total public and private social security expenditure as a percentage of GDP has remained static at around 7.5 per cent in 2008.

Social dialogue, workers' and employers' representation

The Zambia Federation of Employers (ZFE) is the organization that represents employers. There are two apex bodies representing workers' organizations, namely the Zambia Congress of Trade Unions (ZCTU) and the Federation of Free Trade

Unions of Zambia (FFTUZ). The ZCTU remains the larger of the two.

Whilst the membership of the employers' organization rose consistently after 2000, the membership of the trade unions saw a decline between 2006 and 2010. The trend towards casualization and the exemption of the defence and police force, prison services, security intelligence services and judiciary from forming trade unions effectively reduces the number of workers who can become members of trade unions.

The framework and structure of social dialogue in Zambia is provided for in the Industrial and Labour Relations Act (ILRA). The Tripartite Consultative Labour Council (TCLC) is responsible for and has contributed to the review of labour laws and the ratification of some of the ILO Conventions.

At the enterprise level, employers and unions undertake bipartite social dialogue for the purpose

of collective bargaining as provided for under the law. The 2010 low collective bargaining rate of 38 per cent illustrates that the majority of employees have no union representatives. This is partly due to the provisions of the ILRA, which provides for an exemption as regards the formation of trade unions at establishments which employ less than 25 workers, as well as workers of public security institutions.

Social dialogue has also been effective in mitigating the impact of the global financial and economic crisis. During the crisis, the unions in the tourism and mining sectors agreed to partial erosion of conditions of service in order to protect jobs.

Some 69 per cent of the union membership in 2010 was male while only 31 per cent was female. The level of participation of women workers in leadership position of trade unions was found to be extremely low. At that time, the ZCTU executive had only one female out of ten office bearers and the FFTUZ had four females out of nine.

List of Abbreviations

APRM	African Peer Review Mechanism
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CLU	Child Labour Unit
CSO	Central Statistical Office
DCLC	District child labour committee
EA	Employment Act
EL-SAG	Labour Sector Advisory Group
EU	European Union
EYPCA	Employment of Young Persons and Children's Act
FFTUZ	Federation of Free Trade Unions of Zambia
FNDP	Fifth National Development Plan
GDP	Gross domestic product
GEFC	Global economic and financial crisis
HRC	Human Rights Commission
ILO	International Labour Organization
ILRA	Industrial and Labour Relations Act
IMF	International Monetary Fund
IOM	International Organization for Migration
IPEC	International Programme for the Elimination of Child Labour
ISCO	International Standard Classification of Occupations
ITUC	International Trade Union Confederation
LASF	Local Authority Superannuation Fund
LCMS	Living conditions monitoring survey
LFS	Labour force survey
MDG	Millennium Development Goal
MIBL	Ministry of Information, Broadcasting and Labour (was until October 2011 called the Ministry of Labour and Social Security)
MSME	Micro, small and medium enterprise
MWCEA	Minimum Wages and Conditions of Employment Act
MWCED	Minimum Wages and Conditions of Employment (Domestic Workers) Order
MWCEG	Minimum Wages and Conditions of Employment (General) Order
MWCES	Minimum Wages and Conditions of Employment (Shop Workers) Order
NAP	National Action Plan
NAPSA	National Pension and Scheme
NASF	National AIDS Strategic Framework
NELMP	National Employment and Labour Market Policy
NUPAAW	National Union for Plantation, Agricultural and Allied Workers
PSPF	Public Service Pension Fund
SAP	Structural adjustment programme
SNDP	Sixth National Development Plan
TCLC	Tripartite Consultative Labour Council
TEVET	Technical education, vocational and entrepreneurship training
UNICEF	United Nations Children Fund

UNCRPD	United Nations Convention on the Rights of People with Disabilities
UNIFEM	United Nations Development Fund for Women
UNJPHT	United Nations Joint Programme on Human Trafficking
WFCL	Worst forms of child labour
WCFCB	Workers' Compensation Fund Control Board
ZCTU	Zambia Congress of Trade Unions
Z-DWCP	Zambia Decent Work Country Programme
ZFE	Zambia Federation of Employer

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1 Economic and social context for decent work

Zambia registered positive economic growth during the period 2005 to 2010, averaging between five and six per cent. This has almost doubled compared to GDP growth during the previous period and since the economic decline during the 1980s. At independence in 1964, Zambia had one of the most promising economies in Southern Africa with vast mineral resources. However, falling copper prices in the global market in the 1970s were responsible for the plunge in Zambia's copper exports from \$3.4 billion in 1974 to \$1.8 billion in 1975. The decline continued through to the 1990s, with the country's copper exports falling to \$725 million in 1994.¹ This was compounded by the decline in copper production from about 700,000 tonnes in 1976 to around 200,000 tonnes in 1998.²

Because of the decline in copper exports, coupled with the lack of a diversified economy and the effects of the oil price rise in the mid-seventies, GDP growth in the 1980s and the 1990s was very low. In the 1980s, GDP growth averaged only one per cent per annum, while in the 1990s it plunged further to 0.5 per cent per annum.³

The country has had impressive GDP growth from 2001 onwards, of over five per cent per annum, with one interruption in 2002 when it dropped to 3.3 per cent. Average GDP growth between 2000 and 2006 was estimated at five per cent per annum, and early estimates for 2010 put it at 7.6 per cent. The economy recorded growth rates

of six per cent and 6.4 per cent in 2008 and 2009 respectively (Table 1.2).

The recent growth can be traced to the macro policy reforms which were enacted especially after 1991. The framework for these reforms was the IMF supported Structural Adjustment Programme (SAP), the Poverty Reduction and Growth Facility and the Staff Monitored Programme. The reform package included public sector reforms, privatization, as well as stringent fiscal and monetary policy that have resulted in reducing the budget deficit and inflation to a single digit figure. Inflation declined from 24.5 per cent in 1998 to 8.5 per cent in 2010. In meeting the conditions of the reform programme, Zambia received significant fiscal support and debt reduction under the Highly Indebted Poor Country programme.⁴

These programmes have entailed a number of policy reforms. Public sector employment was meant to be reduced from 140,000 to 80,000, but was settled at 110,000. However, a wage freeze was instituted and the public sector wage bill was capped at eight per cent of GDP. The average budget allocation for public wages for 2007–2009 was 7.92 per cent of GDP. Personal emoluments in the medium term, as a share of GDP, is expected to increase from the 2010 levels of 8.1 per cent to 8.4 per cent in 2011 and then decline to 8.1 per cent in 2012 and further to eight per cent in 2013. On average, personal emoluments for education, health and Zambia police will account for 57.6 per cent of the total wage bill.⁵

¹ World Bank: *Zambia: Prospects for Sustainable Growth 1995–2005*, Economic Management and Social Policy Group, Africa Region, (August 1, 1996) and M. Mahmood and G. Nyirongo: *Policy coherence for generating employment and decent work in Zambia especially in the context of the crisis* (ILO, Lusaka, 2010).

² See J. Thurlow and P. Worbst: 2004 *Operationalising pro-poor growth: A country case study on Zambia* (2004).

³ World Bank, *World Development Indicators*, 2008.

⁴ Economist Intelligence Unit, 2008.

⁵ Ministry of Finance and National Planning: *2011–2013 Medium Term Expenditure Framework and the 2011 Budget Green Paper*, (August, 2010).

The GDP growth has been largely led by the mining sector, with an increase of nine per cent during 2000–06, compared to a negative growth rate during the previous decade. Within the industrial sector, the growth rate of manufacturing has been much lower during the 2000–2006 period, at 5.4 per cent per annum, just below the growth rate for services at 5.9 per cent per annum. Agriculture has not contributed to GDP growth in the 2000s, with only 2.1 per cent of growth per annum. However, there has been a resurgence in agriculture, which grew by more than seven per cent in 2009 (see Annex I). The growth in agriculture has continued with Zambia and a production of over three million metric tonnes of maize has been expected in 2010, the largest ever in the country's history. Agriculture, however, is the main employer accounting for 71.3 per cent of employment, followed by the service sector, which contributes 21 per cent of employment (see Table 1.1). Industry, which includes mining, manufacturing and construction, contributes only 7.5 per cent of employment.

Table 1.1. Social and economic context for decent work – Employment by sector

	LFS 2005	LFS 2008
Employment by major sector of economic activity, %		100.0
Agriculture	NA	71.3
Industry	NA	7.5
Services	NA	21.0
Others	NA	0.2

Source: LFS reports, CSO Zambia.

The low growth during the 1980s and the 1990s resulted in Zambia being reduced to one of the poorest countries in Africa by 1998, with a GDP per capita of \$317.⁶ Nevertheless, the growth from 2001 onwards tripled the GDP per capita to more than \$1361.07 by 2010 (Table 1.2).

The policy framework which has been pursued and the resolve to stay the course of policy reforms have been critical in delivering this growth after nearly two decades of low and negative growth.

However, in spite of the positive developments that have resulted from the current set of reforms, there are still a number of challenges, given the macro and financial vulnerability of the economy.

First, much of this growth has been based on extractives, principally copper, and has been fuelled by the rise in copper prices. The growth has not been accompanied by sectoral diversification into areas other than mining, especially towards manufacturing which remains relatively weak. This situation calls for a shift in the Government's policy with respect to promoting linkages between the mining sector and manufacturing, as well as increasing the processing of extractives.

The GEFC exposed Zambia's vulnerability to fluctuations in external demand: the decline in copper prices due to reduced global demand for copper led to lower GDP growth, worsening budgetary and external balances and increased unemployment. The crisis resulted in job losses predominantly in the mines causing the mining sector to be the main transmission mechanism through which the global crisis has affected Zambia. In this sector, the total number of job losses between June 2008 and May 2009 amounted to 19,239, accounting for 30.4 per cent of the total labour force in the mining industry as at June 2008. Of these, 7,324⁷ were directly employed by the mining companies and 11,915 were employed by contractor companies.⁸ In addition, the Tourism Council of Zambia projected job losses in that sector to reach 2,500 by the end of 2009.⁹

In response to the crisis, the Zambian Government provided a stimulus package in the 2009 National Budget with a focus on measures aimed at supporting export diversification through targeted interventions in agriculture, manufacturing, tourism and infrastructure development. Incentives were also extended to the mining sector to

⁷ The Government's estimate of job losses was closer to 8,000, according to the Minister of Finance's Budget Speech in October 2009. It can be assumed that this figure refers only to those jobs lost directly by those employed directly by the mining companies and did not take into account those engaged by contractor companies.

⁸ C. Matenga: *The impact of the global financial crisis on the mining sector in Zambia* (ILO, Lusaka, 2009).

⁹ E.Jere and A.Valeta: *The impact of the global financial crisis on the tourism sector in Zambia* (ILO, Lusaka, 2010).

⁶ *World Economic Outlook*, September 2011.

Table 1.2. Social and economic context for decent work – Economic indicators

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
GDP, in billion Kwacha (constant)	9,559.3	9,771.9	10,121.3	10,616.7	10,968.9	11,531.3	12,154.4	12,803.6	13,600.7	14,443.0	15,259.4	16,241	17,475.46
GDP, in billion Kwacha (current)	6,057.5	7,514.4	10,121.3	13,193.7	16,324.4	20,551.1	25,993.1	32,041.5	38,560.8	46,194.8	54,839.4	64,615.6	77,673.35
GDP growth (annual), %	-1.86	2.22	3.58	4.89	3.32	5.13	5.40	5.34	6.23	6.19	5.65	6.43	7.60
GDP per capita, in PPP US\$	864.84	878.39	844.25	867.14	908.68	951.33	976.23	1,025.30	1,084.08	1,130.41	1,210.90	1,292.04	1,361.07
GDP per capita, in Kwacha (current)	590,183	724,944	966,971	1,230,298	1,487,826	1,831,813	2,265,790	2,729,724	3,208,320	3,751,404	4,345,438	4,995,406	5,859,044
GDP per capita, in Kwacha (constant)	931,365	942,741	966,971	989,992	999,715	1,027,837	1,059,485	1,090,784	1,131,598	1,172,895	1,209,141	1,255,583	1,318,206
GDP per capita growth (annual), % (4)		1.21	2.51	2.33	0.97	2.74	2.99	2.87	3.61	3.52	3.00	3.70	4.75
Labour productivity (estimate), in 2000 constant Zambian kwacha	2,838,691				2,395,254		3,380,629	2,450,194	3,176,558		2,913,857		
Labour productivity growth rate (estimate), %					-15.62		41.14	-27.52	29.65		-8.27		
Inflation rate (CPI), %	24.46	26.79	26.10	21.37	22.24	21.40	17.97	18.32	9.02	10.66	12.45	13.39	8.50

Source: National accounts data CSO and Bank of Zambia.

mitigate the impact of the crisis. Government took steps to intensify its diversification drive in line with the broad medium and long-term strategy. In order to safeguard the interests of the multinational mining companies and forestall job lay-offs, the Government abolished the windfall tax it had introduced in the mining sector when copper prices had significantly risen in 2008. The Government also reduced duty on heavy fuels and provided incentives for additional investment in the sector (through 100 per cent capital allowance). In spite of the incentives that were extended to the mining companies, lay-offs continued in 2009.

Additional measures included duty and tax incentives for agricultural equipment imports as well as the extension of customs, excise and VAT incen-

tives to manufacturers to set up economic zones and industrial parks. Increases in education and health outlays in the 2009 Budget were made, though the health sector suffered from the withdrawal of donor support as a result of malpractices uncovered later in the year. The increase in the allocation to the education sector was more substantial at K2, 628.0 billion, representing a 17.2 per cent of total budgeted expenditure, an increase of almost 2 percentage points from the 15.4 per cent allocation in 2008. However, the allocation to the health sector increased modestly by 0.4 per cent from K1, 586.6 billion in 2008 to K1, 823.4 billion in 2009. However, some social programmes were scaled down: contrary to the Government's original intention to scale up the Social Cash Transfer Scheme (as its major Social Protection

strategy), fiscal pressures forced the Government to cut budget allocations to this sector. The allocation to social protection was reduced by 4.2 per cent from 2008. Social protection was allocated K374.2 billion or 2.5 per cent of total expenditure in 2008 compared to an allocation of K577.7 billion the previous year. Even then, the bulk of the allocation for social protection (81 per cent) was for the Public Service Pensions Fund, which only benefits civil servants.

Second, much of this growth has been based on exports of extractives, which provide more than 70 per cent of Zambia's export earnings. On the other hand, the domestic economy, measured by domestic consumption, domestic production, and domestic investment and savings, has had relatively weak growth. Sustainable economic growth will require a balance in the drivers of growth, between exports and those domestic drivers of growth such as consumption, domestic investment and savings.

Third, the recent growth in Zambia has not generated commensurate employment, neither in extractives, nor in other sectors. In fact, unemployment rose from 2.45 per cent in 2005 to 7.9 per cent in 2008 (see Table II). However, the vast majority of the labour force is to be found in the informal economy including the agricultural sector; this economy is characterized by high levels of under-employment and low productivity. Labour productivity in the economy has recorded a cyclical pattern of both positive and negative growth. The labour productivity rate declined by 8.3 per cent in 2008 compared to an increase of 29.6 per cent in 2006. About 70 per cent of the employed labour force at that time was engaged in agriculture. The share of employment in industry saw a modest growth, though at 7.3 per cent, it remains the lowest contributor to employment when compared to agriculture and services (Table 1.1).

Fourth, given the low impact of recent growth on employment and the critical conditions of employment, the impact on poverty has also been low. The only sustainable route out of poverty has to be based on generation of decent work. Although the unprecedented economic growth has had some impact on poverty and income inequality, the lev-

els of poverty in Zambia remain very high (see Chapter 3).

The HIV and AIDS pandemic continues to be a major challenge in tackling poverty and decent work issues in Zambia. Not only does HIV/AIDS directly affect those who are infected, it reduces the incomes of uninfected family members who provide financial support or take on a care-giving role for incapacitated family members and orphans; declining health associated with HIV/AIDS also impacts negatively on productivity at work, through loss of working time, skilled labour and high medical costs.¹⁰

The HIV and AIDS pandemic has also affected population growth. The high population growth rate of 3.1 per cent during the 80s had been reduced by HIV/AIDS to 2.4 per cent in the 1990–2000 period and to 2.8 per cent in the 2000–2010 period.¹¹ This rise in population growth between 1990 and 2000 coincided with a reduction in the prevalence of HIV/AIDS. Zambia's population in 2010 stood at 13.046 million (2010 Population Census), rising from 9.9 million in 2000. Although the prevalence of HIV/AIDS among the working age population has decreased, it remained high at 14.3 per cent in 2007 with a prevalence rate higher among women (16.1 per cent) than among men (12.3 per cent) (Table 1.3).

HIV/AIDS prevalence was found to be higher in urban areas than rural areas at 23.1 per cent and 11 per cent respectively. A high proportion of the population, 38 per cent, is urbanized. Some 45 per cent of the population is young, under 15 years, and getting younger.¹² Government has made some positive strides in the provision of social services, with healthcare and education expenditure at approximately 6 per cent and 5 per cent of GDP respectively.

¹⁰ S. Bell and K. Newitt: *Decent work and poverty eradication: Literature review and two-country study* A study for the Decent Work and Labour Standards Forum (London, Ergon Associates Limited, January 2010).

¹¹ NASF, *National AIDS/HIV Strategic Framework: Mitigating the Socio-Economic Impacts of HIV and AIDS*, NASF 2011-2015 (Lusaka, 2010).

¹² CSO: *Census of Population and Housing* (Lusaka, 2011).

Table 1.3. Social and economic context for decent work – HIV and AIDS indicators

Year	2001-02	2007
HIV prevalence among population aged 15 to 49 years old, in %	15.6	14.3
Male	12.9	12.3
Female	17.8	16.1
Rural	11.0	
Urban	23.1	

Source: Zambia Demographic Health Survey Report 2007/8.

The economic dimension of HIV/AIDS is a recognized fact that is reflected in the official and national frameworks of Zambia such as the National AIDS Strategic Framework 2011-2015. Unfortunately, perhaps due in part to resource constraints affecting economic empowerment programmes as a strategy for reduction of HIV vulnerability, the concentration of HIV/AIDS intervention efforts have in the last 20 years focused on prevention, treatment and care.

As a way forward and in order to contribute to controlling and reversing the HIV/AIDS epidemic and meeting the Millennium Development Goals, the ILO in Zambia for the period 2011 to 2012 is implementing a project called Economic Empowerment and HIV Reduction along Transport Corridors of Southern Africa. The three immediate objectives of the project are: supporting policy makers in making decisions on economic empowerment and HIV vulnerability; making economic services available to people working in transport corridors; and providing HIV/AIDS services. At the beneficiary level, the project targets economically needy men, women and youth working in the informal sector of the corridors. As these corridors are high transmission points for HIV, people working in them are not only highly susceptible to being infected with HIV but also suffer the socio-economic impact of HIV/AIDS thereby exacerbating their already dire poverty situation.

As regards education, Zambia has made great strides in improving access to basic education for its citizens and is poised to meet the MDG on universal primary education. Since 2002, Zambia has provided free education in government schools at

primary school level – that is from Grades 1 to 7 – which caters for children aged between 7 and 13 years old. Consequently, enrolments in Grades 1 to 7 increased by 67 per cent from 1.6 million pupils in 2000 to over 3 million in 2009. The net enrolment rate improved significantly from 68 per cent in 2000 to 96 per cent in 2006, while the completion rate at Grade 7 was now over 91 per cent in 2008.¹³ This also means that an ever-increasing number of children are seeking post primary education and that the adult secondary school graduation rate improved over the years from 15 per cent in 2005 to 20.7 per cent in 2008. The adult secondary school graduation rate at that time was found to be higher among males and in urban areas (Table 1.4).

Table 1.4. Social and economic context for decent work – Education indicators

Context Indicators	LFS	
	2005	2008
Children not in school, in %	35.06	32.50
Male	33.78	32.20
Female	36.36	32.90
Rural	40.87	37.20
Urban	23.56	23.40
5-9	55.24	54.90
10-14	15.07	12.00
15-17	27.11	27.60
Education of adult population		
Adult literacy rate, in %⁽¹⁾	72.60	73.30
Male	82.92	82.80
Female	62.90	65.20
Rural areas	63.05	65.50
Urban areas	90.04	88.60
Adult secondary school completion rate, in %⁽²⁾	14.96	20.70
Male	19.93	25.00
Female	10.28	16.20
Rural areas	4.67	9.50
Urban areas	34.69	37.80

Notes:

⁽¹⁾ Adult literacy rate is computed following the international definition for LFS 2005 and LFS 2008. For that which concerns LCMS surveys school attendance is used as a proxy measure.

⁽²⁾ Adult secondary completion rate covers all persons who have completed grade 12 and above.

¹³ Zambia Millennium Development Goals Progress Report 2008.

Legal Framework Indicator 1. Labour administration

Law, policy and institutions: The Ministry of Information, Broadcasting and Labour is the Government Ministry responsible for matters related to employment and implements the labour policy. It is organized into five departments and two units (Planning Unit, Accounts Unit). The *Department of Human Resources and Administration* (HRA) is mandated to coordinate training activities and mainstream HIV/AIDS activities in the Ministry, plan Human Resources and provide administrative and logistical support to the Ministry. The *Department of Labour* (DOL) is responsible for the enforcement of labour legislation; collecting, analysing and compiling labour statistics; promoting and maintaining sound industrial relations; operating a free employment/placement service; implementing, controlling and managing programmes on the elimination of child labour and conducting labour inspections. The *Social Security Department* (SSD), *inter alia*, formulates and reviews social security policies, laws and benefits, endeavours to meet the social protection needs of groups currently excluded from coverage, and monitors trends. The *National Productivity Development Department* (NPDD) promotes productivity to enhance economic growth and uplift the living standards of Zambians. The *Department of Occupational Safety and Health* (DOSH), *inter alia*, enforces OSH Legislation, conducts investigations on occupational accidents and dangerous occurrences in factories and construction sites and carries out research on occupational diseases, providing guidelines on hazardous operations at the workplace.

Other institutions involved in labour administration include the Zambia Federation of Employers representing employers and the Zambia Congress of Trade Unions and Federation of Free Trade Unions of Zambia representing workers, the Permanent Human Rights Commission (PHRC) and the Tripartite Consultative Labour Councils constituted in section 84 of the Industrial and Labour Relations Act, Cap. 269.

Exclusion of parts of workforce from coverage: civil service, local authorities, defence, police.

Evidence of implementation effectiveness: Funding of the MOLSS has improved but “much needs to be done” according to the Government 2006 report on the application of Convention No. 150. The Government has pointed out, in a report to the CEACR on the application of Convention No. 122, that it is broadening its consultative process to institutions in the rural and the informal sector.

Ratification of ILO Conventions: The Labour Administration Convention, 1978 (No. 150) has been ratified by Zambia on 19 August 1980.

Sources:

1. Ministry of Labour and Social Security (<http://www.mlss.gov.zm>).
2. Labour inspection country profile (LAB/ADMIN) http://www.ilo.org/labadmin/info/lang--en/WCMS_112936/index.htm;
3. Government 2006 report and CEACR Direct Request of 2007 on the application of Convention No. 150; Government 2009 report on the application of Convention No. 122.

However, due to the limited space available in the upper basic school system (Grades 8 and 9), only half of the primary school graduates can be enrolled. The improvement in the provision of school places is demonstrated by the decline in the percentage of children not in school from 35 per cent in 2005 to 32.5 per cent in 2008. The percentage of children not in school was highest among the five to nine year age group at 54.9 per cent. This is because the minimum age at which one can enrol in the first grade in government schools is seven years.

This lack of adequate school places was also found at high school level where only half of the upper basic graduates were accommodated in the limited space available that enrolled only 26 per cent of 16 to 18 year olds. The situation was fur-

ther aggravated by the lack of places at tertiary level where only 3.5 per cent of the eligible age group found places in tertiary education institutions.¹⁴ This tends to leave substantial supply gaps at upper basic, high school and tertiary levels.

With regard to the legal framework of labour administration, the Ministry of Information, Broadcasting and Labour¹⁵ is responsible for implementing Government policy on employment and labour matters. Zambia has ratified a total of 43 ILO Conventions, 39 of which are currently in

¹⁴ Ministry of Education: *Opportunities for investment by foreign and domestic investors in the education and skills development sector* (Lusaka, 2011).

¹⁵ Following mergers of various functions in October 2011, the *Ministry of Labour and Social Security* became the *Ministry of Information, Broadcasting and Labour*.

Relevant legislation

The Constitution, Cap. 1 of the Laws of Zambia

Employment Act, Cap. 268 of the Laws of Zambia (EA)

Industrial and Labour Relations Act, Cap. 269 of the Laws of Zambia (ILRA)

Minimum Wages and Conditions of Employment Act, Cap. 276 of the Laws of Zambia (MWCEA)

Workers Compensation Act, No. 10 of 1999

Employment of Young Persons and Children's Act, Cap. 274 of the Laws of Zambia (EYPCA)

National Pensions Scheme Act, No. 40 of 1996 (NPS)

Factories Act, Cap. 441 of the Laws of Zambia

Mines and Minerals Act No. 7 of 2008 of the Laws of Zambia

Subsidiary Legislation (Statutory Instruments):

1. Minimum Wages and Conditions of Employment (General) Order, 2011 (S.I No. 2 of 2011) (MWCEG)
2. Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (S.I No. 1 of 2011) (MWCES)
3. Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (S.I No. 3 of 2011) (MWCES)

Scope of the law

The legislation covers all workers subject to these exclusions:

- The Employment Act applies to any person who works under a contract of service, whether the contract is express or implied, is oral or in writing, and whether the remuneration is calculated by time or by work done, or is in cash or kind. The EA does not apply to members of the Defence Force (Zambia Army, Zambia Air Force and Zambia National Service), the Zambia Police Force, and the Zambia Prison Service. Apprentices and casual employees (workers who are paid at the end of each day and have a contract of less than six months) are excluded from the general definition of 'employee'.
- The ILRA does not apply to members of the Zambia Defence, the Zambia Police Force, Prison Service, the Zambia Security Intelligence Service, judges, registrars of the Court, magistrates and Local Court Magistrates.
- The MWCEG does not apply to employees of the Government of the Republic of Zambia, employees of a local authority and employees whose wages and conditions of employment are regulated through collective bargaining, or employees in management.
- The MWCES does not apply to, among others, a person employed in the motor trade industry or the petroleum industry and a person employed in the printing of newspapers.

force, and three that have been denounced. The ratified Conventions include the eight fundamental Conventions, and two of the four governance Conventions.¹⁶ It has also ratified Conventions related to, *inter alia*, termination of employment, wages, labour administration, workers' representatives, safety and health, maternity protection,

indigenous workers, and social policy. Zambia's labour law is contained in several legal instruments (see relevant legislation below) as well as collective agreements.¹⁷ The labour administration in Zambia, which is of course a key tool to achieve decent work, is still significantly underfinanced (see Legal Framework Indicator 1).

¹⁶ The Governance Conventions are the Labour Inspection Convention, 1947 (No. 81), the Employment Policy Convention, 1964 (No. 122), the Labour Inspection (Agriculture) Convention, 1969 (No. 129) and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). Zambia has ratified Conventions No. 122 and No. 144.

¹⁷ See Ministry of Labour and Social Security: *An analysis of Zambia's labour laws and ratified International Labour Organization (ILO) Conventions – A quest for harmonization and promotion of Decent Work* (ILO, Lusaka Office, 2009).

2 Employment opportunities

Employment creation is a high priority for the Zambian Government, as reflected in Zambia's Vision 2030, the National Employment and Labour Market Policy (NELMP), the Fifth National Development Plan (2006-2010) and currently, the Sixth National Development Plan (2011-2015) (see Legal Framework Indicator 2).

The National Long Term Vision 2030 (Vision 2030), launched in January 2007, is Zambia's first ever written long-term vision, articulating Zambians' aspirations to be reached by the year 2030. The Vision is being implemented through the five-year development plans starting with the Fifth National Development Plan (2006 to 2010). This marks a departure from past practice of preparing and implementing medium-term plans that were not anchored to a national vision.

The Zambian people's vision is to become "a Prosperous Middle Income Nation by 2030". Zambians aspire for a nation, *inter alia*, that offers citizens decent work opportunities that ensure respect for fundamental human rights and principles, and opportunities for all citizens to become resourceful and prosperous nationals. With regard to employment, Zambia aspires to reach sustained full employment by 2030 with an unemployment rate of below 10 per cent of the total labour force. The result of the 2008 LFS (Table 2) shows that the Vision 2030 target of an unemployment rate of below 10 per cent of the total labour force has already been surpassed; the 2008 unemployment rate was already 7.9 per cent. However, this does not mean that unemployment is not a problem in Zambia. Of great concern is youth unemployment and urban unemployment, which in 2008 stood at 14 per cent and 18 per cent respectively.

In 2004, the Government adopted the National Employment and Labour Market Policy (NELMP),

with ILO's technical support. The Policy, which was launched in 2006, provides a major focus for pro-employment strategies in the country. It highlights a range of key Government priorities on which to concentrate its efforts to create more and better quality employment, including the promotion and support to micro, small and medium enterprises (MSMEs); identification and support for job and business opportunities for men and women, as well as young people; prevention and mitigation of HIV/AIDS; promotion of social dialogue and strengthening of social partners; and the creation of an effective Labour Market Information System.

The Fifth National Development Plan (FNDP), whose theme was "Broad Based Wealth and Job Creation through Citizenry Participation and Technological Advancement", was launched in January 2007. The chapter on employment and labour underscores the contribution that the NELMP can make to national development. In order to address the challenges posed by high unemployment¹ and poverty levels that have been a major concern, the Government is committed to promote employment creation, labour productivity, skills development, working conditions and the provision of welfare and social security measures to workers in both the formal and informal economy. It is in this vein that an employment strategy was integrated into the national development plan, for the first time in the history of development planning in Zambia.

In January 2011, the Government launched the Sixth National Development Plan (SNDP) for the period 2011 to 2015. The focus of the SNDP, whose theme is "Sustained Economic Growth and Poverty Reduction", is to diversify the economy

¹ As stated above high unemployment is found among the youth and in urban areas.

Legal Framework Indicator 2. Government commitment to full employment

Law Policy and Institution: National Employment and Labour Market Policy (NELMP), National Long Term Vision (Vision 2030), Fifth National Development Plan (2006-2010) and Sixth National Development Plan (2011–2015). The Government prepares and reviews its employment policy through the Tripartite Consultative Labour Council established under the Industrial Labour Relations Act (ILRA). Both the NELMP, adopted in 2004 and launched in 2006, and the National Development Plans (FNDP and SNDP), which implements the NELMP, have employment creation as a priority. The overall objective of the NELMP is to “create adequate and quality jobs under conditions that ensure adequate income and protection of workers basic rights” (paragraph. 6). Other policies have been adopted within the context of NELMP such as the National Youth Policy and Micro, small and Medium Enterprises Development Policy, whose aim, *inter alia*, include skills development and job opportunities for the youth, women and persons with disabilities. The FNDP incorporated decent work and addresses issues related to employment promotion, children and youth, social protection and education. The Government has also adopted policy measures to resolve challenges associated with HIV and AIDS in the workplace and to ensure that there is work for all who are available for and seeking work.

Evidence of implementation effectiveness: The CEACR has noted the indication by Zambia that it faces resource constraints that have resulted in declining investments in technical and vocational education and training. According to the Government, employment creation and the maintaining of labour standards had not been adequately addressed. Challenges include the important size of the informal economy and the HIV/AIDS pandemic. In its latest report to the CEACR, Zambia indicated, *inter alia*, the policy measures adopted concerning HIV/AIDS in the workplace and its efforts to improve youth's skills.

Ratification of ILO Convention: The Employment Policy Convention, 1964 (No.122) has been ratified by Zambia on 23 October 1979.

Sources:

1. National Employment and Labour Market Policy (NELMP).
2. CEACR comments on the application of Convention No. 122 (<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displaycomment.cfm?hdroff=1&ctry=2030&year=2008&type=O&conv=C122&lang=EN>).

away from mining towards agriculture, tourism, manufacturing, as well as energy and infrastructure development. A key objective of the Plan is to increase formal sector employment and improve the quality of the workforce through implementation of key policies such as the NELMP and the Decent Work Country Programme (DWCP). The SNDP calls for legislative reforms aiming at enhancing flexible functioning of labour markets and will facilitate employment creation through approaches that combine promotion of employment and upholding of workers' rights.

The state, through its labour administration system, bears a heavy responsibility in the social field, most importantly to safeguard the fundamental human rights of workers. The challenge is to ensure that the fundamental rights of workers are not compromised in a bid to attract foreign investment to create employment.² There is growing concern that the integration of employ-

ment with macroeconomic policy seems to favour investments at the expense of labour.³

Other policies, programmes and legislation in Zambia promote employment and address the challenges of poverty among vulnerable segments of the population, such as women, youth and disabled persons. They include the Zambia Development Agency Act, No. 11 of 2006, which aims to promote and facilitate business enterprise development, encourage investment and increase the rate and efficiency of the import/export trade; the Micro, Small and Medium Enterprise (MSME) Policy (2009) which is designed to guide the efforts on promoting the start-up and growth of MSMEs, in order to increase their contribution to income generation and employment creation; the Youth Policy (2006), whose objectives include

² F. Adewumi: 'Labour Administration, Economic Development and Democratic Participation in Africa' in *Journal of Social Science*, 11(2) pp. 133-139 (University of Lagos, Nigeria, 2005).

³ For example, in the World Bank's publication, "Doing Business 2011" the report penalizes countries that require contributions by employers for unemployment insurance, workers compensation, pensions or other social protection programmes; countries that seek to protect workers are seen as business unfriendly while countries that make it easier to eliminate jobs or reduce social protection are highly ranked. See World Bank: *Doing Business 2011, making a difference for entrepreneurs* (Washington DC, 2010).

Table 2. Employment opportunities

		LFS	
		2005	2008
EMPL-1	Employment-to-population ratio, 15+, %	82.47	68.60
	Male	87.29	72.40
	Female	77.88	64.90
	Rural	93.41	78.30
	Urban	61.90	51.70
EMPL-2	Unemployment rate, %	2.45	7.90
	Male	2.01	8.10
	Female	2.91	7.70
	Rural	1.01	3.50
	Urban	6.30	18.00
EMPL-3	Youth not in education and not in employment , 15-24 years, %⁽¹⁾	9.64	15.50
	Male	5.19	11.90
	Female	13.74	19.00
	Rural	3.05	7.80
	Urban	21.96	31.20
EMPL-4	Informal employment, %⁽²⁾	90.91	89.00
	Male	87.14	85.00
	Female	94.95	94.00
	Rural	98.17	96.00
	Urban	70.33	71.00
EMPL-5	Labour force participation rate, 15+, %	84.54	74.50
	Male	76.04	78.80
	Female	67.34	70.30
	Rural	79.37	81.10
	Urban	59.84	63.00
EMPL-6	Youth unemployment rate, 15-24 years, %	4.44	14.00
	Male	4.19	14.90
	Female	4.68	13.10
	Rural	1.54	5.50
	Urban	15.46	36.00
EMPL-7	Unemployment by level of education, %	100.00	100.00
	None	11.56	8.50
	Primary	33.36	30.60
	Junior secondary	25.65	22.00
	Senior secondary	24.42	35.80
	Tertiary	4.80	3.10
	Others ⁽³⁾	0.20	n/a
EMPL-8	Employment by status in employment, %	100.00	100.00
	Employees	15.29	17.80
	Employers	0.54	0.30
	Self employed (Own-account worker) (OAW)	43.87	46.00
	Unpaid/contributing family worker (CFW)	39.84	35.30
	Other workers not classified ⁽⁴⁾	0.47	0.50

		LFS	
		2005	2008
EMPL-9	Proportion of own-account and contributing family workers in total employment (POWCFW), %	83.71	81.3
	Male	77.49	74.40
	Female	90.34	88.80
	Rural	95.03	92.40
	Urban	51.58	52.00
EMPL-10	Share of wage employment in non-agricultural employment, %	52.85	68.30
	Male	58.88	71.10
	Female	41.72	60.30

Notes:

- (1) Youth not in education and not in employment (NEET) is the proportion of unemployed and economically inactive youth who are not in education or training. Economically inactive youth who are not in education or training have a bigger share in Youth NEET for all data points.
- (2) LFS 2005-LFS 2008: Informal employment estimation is based only on main activity. No data on secondary activity is available from the labour force surveys. A worker is considered informally employed if s/he is an unpaid family worker or if he has at least one informal job, i.e. where the employer does not contribute to a registered social security scheme or where the respondent is not entitled to paid leave. LFS 2008: The fall in employment-to-population ratio especially in the rural areas, may be due to the heavy flooding that Zambia experienced in December 2008, which coincided with the fieldwork of the survey. The stability in the unemployment rate for rural areas and the increase at the urban and national levels indicate the increased economically inactive population in Zambia.
- (3) "Others" in level of education: This category refers to those who could not be classified as "none, primary, junior secondary, senior secondary, tertiary" based on the available data.
- (4) "Other workers not classified": Includes members of cooperatives and workers not classified due to the concept or data inadequacies.

youth employment and youth entrepreneurship; the National Gender Policy (2000) which identifies employment as a means of empowering women both economically and socially; the TEVET Policy (1996) which spells out various initiatives whose objectives include improved demand responsiveness of TEVET, improved quality of training, equity in the provision of training as well as improved access to training. In addition, the passing of the Citizens' Economic Empowerment Act, No. 9 of 2006, and the creation of the Citizens' Economic Empowerment Commission, as well as the policy on Decentralization (2002) all provide opportunities to promote decent work at the local level throughout Zambia. Since 2005, the Government has also, been creating a conducive environment for investment, infrastructure development and private sector-led economic growth through, the Private Sector Development Reform Programme Action Plan.

While Zambia has improved macroeconomic indicators with a GDP growth averaging over five per cent per annum from 2001 to 2010, job creation has not been commensurate with the economic growth. The Sixth National Development Plan puts it succinctly: "Economic growth experienced during the last decade has not translated into significant reductions in poverty and

improved general living conditions of the majority of Zambians. Job creation was not commensurate with the economic growth."⁴ One explanation is the nature of the economic growth, since recent growth has been concentrated in mining which is mostly capital intensive. Most of these sectors have not generated sufficient employment due to weak linkages with the rest of the economy. In order for Zambia to diversify its economy, there has to be an increase in the added value of the processing of extractives which requires a significant improvement in the linkages between the mining and manufacturing sectors.

The most recent Labour Force Survey (LFS) for 2008 estimated the labour force at 5,003, 871 out of which 3,466,552 (69 per cent) were to be found in the rural areas and 1,537,319 (31 per cent) in the urban areas. Slightly over half (52 per cent) of the labour force were male. The average annual growth of the labour force in Zambia is estimated at 6.4 per cent, more than twice the population growth rate.⁵ This is mainly attributed to a vast number of school leavers entering the labour mar-

⁴ Ministry of Finance and National Planning: *Sixth National Development Plan* (Lusaka, 2011).

⁵ ILO Sub-Regional, Office for Southern Africa: *National employment policy-making in the Southern Africa sub-Region*, Discussion Paper (Harare, 2008).

ket. The majority of those leaving school have no access to tertiary education due to limited access to training opportunities. Out of the 400,000 learners that are eligible to enter technical education and vocational training institutions only about 14,000 learners are enrolled annually, with an absorption rate of only 3.5 per cent.⁶

The main source to estimate employment opportunities indicators have been the Labour Force Surveys (LFS) of 2005 and 2008. The figures used for 2005 and those for 2008 are based on international definitions as far as possible.⁷ However for the unemployment rate, not all the probing questions – that are used in calculating unemployment according to the international definitions – were taken into account in the LFS questionnaire.⁸ The LCMS data cannot be compared and analysed with the LFS data because of differences in the methodologies used, but they are mentioned as they provide information on possible trends of employment opportunities indicators between 1998 and 2006 (Annex III).⁹

⁶ Ministry of Education: *Opportunities for Investment by Foreign and Domestic Investors in the Education and Skills Development Sector* (Lusaka, 2011).

⁷ The CSO used relaxed definitions (of employment and unemployment) for the 2005 Labour Force Survey report. To enable comparison with the 2008 figures – that were derived by the CSO using international definitions – international definitions were used for the 2005 data for this study.

⁸ The unemployment rate and the youth unemployment rates in the 2008 LFS could have been slightly lower if the CSO had used all the probing questions that are used in calculating unemployment according to the international definition of unemployment. CSO and the Ministry of Labour are working with the ILO to ensure that all the probing questions are taken into account in future labour force surveys. Concern has been raised that the unemployment figures are low as they are comparable with some developed nations and do not reflect the reality as the international definition considers even those who are subsistence farmers as employed.

⁹ The ZDWCP Advisory Committee decided to show the LFS tables and not the LCMS tables for employment opportunities due to the stark differences in some of the indicators as a result of differences in methodologies used. The LCMS and LFS are two household surveys that measure employment/unemployment. However, the two household surveys are designed for different purposes, i.e. in short, to measure poverty and to measure employment/unemployment respectively. Hence, there are multiple methodological differences that stem from these measurement objectives. The main difference in the economic activity modules of LFS and of LCMS is how economic activity status (employed, unemployed or economically inactive) is identified. In the LFS questionnaires, there is a set of probing questions to understand whether the respondent is economically active or not following the general question on economic activity. The general question is formulated in the same way in the LCMS questionnaires unless specified otherwise in the notes. Higher EPR indicates that through LFS, it is possible to capture employment more accurately. For further information on sampling and survey design, please refer to <http://www.zamstats.gov.zm/>

The employment-to-population ratio which is the proportion of a country's employed persons to the working-age population, measured by the Labour Force Survey, was estimated to be 68.6 per cent in 2008. It then declined between 2005 and 2008 while the economy grew steadily above 5 per cent per annum (Table 2). From the LCMS data, the employment-to-population ratio was estimated to be around 64 per cent in 2006 but it had declined from 76 per cent in 2002 (Annex III). Overall, it was found to be higher among the male population and the rural population (aged 15 years and more).

The labour force participation rate was around three-quarters of the population aged 15 and more, in 2008, and was found to be higher among males and in rural areas (Table 2).

The unemployment rate was estimated at 7.9 per cent in 2008, increasing from 2005 (Table 2). From the LCSM data, the unemployment rate was estimated at 8.9 per cent in 2006 and had increased from 2002 (Annex III).

The youth unemployment rate increased from 4.4 per cent in 2005 to over 14.0 per cent in 2008 and the same trend is observed from LCSM sources, reflecting the growing youth unemployment problem facing the country. Both the unemployment and youth unemployment rates were higher in urban areas and among males.

Analysis of *the unemployment by education levels* shows that the majority (35.80 per cent) of those unemployed in 2008 had secondary education followed by those with primary education (30.60 per cent). The percentage of *the unemployed with secondary education* increased from 2005 to 2008 while it declined for all the other categories of education or no education at all.

The proportion of youth not in education and not in employment (15–24 years) as the proportion of unemployed and economically inactive youth who are not in education or training, was estimated at 15.5 per cent in 2008, representing an increase from 2005. It was higher among female and rural youth (Table 2). From the LCSM source,

Legal Framework Indicator 3. Unemployment insurance

Law, policy or institutions: None.

Benefits (level and duration): Not applicable.

Coverage of workers in law: None.

Coverage of workers in practice: No information provided by ILO supervisory bodies.

Ratification of ILO Conventions: The Social Security (Minimum Standards) Convention, 1952 (No. 102) and the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) have not been ratified by Zambia.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB)
2. ISSA country profile (<http://www.issa.int/aiss/Observatory/Country-Profiles/Regions/Africa/Zambia>).

it increased from 13.3 per cent to 21.7 per cent between 2002 and 2006 (Annex III).

It is important to highlight that the unemployment rate increased despite an increase in the GDP of between five and six per cent during the 2000's. At the same time, informal employment was stable, implying that jobs in formal employment did not grow commensurate with the economic growth. The economic growth had no positive impact either on the creation or the quality of the jobs.

Informal employment was found to be very high and remained constant at 90 per cent (89 per cent in 2008 and 90.9 per cent in 2005, see Table 2).¹⁰ From the LCMS sources, informal employment was around 91 per cent and remained stable as well (Annex III). Decomposition of informal employment by sex and area shows that informal employment was higher among females (94 per cent in 2008 against 85 per cent for males) and higher in the rural areas (96 per cent in 2008 and 71 per cent in urban areas). In 2008, almost three-quarters of those employed were either own account workers (46 per cent) or unpaid family labour (35 per cent). Hence, *vulnerable employment* represented 81 per cent of employed population in 2008, with a much higher proportion in rural areas (92 per cent) as compared to urban areas (52 per cent).

Employees represented only 17.8 per cent of employed people in 2008 and the share of wage employment in

non-agricultural employment stood at around 68 per cent with a higher share for males (71 per cent) than for females (60 per cent).

Almost every sector of the Zambian economy has some element of informal employment, though the agricultural sector accounts for most informal employment, with the majority being subsistence farming. As there are no unemployment benefits in Zambia, (see Legal Framework Indicator 2: Unemployment insurance) those looking for a job often have no recourse but to resort to activities in the informal economy.

The informal economy is characterized in practice by insecure employment, irregular wages, poor working conditions, absence of social security and lack of social dialogue. It is characterized by low productivity, high levels of underemployment. In agriculture, low productivity is a result of the seasonal nature of production and the dependency on rain-fed crop production, as well as the use of basic technologies.

If the country continues on such a growth path, the development of the objectives identified in the Vision 2030 will not be significantly advanced nor will the Millennium Development Goals' objective of halving the 1990 levels of poverty by 2015 be met. The only significant way in which the majority of the population of the country can benefit from growth is through the generation of decent work. Inclusive growth must aim at improving critical conditions of employment such as the real wage and social protection for the vulnerable. As stated above, the impact of the economic growth of the 2000's has not translated into significant expansion in decent employment.

¹⁰ A worker is considered informally employed if s/he is an unpaid family worker or if he has at least one informal job, i.e. where the employer does not contribute to a registered social security scheme or where the respondent is not entitled to paid leave.

3 Adequate earnings and productive work

The concept of adequate earnings relates to income from employment that is necessary for living. Household income is calculated by summing up all incomes from all sources of all income-earning members of the household.

Table 3.1 indicates that in general the level of wages in Zambia are insufficient to provide the basic living wage as is shown by the working poverty rate which refers to the proportion of employed persons who live in households below the poverty line. Poverty lines in Zambia have been based on the Food-Energy Intake (FEI) approaches. The methods attempt to establish a monetary value at which basic needs are met. It should be pointed out that such a poverty line presents only the minimum levels of basic needs, below which a decent material lifestyle is not possible. The FEI method sets the minimum food requirement by finding the consumption expenditure level at which food energy intake is just sufficient to meet pre-determined average food energy requirements for normal bodily functions. The pre-determined food energy requirement used in the LCMS analysis is based on the minimum calorie intake of 2094 calories per day per person.

In calculating poverty, the LCMS uses consumption data as a proxy of income due to the fact not all Zambians receive an income and consume what they produce. However, using data based on consumption patterns has a number of limitations. First, it will depend on the month or period when the data was collected. Second, the use of a national basket in deriving regional poverty lines or in normalizing differences in the cost of living across the provinces does not reflect the actual prices communities are faced with in their locality. Third, memory recall as opposed to the diary method means households are forced to remem-

ber their expenditure during the recall period and in some instances may not remember everything.

The working poverty rate indicates that the majority of Zambian workers in regular employment remain in relative poverty due to low levels of pay. The working poverty rate, which declined from 73.15 per cent in 1998, was still high in 2006 at 66.39 per cent. Incomes remained lower in the rural areas where the poverty rate was 79.52 per cent in 2006 compared to only 29.22 per cent in urban areas. The rate was also found to be higher among females than for males. Overall, poverty levels were observed to be lowest amongst paid employees. Employment together with critical conditions of employment such as the real wage and social protection for the vulnerable therefore remains the most sustainable route out of poverty, as the ILO strongly contends,¹ and Zambia's policy to alleviate poverty must focus on this.

There was a slight improvement in the working poverty rate in 2002 which coincided with the upward revision of the minimum wage in the same year. It is evident that the overall earnings, in both the formal and informal sectors, in Zambia are below the poverty line as demonstrated by the high percentage of the population living below the poverty line, which in 2006 stood at 53.29 per cent.

The large proportion of employed persons who live in households below the extreme poverty line reflects the general low levels of earnings in Zambia. The proportion of employed persons who live in households below the extreme poverty line is higher among females than males and lower in urban areas. However, the percentage of the total population liv-

¹ ILO: *Working out of Poverty*, The Director General's Report to the International Labour Conference (Geneva, 2003).

Table 3.1. Adequate earnings and productive work – Incidence of working poverty and poverty

		LCMS			
		1998	2002	2004	2006
EARN-1	Working poverty rate, %⁽¹⁾	73.15	64.74	69.05	66.39
	Male	70.64	63.66	66.45	62.50
	Female	76.11	65.93	71.69	70.77
	Rural areas	82.05	69.81	77.98	79.52
	Urban areas	48.21	50.69	48.84	29.22
	Poverty headcount ratio (national poverty line), %⁽²⁾	68.54	73.31	68.39	63.49
	Male	68.32	70.49	65.44	63.25
	Female	68.75	76.08	71.32	63.73
	Rural areas	82.02	78.99	81.97	79.18
	Urban areas	47.35	60.34	48.20	33.60
	Working extreme poverty rate, %	59.54	43.61	55.44	53.29
	Male	56.39	42.56	52.35	49.41
	Female	63.24	44.75	58.58	57.66
	Rural areas	70.14	48.02	65.77	66.00
	Urban areas	29.82	31.36	32.06	17.34
	Extreme poverty headcount ratio (national poverty line), %	51.72	51.66	54.00	49.70
	Male	51.72	51.84	49.65	49.54
	Female	51.71	51.48	58.30	49.86
	Rural areas	66.41	55.47	68.39	65.24
	Urban areas	28.62	42.97	32.59	20.10

Notes:

⁽¹⁾ Working poverty rate refers to the proportion of employed persons who live in households below the poverty line.⁽²⁾ Poverty headcount ratio (national poverty line) refers to the percentage of population living below the national poverty line. Poverty line: K343, 032 for LCMS 2004; 366,042 for LCMS 2006.

ing below the extreme poverty line has almost been the same for both males and females with the exception of 2004 when it was higher among females.

The share of paid workers with monthly earnings below two-thirds of median monthly earnings (low pay rate), excluding agriculture, generally remained more or less constant between 2005 and 2008, at 35 per cent. In urban areas, the low pay rate was lower (33 per cent) than in rural areas (41 per cent); it went up in urban areas while it declined significantly in rural areas between 2005 and 2008 (Table 3.2). This could be attributed to the opening of new mines in the North Western and other rural areas of Zambia. It is also likely that the rates would have been higher if agriculture was included as wages in the horticultural sector – and agriculture more generally – are very low.²

² S. Bell and K. Newitt: *Decent work and poverty eradication: Literature review and two-country study*. A study for the Decent Work and Labour Standards Forum (London, Ergon Associates Limited, January 2010).

Table 3.2. Adequate earnings and productive work – Low pay rate (below 2/3 of median monthly earnings)

Decent Work Indicator	LFS	
	2005	2008
Low pay rate (proportion of workers with monthly earnings below 2/3 of median monthly earnings, excl. agriculture), %⁽¹⁾		
Paid employees with low pay rate, %	34.33	35.0
Male	32.40	33.4
Female	39.36	38.9
Rural areas	49.75	41.0
Urban areas	31.96	33.4

Notes:

⁽¹⁾ All the indicators above are computed for paid employees in the non-agricultural sector, as income from agriculture is measured at the household level including subsistence agriculture. In addition, self-employed and contributing family workers are heavily involved in agricultural work.

The average real wages/earnings from non-agriculture paid employment declined by 11 per cent

Legal Framework Indicator 4. Statutory minimum wage

Law, policy or institutions: Wages in Zambia are set through three processes: by collective bargaining for workers belonging to trade unions, through statutory instruments issued by the Minister of Labour for workers who do not belong to a trade union and through individually negotiated contracts. The Minimum Wages and Conditions of Employment Act, through three statutory instruments, (the *Minimum Wages and Conditions of Employment (General) Order, 2011* (MWCEG), the *Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011* (MWCES) and the *Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011* (MWCED) sets minimum pay for certain categories of workers whose conditions of service are not prescribed by a collective agreement. Domestic workers are covered by the MWCED. An employer of a worker covered by this legislation must keep a record with information on wages and allowances paid and any benefits given. A Labour Commissioner, or any authorized labour officer, can order the production of any record, enter at all time the premises, other than a private dwelling-house, where a protected worker is employed and proceed to interrogations (see Section 5 MWCEA). Minimum wages are prescribed by a tripartite technical committee appointed by the Minister through the TCLC. The committee only meets as and when the Minister decides to review the minimum wages. The previous orders setting the minimum wage were issued in 2002 and 2006.

Minimum wage levels: The MWCEG establishes different minimum wages (from K250, 000 to K419, 000 a month) for five categories of employees.¹ Compulsory allowances (transport, housing, lunch) are added to the basic wage. Minimum wage for domestic workers is set at K250, 000 a month (MCWED).

Evidence of implementation effectiveness: The CEACR noted from the 2008 Government's report on the application of Convention No. 131 that at the time the 2006 Orders were issued, the wages were adequate to provide workers and families with a decent standard of living but that the value has eroded since. The CEACR has asked that Article 3(1) of the Minimum Wages and Conditions of Employment Act be amended because it provides for consultation with a trade union only. Information received from the Ministry of Information, Broadcasting and Labour stated that minimum wages are not regularly reviewed (it took four years to revise them after 2006). Furthermore, the implementation of minimum wages is also a challenge as "many employers do not adhere to the minimum wage because the Ministry of Information, Broadcasting and Labour does not have sufficient resources to inspect and punish the erring employers".

Coverage of workers in law: No data available. The schedule to the MWCEG covers four categories of employees while the schedule to the MWCES covers eight categories of employees.

Coverage of workers in practice: Data not available.

Ratification of ILO Conventions: The Minimum Wage Fixing Convention, 1970 (No. 131) has been ratified by Zambia on 20 June 1972.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB);
2. Government report on the application of Convention No. 131 and comments of the CEACR (<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displaycomment.cfm?hdroff=1&ctry=2030&year=2008&type=R&conv=C131&lang=EN>).

from K299, 900 to K265, 500 between 2005 and 2008 (Table 3.3). The average wage was found to be higher among males than females and in the urban areas as compared to rural areas. A rapid assessment of women workers' rights found that although some advances had been made towards wage equity, women still earned less in comparison to their male counterparts on average (Table 3.3).³ This gap is partly due to the concentration of more women in low-status jobs, and the segmentation of the labour market into feminine or masculine occupations, as well as sometimes women's shorter working hours and their family

responsibilities⁴ (see also Chapter 8: Equal opportunity and treatment in employment).

Wages or earnings were found to be higher among professionals, legislators, senior officials and managers and lowest among those engaged in elementary occupations and service workers, shop and market sales workers (Table 3.3). The average real wage of K299, 900 in 2005 was 390 per cent above the prevailing minimum wage of K76, 800⁵, while in 2008 the real wage was K266, 500, almost the same as the minimum wage of K268, 000.⁶

³ A more detailed analysis by level of qualification would be needed to confirm discrimination on the labour market (for same levels of qualification, are women earnings lower than male earnings).

⁴ C. Wonani: *Rapid assessment on raising awareness on women workers and their rights in Zambia* (ILO Lusaka, 2010).

⁵ The minimum wage was revised in 2002 and 2006.

⁶ Minimum Wages and Conditions of Employment (General) Order (MWCEG) of 2002 and 2006 respectively.

Table 3.3. Adequate earnings and productive work – Average real wages/earnings, by sector

Decent Work Indicator	LFS	
	2005	2008
Average real wages/earnings non agricultural, in constant 2000 Zambian kwacha (thousands of kwacha)*		
Wages/earnings from paid employment⁽¹⁾	299.90	266.50
Agriculture	–	–
Industry	–	298.60
Services	–	254.40
Male	311.00	272.80
Female	271.60	250.20
Rural areas	309.90	246.70
Urban areas	298.50	271.70
Wages/earnings from paid employment by ISCO-88		
Legislators, Senior Officials and Managers	–	431.30
Professionals	–	433.00
Technicians and associate professionals	–	375.00
Clerks	–	285.80
Service workers and shop and market sales workers	–	174.30
Craft and related trade workers	–	247.10
Plant and machine operators and assemblers	–	281.20
Elementary Occupations	–	136.10
Wages/earnings from paid employment by ISCO-68		
Professionals, technical and related workers	400.1	–
Administrative and manager workers	782.9	–
Clerical and related workers	265.2	–
Sales workers	143.5	–
Service workers	114.4	–
Production and related workers	234.8	–

Notes:

* All the indicators above are computed for paid employees in the non-agricultural sector, as income from agriculture is measured at the household level including subsistence agriculture. In addition, self-employed, especially contributing family workers are heavily involved in agricultural work.

⁽¹⁾ For LFS 2005, it has not been possible to compute average real wages in industry and services due to incomplete ISIC (International Standard Industrial Classification of All Economic Activities) data.

in 2005 and 2008 respectively (Table 3.4). The rate also increased significantly for both males and females and in the urban areas. The increase in the minimum wage as a percentage of the median wage was marginal in rural areas from 40 per cent in 2005 to 41.2 per cent in 2008. It must, however, be emphasized that the earnings are only for non-agricultural activities.

Table 3.4. Adequate earnings and productive work – Minimum wage as percentage of average/median wage*

Decent Work Indicator	LFS	
	2005	2008
Minimum wage as % of median wage⁽¹⁾	25.47	35.07
Male	25.00	35.14
Female	26.67	34.90
Rural areas	40.00	41.23
Urban areas	25.00	33.50

* All the indicators above are computed for paid employees in the non-agricultural sector, as income from agriculture is measured at the household level including subsistence agriculture. In addition, self-employed, especially contributing family workers are heavily involved in agricultural work.

⁽¹⁾ Statutory minimum wage for 2005 was 100,000 and for 2008 it was 268,000. In the table above, 67,406 2000 PPP (Kwacha) was used for 2005 and 97,784 2000 PPP (Kwacha) for 2008 in computing average real wages and minimum wage.

The issue of adequate earnings in the formal sector became even more pronounced with the privatization of state-owned enterprises that saw the rise of casualization of labour. Casualization is the process of converting a full-time permanent job into a temporary one that is contract based – a time-based job that reduces the rights and entitlements of the worker such as leave, benefits, and redundancy packages. From the investor's or employer's point of view, full-time jobs are converted to something that is contractual for cost-saving reasons.⁷ The casualization of the labour force that followed the privatization process has thus contributed to the deterioration of conditions

The minimum wage as a percentage of the median wage increased from 25.5 per cent to 35 per cent

⁷ J. Chirwa: *Casualization of labour in Zambia, Communicating labour rights* <http://zope298.itsilo.org/ils/communicating-labour-rights/previous-course-editions/final-stories/casualization-Zambia/>, see also Presentation by the Jesuit Centre for Theological Reflection, Ministry of Labour and Social Security Stakeholder Meeting on Casualisation, 15th November 2006

of work.⁸ Increasingly, parts of the private sector are doing away with secure long-term employment contracts in preference for casual and short-term contract staff who tend to provide cheaper labour.⁹ (See also Chapter 7: Stability and security of work). The rising cost of living, if not accompanied by adjustment in income levels, can lead to such consequences as affecting family food intake (e.g. rising malnutrition rates) or causing anti-social coping strategies (e.g. rising crime).¹⁰

The Minimum Wages and Conditions of Employment Act (MWCEA) regulates the minimum wage levels and conditions of employment for all workers (including casual workers) who are not covered by a collective agreement, are in management positions, are employees of the Government or of a local authority (see Legal Framework Indicator 3 and “Scope of the law” in Chapter 1). Currently, there are three statutory instruments under the MWCEA, namely the Minimum Wages and Conditions of Employment (Shop Workers) Order 2011, the Minimum Wages and Conditions of Employment (General) Order 2011, and the Minimum Wages and Conditions of Employment (Domestic Workers) Order of 2011.

The MWCEA of 2011 has extended the categories of workers covered under the minimum wage. For the first time ever, domestic workers, including household assistants and gardeners, have been considered under the minimum wage legislation. The Statutory Instrument on the Minimum Wages and Conditions of Employment (Domestic Workers) of 2011 provides a minimum wage for domestic workers of ZMK 250, 000. The adoption of the MWCEA is a significant improvement

in the working conditions of domestic workers, which prior to this adoption fell outside the coverage of all labour legislation, except the National Pensions Scheme Act, No. 40 of 1996.

A number of concerns have been raised regarding the minimum wage in Zambia. The minimum wages are set very low, are not regularly reviewed and are insufficient to meet workers’ basic needs. A general view by the workers interviewed by the study on the impact of the global financial crisis on the tourism industry was that the minimum wages and conditions of employment as set in the Act were too low and worked to the disadvantage of employees. The workers felt exploited, and were of the view that in some cases the employer had the ability to pay reasonable wages and apply decent conditions of service, but chose to pay lower wages as long as they were within the provisions of the minimum wage legislation. With regard to the revision period, the Government has taken an average of four years to review the minimum wage in the 2000’s.

Coverage and implementation is a challenge, as some employers do not adhere to the minimum wage because enforcement of the minimum wage legislation is severely constrained by inadequate funding resulting in shortage of staff and logistics to carry out inspections. Furthermore, many rights, such as secure contracts and minimum wages, are not being granted in most jobs because labour legislation does not provide for informal jobs, neither in law nor in practice. According to Wonani (2010), the informal economy is the epitome of wage exploitation and does not always adhere to the minimum wage.¹¹

⁸ C. Matenga: *The impact of the global financial crisis on the mining sector in Zambia* (ILO, Lusaka, 2009).

⁹ E. Jere and A. Valeta: *The impact of the global financial crisis on the tourism sector in Zambia* (ILO, Lusaka, 2010).

¹⁰ Jesuit Centre for Theological Reflection: *The basic needs basket (BNB): A comprehensive overview* (Lusaka, 2006).

¹¹ C. Wonani: *Rapid assessment on raising awareness on women workers and their rights in Zambia* (ILO Lusaka, 2010).

4 Decent hours

The maximum number of working hours under the law is 48 hours per week (45 hours under the MWCES) and the minimum amount of annual leave is two days per month after six months of continuous service (see Legal Framework Indicators 5 and 6). The number of hours worked does not correlate to the amount of money earned. In some cases, minimal pay is received for fewer hours worked (e.g. subsistence farmers' work less than 30 hours), while others work excessive hours for little pay (e.g. domestic workers).

Data on decent work in Table 4 is presented based on international standards and CSO measurements. The CSO defines excessive hours of work as working conditions in which employed persons' usual working hours in a week exceed 40 hours whilst the international standard is based on 48 hours. The comparison between 2005 and 2008 data needs to be made with caution, since the questions are based on different periods of reference in the two surveys.

The *percentage of workers working more than 48 hours per week* declined between 2005 and 2008, from 23.2 per cent to 9.2 per cent; the rate using CSO measurements declined from 34.7 per cent to 13.8 per cent. The decline in the percentage of workers with more than 40 or 48 hours per week was marginal in urban areas as compared to rural areas.¹

Conversely, as would be expected, given the decline in workers working excessive hours, the *percentage of workers with decent hours* increased to 81.2 per cent in 2008 from 64.2 per cent in 2005. The rate of workers working within

the stipulated 48 hours per week was seen to be higher in rural areas and among females.

Workers in domestic service are among those who have to work long hours for little pay. Wonani (2010) establishes that extended working hours are another form of exploitation faced by domestic workers with some reporting for work as early as 6 am and leaving work at 5 pm, six days a week, excluding Sunday, thus totalling 66 hours² – far from the maximum of 48 hours a week (excluding Sunday) stipulated by the MWCED of 2011.³ Live-in domestic workers face a worse situation as they have no specified time for work, despite protective legislation. Bus and long distance drivers are also subjected to long working hours.

Persons who work at night, such as on night shifts, face long hours. Other sectors such as the hospitality industry, health sector, security firms and the mining industry, fuel stations and call centres also involve elements of night-work and shift-work. Nurses who were interviewed in a study of women workers' rights lamented how they work excessive hours due to the fact that they have to wait for the doctors' rounds in the morning in order for them to hand over to the next shift.⁴ The shortage of doctors frequently means that nurses work beyond the stipulated time.

However, the law provides that shift workers such as security guards and nurses, are entitled to days off in order to compensate for long hours. The study on the impact of the global financial crisis on the mining industry found that work-

¹ The rates for rural areas are very low and might be explained by some statistical bias (survey implementation season in particular).

² C. Wonani: *Rapid assessment on raising awareness on women workers and their rights in Zambia* (ILO Lusaka, 2010).

³ It must, however, be noted that even though the study by Wonani was conducted before the adoption of the MWCED of 2011, it is most probable that the practice of long hours has persisted.

⁴ C. Wonani: *op. cit.*

Legal Framework Indicator 5. Maximum hours of work

Law, policy or institutions: The three Statutory Instruments issued under the Minimum Wages and Conditions of Employment Act (Cap 276), namely, the Minimum Wages and Conditions of Employment (General) Order, 2011 (MWCEG), the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (MWCES) and the Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (MWCED), provide for hours of work. Overtime is paid at one and a half times the employee's hourly rate of pay. An employee who works on a paid public holiday or on a Sunday when the Sunday is not included in the normal working week is paid double the hourly rate.

Number of hours allowed: 48 hours per week (MWCEG); 45 hours per week (MWCES); 48 hours (MWCED).

Evidence of implementation effectiveness: No information provided by ILO supervisory bodies. Some employers are said to choose to exploit their workers by making them work more than 48 hours without paying them over time (information provided by the MIBL).

Coverage of workers in law: Data not available.

Coverage of workers in practice: Data not available.

Ratification of ILO Conventions: The Hours of Work (Industry) Convention, 1919 (No. 1), and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) have not been ratified by Zambia.

Source:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB).

Legal Framework Indicator 6. Paid annual leave

Law, policy or institutions: Collective agreements, the Employment Act (EA), the Minimum Wages and Conditions of Employment Act, through the three statutory instruments (the Minimum Wages and Conditions of Employment (General) Order, 2011 (MWCEG), the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (MWCES) and the Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (MWCED) provide for annual leave.

Levels of leave: Paid holiday at the rate of two days per month of service after six month of continuous service (Section 15(1) EA and paragraph 5(1) of the MWCEG and MWCES, paragraph 8 of the MWCED).

Evidence of implementation effectiveness: No information provided by ILO supervisory bodies.

Coverage of workers in law: All workers.

Coverage of workers in practice: Data not available.

Ratification of ILO Conventions: The Holidays with Pay (Agriculture) Convention, 1952 (No. 101), the Holidays with Pay Convention, 1936 (No. 52), and the Holidays with Pay Convention (Revised), 1970 (No. 132) have not been ratified by Zambia.

Source:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB).

ers employed by a named contractor company in Kansanshi Mine in Solwezi, worked for 12 hours a day for seven continuous days and rested for four days. The workers were subjected to reduced wages attributed to the reduced scope of work and reduced contract prices given by Kansanshi Mine due to the global economic crisis.⁵

Time-related underemployment is a proxy measure for labour underutilization. The time-related underemployment rate, using the 48 hours per week measurement, declined from 12.4 per cent in 2005 to 9.6 per cent in 2008, indicating a decrease in the number of people willing to work more hours. The trend was found to be the same for both males and females, as well as for both in urban and rural areas. The time-related underemployment rate was slightly higher among females in 2005, whereas

⁵ C. Matenga: *The impact of the global financial crisis on the mining sector in Zambia* (ILO, Lusaka, 2009).

Table 4. Decent hours⁽¹⁾

	LFS 40hrs		LFS 48hrs	
	2005	2008	2005	2008
Excessive hours (workers with more than 40 or 48 hours per week), %	34.70	13.80	23.20	9.20
Male	35.20	17.10	23.60	11.70
Female	34.10	10.20	22.80	6.60
Rural areas	32.70	6.50	21.40	3.80
Urban areas	38.10	33.20	26.40	23.80
Rate of workers with decent hours, %⁽²⁾	54.40	77.70	64.20	81.20
Male	54.10	74.50	64.10	78.40
Female	54.70	81.20	64.30	84.10
Rural areas	55.80	83.40	65.90	85.30
Urban areas	51.80	62.50	61.00	70.10
Time-related underemployment rate, %⁽³⁾	10.80	8.20	12.40	9.60
Male	10.50	8.00	12.10	9.90
Female	11.10	8.40	12.60	9.30
Rural areas	11.30	10.00	12.50	10.90
Urban areas	9.90	3.40	12.10	6.10

Notes:

⁽¹⁾ Total number of hours worked by an individual is calculated by multiplying the average number of hours actually worked per day during the reference period by six in order to ensure comparability of data from 2005 and 2008.

⁽²⁾ Rate of workers with decent hours is calculated considering people that work less than or equal to 48 hours per week excluding those in time-related underemployment.

⁽³⁾ Time-related underemployment rate is calculated considering people who work less than 40 or 48 hours and are willing to work more hours.

in 2008 it was slightly higher among males than females, with a higher rate in rural areas.

Overtime pay is provided for under the law (see Legal Framework Indicator 5). In some cases, however, overtime is not paid as stipulated by law. Long working hours and low overtime pay are characteristic of the large commercial farms in the rural areas. According to National Union for Plantation, Agricultural, and Allied Workers (NUPAW), overtime, which is not always paid

at overtime rates, often exceeds statutory levels, with workers working up to 14-hours per day during peak periods.⁶ Paid leave days are provided for in the various pieces of legislation. The level of leave is dependent on the nature of the contract entered into between employers and workers. For some workers, leave is stipulated in collective agreements, for others it is specified in individual service contracts (see Legal Framework Indicator 5).

⁶ S. Bell and K. Newitt: *Decent work and poverty eradication: Literature review and two-country study*, a study for the Decent Work and Labour Standards Forum, January 2010 (Ergon Associates Limited, London, 2010).

5 Combining work, family and personal life

The Workers with Family Responsibilities Convention, 1981 (No.156) provides that all workers, both men and women, should be able to engage in employment without being subject to discrimination and, to the extent possible, without conflict between their employment and their family responsibilities. They should be free from restrictions based on family responsibilities when preparing for and entering, participating in or advancing in economic activities.

Zambia has put in place various laws and policies to combine family responsibilities with work. The labour laws provide for paid leave and benefits, as well as maternity leave and benefits. Maternity leave and remuneration when on maternity leave is provided for by the Employment Act, minimum wage legislation and various collective agreements. Presently, the law allows for 12 weeks with full pay upon completion of two years of continuous service or in cases where two years have elapsed since the last maternity leave. This means that only an employee who has served in a company or organization for two continuous years is eligible to take maternity leave (see Legal Framework Indicator 7).

In Zambia, employers bear the cost of maternity leave directly. In the past, the burden was shared between the employers and the social security scheme. Previously, the Zambia National Provident Fund (Maternity Grant) Regulations provided support for maternity leave. However, since the repeal of the said Regulations there is no longer any provision or public support in Zambia for maternity leave benefits.

The burden of attending to family responsibilities in Zambia falls disproportionately more on women than on men and the lack of comprehensive childcare facilities means that working

mothers have to take on this responsibility. Furthermore, the placement of the burden of family responsibility on women is explicitly mentioned in the legislation. In the case of a sick child, legislation provides leave only for women to take paid leave enabling them to nurse a hospitalized sick child (see Legal Framework Indicator 8). The leave taken to nurse a sick child is not deducted from the employee's accrued leave days. However, the law does not provide for either men or women to take leave in order to take care of a sick spouse.

In practice, female workers' responsibilities to care for the sick extend to other members of the family, but it might not be well considered amongst employers. The law itself only provides for leave to be taken for nursing a child in hospital, and not for nursing a spouse or a close family member.

The career development of female workers as well as their participation in trade union affairs is affected by the family responsibilities they have to take on. Responsibility for childcare often affects the attendance of female workers at work which may negatively bear on their career development. Unlike fathers and women workers with no children, mothers find themselves at a crossroads and between two commitments – their children and their career.¹

The practice of women taking the lead in family responsibilities stems from the socio-cultural fabric of Zambian society. Women are seen as the caregivers of the family but are also expected to do their share of fieldwork.² The socio-economic relations that relegate unpaid family responsibili-

¹ C. Wonani: *Rapid assessment on raising awareness on women workers and their rights in Zambia* (ILO Lusaka, 2010).

² Communicaid Group Ltd.: *Doing business in Zambia* | Zambian Social and Business Culture (Lusaka, 2010).

Legal Framework Indicator 7. Maternity leave

Law, policy or institutions: The Employment Act (EA), The Minimum Wages and Conditions of Employment Act, through the three statutory instruments (the Minimum Wages and Conditions of Employment (General) Order, 2011 (MWCEG), the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (MWCES) and the Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (MWCED), and collective agreements. Maternity leave is solely remunerated by the employer, which is not in line with Convention No. 103. The Zambia National Provident Fund (Maternity Grant) Regulations have been repealed. The EA applies to all employees (but not those employed by the defence force, the police force, the prison services, apprentices and casual employees). The MWCEG and the MWCES apply to non-unionized workers (excluding public service workers, workers in management positions).

Benefits (level and duration): 12 weeks with full pay provided two years of continuous service have been completed or that two years have elapsed since the last maternity leave (Section 15A EA). Protected workers under the 2011 MWCEG and MWCES are entitled to 120 days of paid maternity leave (paragraph 7 of the schedule, MWCEG and of MWCES). Paragraph 10 of MWCED provides for 120 days of maternity leave but a domestic worker is not entitled to receive a salary during the time that s/he is on leave. According to the legislation, an employer shall not terminate service or impose any penalty or disadvantage for reasons connected with pregnancy. S/he is deemed to have contravened to this if s/he terminates the contract of service or imposes a penalty or a disadvantage on a female employee within six months of delivery (Section 15B EA; paragraph 7 of the schedule to MWCEG and MWCES). The law also prohibits dismissal of a woman during maternity leave or giving her notice of dismissal at such a time that the notice would expire during her absence, irrespective of the grounds for dismissal.

Evidence of implementation effectiveness: The CEACR has expressed its regret regarding the requirement of two years continuous employment and noted that it has been included in a number of collective agreements. Other concerns regard the absence of a compulsory six-week postnatal leave and nursing breaks; the CEACR hopes that the Government will take the necessary steps to bring the legislation into conformity with Convention No. 103. According to the legislation, an employer shall not terminate service or impose any penalty or disadvantage within six months of delivery, for reasons connected with pregnancy. S/he is deemed to have contravened to this if s/he terminates the contract of service or imposes a penalty or a disadvantage on a female employee within six months of delivery (Section 15B EA; Section 7 MWCEG and MWCES). The CEACR expressed its trust that the Government will not fail to amend these provisions by establishing a prohibition on the dismissal of a woman during maternity leave or on giving her notice of dismissal at such a time that the notice would expire during her absence, irrespective of the grounds for dismissal. The Government pointed out the “insurmountable concerns” voiced by the employers during Tripartite Consultative Labour Council meetings, that in the present economic situation, they could not afford to grant 120 days paid maternity leave to all female employees who have not completed at least two years of continuous employment or when two years have not elapsed since the last maternity leave was taken. The Government emphasized that it was not feasible to shift the costs of benefits as the country has no institutional capacities to manage social insurance and public funds (2009 Government report to the CEACR).

Financing: Employer

Coverage of workers in law: Data not available.

Coverage of workers in practice: Data not available.

Ratification of ILO Conventions: The Maternity Protection Convention (Revised), 1952 (No. 103) has been ratified by Zambia on 23 October 1979. The Maternity Protection Convention, 2000 (No. 183), and Part VIII (on maternity benefits) of the Social Security (Minimum Standards) Convention, 1952 (No. 102) have not been ratified by Zambia.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB).
2. CEACR comments on the application of Convention No. 103 (<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displaycomment.cfm?hdroff=1&ctry=2030&year=2008&type=O&conv=C103&lang=EN>).
3. ISSA country profile (<http://www.issa.int/aiss/Observatory/Country-Profiles/Regions/Africa/Zambia>).

ties to women mean that despite their increasing entry into wage employment, women continue to be primarily responsible for the general management of their households and for the care of children and elderly members in their households and

families.³ The HIV/AIDS pandemic has exacerbated the burden on women with respect to fam-

³ UNECA: *5 years after Beijing: Assessing women and poverty and the economic empowerment of women* (Addis Ababa, United Nations Economic Commission for Africa, 2001).

Legal Framework Indicator 8. Parental leave

Law, policy or institutions: Collective agreements, the Minimum Wages and Conditions of Employment Act, through the three statutory instruments (the Minimum Wages and Conditions of Employment (General) Order, 2011 (MWCEG), the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (MWCES) and the Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (MWCED) provide for leave for a female employee to nurse her hospitalized sick child.

Benefits (level and duration): This leave is not deducted from the employee's accrued leave days.

Evidence of implementation effectiveness: No information provided by ILO supervisory bodies.

Coverage of workers in law: N/A

Coverage of workers in practice: N/A

Ratification of ILO Conventions: The Workers with Family Responsibilities Convention, 1981 (No.156) has not been ratified by Zambia.

Source:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB).

ily responsibility and other social responsibilities such as care giving. This situation should lead to a review of the ways boys and girls are socialized and educated which will undoubtedly pose a challenge.

The reconciliation of work and family responsibilities is an area that requires policy intervention in order to address the imbalance between male and female workers in terms of family responsibilities. The ILO constituents should work on developing mechanisms that will allow workers with care responsibilities to reconcile the demands of work and family. No evidence has been found of legislation allowing employees to request flexible working arrangements in any of the African countries, and although some countries stipulated that night work and/or overtime was prohibited for women in certain cases, it was mostly grounded on the protection of the health of mothers and their children, rather than on achieving work-family balance.⁴

Whereas the majority of employers are mindful of the childcare and family responsibilities that

women shoulder, actual practice does not reflect this. The coverage of maternity leave and other benefits contributing to family life does not extend to all workers in the formal and informal sectors. A study on the impact of the global financial crisis found that most formal sector workers in the tourism industry do not enjoy the benefits of maternity leave as they are on contracts of less than two years and are therefore not able to meet the requirement that one must serve for two continuous years in order to qualify.⁵ A similar study in the mining sector found an increase in the number of workers on short term-contracts.⁶ Both studies attribute the rise of casualization of labour to the privatization of state-owned enterprises in the 1990s. Those on short-term contracts can never qualify for paid maternity leave, as they will not have the opportunity to work for two continuous years. The decrease in the collective bargaining coverage rate observed in Table 10 (see Chapter 11) from 54 per cent to 38 per cent between 2003 and 2010 is evidence that the number of workers on short-term contracts is increasing.

⁴ Z. Mokomane Session X: *Work-family balance: Overview of policies in developing countries*. Introductory remarks (<http://social.un.org/index/LinkClick.aspx?fileticket=EY6rmUdTMY%3D&tabid=1555>)

⁵ E. Jere and A. Valeta: *The impact of the global financial crisis on the tourism sector in Zambia* (ILO, Lusaka, 2010).

⁶ C. Matenga *The impact of the global financial crisis on the mining sector in Zambia* (ILO, Lusaka, 2009).

6 Work that should be abolished

There are basically two forms of work that should be abolished, namely, child labour, including its worst forms (WFCL) and forced labour. The ILO Worst Forms of Child Labour Convention, 1999 (No. 182), identifies forms of child labour that should be prohibited and abolished through immediate and effective measures. The Minimum Age Convention, 1973 (No. 138), sets the objective of eliminating all child labour. However, not all work performed by children constitutes ‘child labour’. Children from the age of 12 or 13 may be engaged in acceptable work, which is work that contributes to their social development and does not interfere with their education, and physical and emotional well-being. The ILO Forced Labour Convention, 1930 (No.29), ratified by Zambia in 1964, defines forced labour as: all work or service which is exacted from any person under the menace of any penalty and for which the person has not offered himself or herself voluntarily. Hazardous work refers to extremely strenuous work and jobs that are a danger to one’s physical, moral and emotional well-being.

Child labour has become a major issue of concern in Zambia with children compelled to work to supplement family incomes due to the high levels of poverty. Furthermore, the HIV/AIDS pandemic has contributed to the increase in the number of orphaned children who have no option but to resort to child labour for their livelihood. The Child Labour Survey (CLS) report of 2005 estimated the number of working children at 1, 252,532 out of whom 895,246 were classified as child labourers.¹ Some 88 per cent (785,712) of child labourers were exposed to hazardous conditions of work, of which 92 per cent were to be found in rural areas. According to the CLS, 88 per

cent of female child labourers and 87 per cent of male child labourers were exposed to hazardous conditions of work. A similar pattern emerged when the results were analysed by age groups: 89 per cent of the 5–9 age group, 88 per cent of the 10–14 age group and 87 per cent of the 15–17 age group were exposed to hazardous conditions of work, respectively.

Some of these children are engaged in the ‘worst forms’ of child labour, such as forced labour, trafficking and prostitution. Forms of hazardous work are prevalent in agriculture, herding, mining, and on the streets. The nature of the work can be hazardous in terms of exposure to dangerous pesticides, fertilizers, using dangerous tools and machinery, as well as carrying heavy loads. Many orphans and vulnerable children work and beg in the streets where they are exposed to health and safety risks, such as severe weather, vehicular accidents, and exploitation by criminal elements.

Zambia has enacted various laws and regulations to combat child labour, including its worst forms (see Legal Framework Indicator 9). The Constitution and the Employment Act set the minimum age for employment at 15 years. The Apprenticeship Act regulates the employment of minors as apprentices while the Employment of Children and Young Persons Act prohibits that children who are less than 18 years be engaged in hazardous labour. The Government adopted the National Action Plan (NAP) on the elimination of Child Labour in 2010. Furthermore, the draft statutory instrument on hazardous labour to prohibit Worst Forms of Child Labour has been developed and is undergoing the legislative process. The Anti-Human Trafficking Act, No. 11 of 2008 prohibits forced labour and the trafficking of children. Article 14 of the Constitution also provides for protec-

¹ CSO: *Child Labour Survey Report* (Lusaka, 2005).

Legal Framework Indicator 9. Child labour

Law, policy or institutions: Relevant legislation includes the Constitution of Zambia, Cap. 1 (Article 14), the Employment Act, Cap. 268 (EA), the Employment of Young Persons and Children's Act, Cap. 274, the Penal Code and the Anti-Human Trafficking Act, 2008. A child labour steering committee comprising representations from all key stakeholders was created to oversee and coordinate all child labour activities in the country. An Inter-Ministerial Committee on Human Trafficking has been established to provide specialized intervention on human trafficking. A draft statutory instrument on prohibited hazardous child labour is yet to be adopted; however, a Child Labour Policy was approved in 2010 by Cabinet. A National Time Bound Programme (TBP) and a National Action Plan (NAP) on child labour have been developed with support from ILO-IPEC.

General age for admission to employment: 15 years old (Section 12(1) EA; Section 2, EYPCA); *Admission to light work:* 13 years old (Section 4A, EYPCA). A list of light work has not yet been established. *Admission to hazardous work:* 18 years (Section 2, 4(B) (1) and Section 17(B), EYPCA). A list of hazardous occupation has not yet been established as a draft is still awaiting legal approval.

Violation of these sections is a punishable offence (fine and/or imprisonment of not less than five years but not more than 25 years). The EYPCA's scope was extended in 2004 to commercial, agricultural and domestic worksites, as well as to family undertakings. According to the EYPCA (Section 18), labour officers are entitled to enter, at all reasonable times, upon any land, premises or industrial undertakings, to ensure compliance with the Act.

The MWCED, 2011 states that a person shall not employ a child (less than 15) as a domestic worker.

Evidence of implementation effectiveness: In its 2009 Observation, the CEACR acknowledged the efforts made by the Government to increase school enrolment rates and to provide free and compulsory education for all children but expressed concern at the number of out-of-school children as well as the number of school-going children who were involved in child labour. Measures have been taken to reduce the incidence of child labour, for example, through ILO-IPEC projects, by establishing 17 district child labour committees (DCLC), as well as community child labour committees, to monitor the implementation of programmes to sensitize the public on child labour and its worst forms as well as programmes to withdraw, rehabilitate and reintegrate identified children. The CEACR noted from the Government report however, that DCLCs lacked resources.

Ratification of ILO Conventions: The Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182) have been ratified by Zambia on 9 February 1976 and 10 December 2001, respectively.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB).
2. CEACR comments and Government report on the application of Convention No. 138 and Convention No. 182.
3. IPEC: *Identification and documentation of good practices in Zambia – Time-bound measures against the worst forms of child labour* (Geneva, 2010), see <http://www.ilo.org/ipecinfo/product/viewProduct.do?productId=13413>.

tion from slavery and forced labour and the Penal Code, Cap. 87 prohibits any sexual harassment of a child and child pornography.

The Government of Zambia's Fifth National Development Plan (2006–2011) and Decent Work Country Programme (2007–2011) include the eradication of the worst forms of child labour as a goal. The National Employment and Labour Market Policy (2004) contains measures to eliminate the WFCL. The Child Labour Policy (2010) provides guidelines for child protection. The Government has enacted Anti-Human Trafficking legislation and developed the Plan of Action in 2009. For the first time ever, the Government released the Child Labour Survey Report in 2005 using data

collected in the 2005 LFS. The CLS Report has no doubt gone a long way towards assisting the Government and stakeholders alike to assess the extent of the need to measure the impact of efforts to eradicate child labour, particularly its worst forms.

The Government has put into place an institutional mechanism to coordinate and enforce measures to combat child labour. A National Steering Committee to monitor and develop policies on the WFCL is in place, chaired by the Ministry of Information, Broadcasting and Labour. The Ministry has established a Child Labour Unit (CLU) to coordinate all programmes to eliminate child labour in Zambia. To date, the CLU has facilitated the

Legal Framework Indicator 10. Forced labour

Law, policy or institutions: The Constitution of Zambia grants protection from forced labour (Article 14), the Employment Act (EA) establishes that forced labour is an offence (Sections 75 and 77), the Employment of Young Persons and Children's Act, as amended in 2004, prohibits employment of children and employment below the minimum age in hazardous forms of work (EYPCA), the Penal Code (Section 261-263, as amended in 2005) prohibits human trafficking, and the 2008 Anti-Human Trafficking Act, establishes sentences of 20 to 30 years for trafficking and possible life imprisonment for trafficking for sexual exploitation or resulting in death or grievous bodily harm. The Victim Support Unit of the Zambian Police Service has received training on the investigation of trafficking cases. The Inter-Ministerial Committee on Human Trafficking is responsible for, *inter alia*, coordination of various programmes concerning prevention and protection measures, prosecution of traffickers, as well as development and revision of policies and legislation on human trafficking.

Evidence of implementation effectiveness: The CEACR noted in 2009 that three cases of child trafficking were reported under the Penal Code, out of which two perpetrators were sentenced to twenty years of imprisonment while the third case is under investigation. In addition, two perpetrators of child trafficking were charged under the Immigration Act, for which prosecutions are under way. The Committee notes the Government's statement that the reported cases have led to the withdrawal of six children from trafficking. The CEACR has noted for several years that certain provisions of the National Service Act, 1971, concerning compulsory national service were not in conformity with Convention No. 29.

Ratification of ILO Conventions: The Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), and the Worst Forms of Child Labour Convention, 1999 (No. 182), have been ratified by Zambia on 2 December 1964, 22 February 1965 and 10 December 2001, respectively.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB);
2. CEACR comments on the application of Convention No. 29 (<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displayAllComments.cfm?hdoff=1&ctry=2030&conv=C029&Lang=EN>) and Convention No. 182 (<http://webfusion.ilo.org/public/db/standards/orms/appl/appl-displayAllComments.cfm?hdoff=1&ctry=2030&conv=C182&Lang=EN>).

establishment of 22 district child labour committees throughout the country to create awareness on the WFCL and oversee the implementation of child labour programmes at the district and local levels. Among the institutions collaborating with the Ministry are the Ministry of Youth, Sport, and Child Development² (Directorate of Child Affairs), the Zambia Police Service Victims' Support Unit, the Ministry of Justice, the Ministry of Community Development and Social Services³ and the Drug Enforcement Commission. The Ministry also works closely with the ZFE, ZCTU, ILO and civil society organizations in the planning, monitoring and implementation of actions to address child labour. Since 2000, the ILO through its International Programme for the Elimination of Child Labour (IPEC) has provided support through a number of projects funded by the US Depart-

ment of Labour and the European Commission, as well as other donors. These efforts have significantly contributed to the decline which has been noted in the incidence of child labour. The ILO, in collaboration with the Ministry of Information, Broadcasting and Labour and other partners were able to exceed the 2010 target of withdrawing and preventing 10,000 children from child labour and trafficking. A total of 10,500 children received support through withdrawal and prevention measures, as well as psychosocial counselling and support in Luapula, Northern, Copperbelt, Central, Lusaka and Southern Provinces.

The Anti-Human Trafficking Act provides for the establishment of an Inter-Ministerial Committee on Human Trafficking, under the Ministry of Home Affairs to coordinate and disseminate information on trafficking issues among various stakeholders. The committee, which is yet to become functional, will be comprised of representatives from the Zambia Police Service, Immigration Department, the Ministry of Justice, the Ministry of Information, Broadcasting and Labour and

² Since October 2011, the Ministry of Youth, Sport, and Child Development merged some of its functions with the Ministry of Labour and Social Security and is now known as the Ministry of Labour, Youth and Sports.

³ Due to mergers of functions, the new ministries created since October 2011 are the Ministry of Youth and Sport; and the Ministry of Information, Broadcasting and Labour.

Table 5. Work that should be abolished

	LFS					
	2005*			2008**		
	Male	Female	Total	Male	Female	Total
Children's economic activity (5-17 years), %						
All Zambia (rural and urban areas)	100.00	100.00	100.00	100.00	100.00	100.00
Share of children in employment	46.78	44.89	45.84	34.81	32.63	33.73
Child labour rate ⁽¹⁾	37.30	35.55	36.43	23.56	22.01	22.80
Share of children in hazardous work ⁽²⁾	8.15	7.92	8.03	6.01	5.12	5.57
Share of children in employment below the minimum age and work that could not be considered as permissible light work ⁽³⁾	29.15	27.63	28.40	17.55	16.89	17.22
Share of children in permissible light work ⁽⁴⁾	0.64	0.71	0.68	1.48	1.33	1.41
Share of children aged 15-17 working less than 43 hours per week	8.84	8.63	8.74	9.76	9.29	9.53
Share of children attending school	66.22	63.64	64.94	67.38	66.66	67.02
Share of children employed & not attending school	15.27	16.28	15.77	9.21	9.14	9.17
Child labour rate ⁽¹⁾	12.97	12.38	12.68	5.93	5.14	5.54
Share of children in hazardous work ⁽²⁾	3.16	3.15	3.15	2.23	1.46	1.85
Share of children in employment below the minimum age and work that could not be considered as permissible light work ⁽³⁾	9.81	9.23	9.52	3.71	3.68	3.69
Share of children in permissible light work ⁽⁴⁾	0.14	0.14	0.14	0.12	0.16	0.14
Share of children aged 15-17 working less than 43 hours per week	2.16	3.75	2.95	3.15	3.84	3.49
Share of children employed & attending school	31.51	28.62	30.07	25.60	23.50	24.56
Child labour rate ⁽¹⁾	24.33	23.17	23.75	17.63	16.88	17.26
Share of children in hazardous work ⁽²⁾	4.99	4.77	4.88	3.78	3.66	3.73
Share of children in employment below the minimum age and work that could not be considered as permissible light work ⁽³⁾	19.34	18.40	18.87	13.84	13.21	13.53
Share of children in permissible light work ⁽⁴⁾	0.50	0.57	0.53	1.36	1.17	1.27
Share of children aged 15-17 working less than 43 hours per week	6.68	4.88	5.79	6.61	5.45	6.04
Share of children attending school only	34.70	35.02	34.86	41.78	43.16	42.46
Share of children not in employment and not in school	18.51	20.08	19.29	23.42	24.20	23.81
Rural areas	100.00	100.00	100.00	100.00	100.00	100.00
Share of children in employment	63.67	61.64	62.66	43.19	41.70	42.46
Child labour rate ⁽¹⁾	51.09	48.89	50.00	29.37	28.28	28.83
Share of children in hazardous work ⁽²⁾	9.77	9.31	9.54	6.22	5.34	5.79
Share of children in employment below the minimum age and work that could not be considered as permissible light work ⁽³⁾	41.31	39.58	40.45	23.15	22.94	23.04
Share of children in permissible light work ⁽⁴⁾	0.81	0.99	0.90	1.76	1.55	1.66
Share of children aged 15-17 working less than 43 hours per week	11.77	11.76	11.77	12.06	11.87	11.97
Share of children attending school	60.58	57.66	59.13	62.84	61.90	62.38
Share of children employed & not attending school	21.03	22.48	21.75	11.80	12.04	11.92
Child labour rate ⁽¹⁾	17.90	17.13	17.51	7.62	6.69	7.16
Share of children in hazardous work ⁽²⁾	3.52	3.53	3.52	2.36	1.44	1.91
Share of children in employment below the minimum age and work that could not be considered as permissible light work ⁽³⁾	14.37	13.60	13.99	5.25	5.24	5.25
Share of children in permissible light work ⁽⁴⁾	0.20	0.20	0.20	0.15	0.16	0.16
Share of children aged 15-17 working less than 43 hours per week	2.94	5.15	4.04	4.03	5.19	4.60
Share of children employed & attending school	42.64	39.16	40.91	31.39	29.67	30.55

	LFS					
	2005*			2008**		
	Male	Female	Total	Male	Female	Total
Child labour rate ⁽¹⁾	33.19	31.77	32.48	21.75	21.59	21.67
Share of children in hazardous work ⁽²⁾	6.25	5.78	6.02	3.85	3.90	3.87
Share of children in employment below the minimum age and work that could not be considered as permissible light work ⁽³⁾	26.94	25.98	26.46	17.89	17.69	17.80
Share of children in permissible light work ⁽⁴⁾	0.62	0.78	0.70	1.61	1.39	1.50
Share of children aged 15-17 working less than 43 hours per week	8.83	6.61	7.73	8.03	6.68	7.37
Share of children attending school only	17.95	18.50	18.22	31.45	32.23	31.83
Share of children not in employment and not in school	18.39	19.86	19.12	25.36	26.07	25.71
Urban areas	100.00	100.00	100.00	100.00	100.00	100.00
Share of children in employment	13.31	11.76	12.54	17.83	15.38	16.59
Child labour rate ⁽¹⁾	9.96	9.16	9.56	11.82	10.09	10.94
Share of children in hazardous work ⁽²⁾	4.92	5.17	5.05	5.60	4.71	5.15
Share of children in employment below the minimum age and work that could not be considered as permissible light work ⁽³⁾	5.04	3.99	4.52	6.22	5.39	5.80
Share of children in permissible light work ⁽⁴⁾	0.29	0.17	0.23	0.91	0.91	0.91
Share of children aged 15-17 working less than 43 hours per week	3.05	2.43	2.74	5.11	4.37	4.74
Share of children attending school	77.38	75.48	76.44	76.55	75.72	76.13
Share of children employed & not attending school	3.85	4.00	3.92	3.96	3.62	3.79
Child labour rate ⁽¹⁾	3.20	2.99	3.09	2.52	2.19	2.35
Share of children in hazardous work ⁽²⁾	2.43	2.41	2.42	1.95	1.49	1.72
Share of children in employment below the minimum age and work that could not be considered as permissible light work ⁽³⁾	0.77	0.58	0.67	0.57	0.70	0.64
Share of children in permissible light work ⁽⁴⁾	0.03	0.02	0.03	0.07	0.16	0.11
Share of children aged 15-17 working less than 43 hours per week	0.62	0.99	0.80	1.36	1.28	1.32
Share of children employed & attending school	9.46	7.76	8.62	13.87	11.76	12.80
Child labour rate ⁽¹⁾	6.76	6.17	6.47	9.29	7.90	8.59
Share of children in hazardous work ⁽²⁾	2.49	2.76	2.63	3.65	3.22	3.43
Share of children in employment below the minimum age and work that could not be considered as permissible light work ⁽³⁾	4.27	3.41	3.84	5.65	4.68	5.16
Share of children in permissible light work ⁽⁴⁾	0.26	0.15	0.21	0.84	0.76	0.80
Share of children aged 15-17 working less than 43 hours per week	2.43	1.44	1.94	3.74	3.10	3.42
Share of children attending school only	67.92	67.72	67.82	62.68	63.97	63.33
Share of children not in employment and not in school	18.77	20.52	19.64	19.49	20.66	20.08

Notes:

⁽¹⁾ Child labour rate comprises the share of children (aged 5-17) who are employed in hazardous work, who are employed below the minimum age and in work that cannot be considered as permissible light work, as defined by the conceptual framework of ILO estimation of child labour.

⁽²⁾ Share of children in hazardous work comprises the share of children in designated hazardous industries, in designated hazardous occupations ("**") and in long hours of work (43+) in industries and occupations not designated as hazardous. According to the ILO methodology, hazardous work also involves children employed in other hazardous work conditions such as night work, with exposure to physical, psychological or sexual abuse, etc. But due to lack of detailed data, this component is not taken into account in this table.

⁽³⁾ Share of children in employment below minimum age refers to the share of children aged 5-11 involved in any economic activity that is not considered hazardous. Work that could not be considered as permissible light work refers to the work performed by children aged 12-14 equal to or exceeding 14 hours per week and less than 43.

⁽⁴⁾ Share of children in permissible light work refers to the share of children aged 12-14 who work less than 14 hours per week.

* ISCO-68 codes considered as hazardous work for LFS 2005: 360,452,520,540,552,589,632,641,778,843,900,951,959,989,998,999.998 and 999 refer to unclassified elementary occupations and are included in hazardous work. This is because the ILO considers most elementary occupations in ISCO-88 as hazardous and these occupations are unclassified in ISCO-68. For LFS 2005 it was not possible to designate a list of hazardous industries given the lack of data.

** ISCO-88 codes considered as hazardous work for LFS 2008: 313, 322, 323, 516, 614, 615, 711, 712, 713, 721, 722, 723, 724, 731, 732, 81, 821, 822, 823, 825, 826, 827, 828, 829, 832, 833, 834, 911, 912, 915, 916, 921, 932, 933. The ISIC codes that were considered as hazardous: Mining and quarrying (Rev. 3, 10-14) and Construction (Rev. 3, 45).

the Ministry of Education. The United Nations Joint Programme on Human Trafficking (UNJPHT involving the ILO, IOM and UNICEF) with support from the EU, has supported government efforts in addressing the issue of human trafficking.

All the efforts highlighted above have contributed to reducing the incidence of child labour in Zambia. Table 5 below shows that overall the share of children in employment decreased between 2005 and 2008 from 45.84 per cent to 33.73 per cent with a higher share of children in employment found in rural areas than in urban areas and the incidence of child labour observed to be higher among male children as compared to females. The percentage of children attending school increased slightly between 2005 and 2008 from 64.94 per cent to 67.02 per cent and the percentage of children attending school was higher at that time for male youth. Table 6 also shows that the child labour rate in the rural areas decreased from 50.0 per cent in 2005 to 28.83 per cent in 2008. On the contrary, child labour in the urban areas rose from 9.56 per cent to 10.94 per cent during the same period. The incidence of child labour was found to be slightly higher among males in both rural and urban areas.

Although the Government does not legally designate a compulsory school age, efforts such as those undertaken to meet the MDG of attaining universal primary education by 2015, have contributed to increasing the percentage of children in school as well as the withdrawal of children from child labour. These developments perhaps best explain why there has been a marked decline in the share of children employed and not attending school. This share dropped from 15.77 per cent to 9.17 per cent between 2005 and 2008. The share

of children employed and not attending school in rural areas was higher at that time than in urban areas, while the share of children employed and attending school declined in rural areas from 40.91 per cent in 2005 to 30.55 per cent in 2008, but increased in the urban areas from 8.62 per cent to 12.80 per cent.

Employers have been equally concerned with the scourge of child labour. Companies in the tobacco industry implemented a project called the “Elimination of Child Labour in Tobacco-growing in Zambia Project from 2005 to 2008”, in collaboration with the global ECLT programme, Government and trade unions, as well as stakeholders and civil society.⁴ The project’s objectives were to combat child labour by providing, *inter alia*, children with better access to schools and developing income-generating activities for parents to undertake during off season periods. Among the project’s achievements was the prevention and withdrawal of 3,700 children from child labour against a target of 2,760 children.

The Zambia Federation of Employers conducted an assessment called the Rapid Assessment on Child Labour in the Cotton Industry in Zambia, which revealed that there is a general lack of appreciation among children’s parents and/or guardians of the importance of education of their children and on the harmful effects of child labour. The study recommended that parents be sensitized on the importance of education of their children in cotton producing areas and that the Zambia Federation of Employers should scale up activities with firms in the cotton sector in order to sensitize the out-grower farmers on the ills of child labour. Such a programme should include the promotion of income-generating activities.

⁴ A Steering Committee made up of various stakeholders included the Zambia Leaf Tobacco Company (Universal), BAT Zambia, Tobacco Association of Zambia (TAZ), Zambia Federation of Employers, National Union for Plantation Workers (NUPAW), ILO Regional Office, ILO Country Office and the Ministry of Information, Broadcasting and Labour. This committee evolved into an Advisory Committee which continues to be in existence to date.

7 Stability and security of work

Job stability and security of tenure of work is essential in order to maintain a motivated workforce. By ensuring some measure of job stability, legislation to protect employment enhances aggregate productivity and the quality of work. Job security and stability is therefore an important aspect of contributing to decent work. The purpose of the legal provisions which regulate the termination of employment (see Legal Framework Indicator 11) is to ensure the employer's right to dismiss a worker for a valid reason, as well as the worker's right not to be deprived of work unfairly.

The Employment Act protects employees against unlawful termination of employment and unilateral changes to terms and conditions of employment as stipulated in the employment contract or a collective agreement. Changes can only be made with the consent of the parties bound by such a contract or an agreement. The Act covers permanent and pensionable terms of contracts, fixed-term contracts, as well as those under collective agreements but does not cover persons working for the security sector of the public service, such as the Zambia Police Service, the Zambia Prison Service and the Defence Forces. The provisions of the EA do not apply either to casual workers and persons employed under a contract of apprenticeship made in accordance with the Apprenticeship Act. A 'casual employee' according to Section 3 of the EA, is any employee who is paid at the end of each day and who is engaged for a period of not more than six months.

The EA specifies conditions under which a contract of employment can be terminated and severance payments be made to meet workers' remuneration upon termination. Severance benefits must be paid on the last day of an employee's

service, and failure to do so compels the employer to continue paying the employee's monthly salary until the benefits are paid in full. The EA also provides for the payment of wages and in the case of a contract of service from month to month, Section 48(1) (a) of the EA provides that the wages of an employee shall be due on the last day of each month.

The Minimum Wages and Conditions of Employment Act sets the minimum wage as a way of protecting the conditions of service of vulnerable workers. However, the major concern is that minimum wages are set too low to meet the basic needs of workers. The provisions of the MWCEA do not cover unionized workers, but cover all other categories of workers. The Industrial and Labour Relations Act, Cap. 269 of the Laws of Zambia prescribes the rights of workers and places certain obligations on employers with regard to recognition and registration of trade unions, as well as the conclusion of collective agreements and related activities. The National Employment and Labour Market Policy (NELMP) reinforces the provisions of the labour laws in order to promote employment with decent working conditions.

Despite the existence of legislation to protect workers, Zambia has a long way to go in ensuring that the majority of Zambians enjoy stable and secure employment. Those engaged in precarious jobs, whether in paid employment or self-employment, do not benefit from security and stability in their jobs. As Table 6 shows, the number of workers with unstable and insecure jobs declined from 2005 to 2008 but remained high that year at 59.10 per cent of all paid employees with job instability being higher among females (65.20 per cent) and in the rural areas (71.90 per cent).

Legal Framework Indicator 11. Termination of employment

Law, policy or institutions: Relevant provisions are found in the Employment Act, the Industrial and Labour Relations Act (which lists prohibited grounds for dismissal), the Minimum Wages and Conditions of Employment Act, through the three statutory instruments: the Minimum Wages and Conditions of Employment (General) Order, 2011 (MWCEG), the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (MWCES) and the Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (MWCED). In addition, collective agreements typically contain termination of employment provisions. Part IV of the EA provides for matters relating to oral contracts and provides that, provisions concerning termination of an oral contract for reason of redundancy do not apply to an employee who ceases to carry on business for reasons of bankruptcy or compulsory liquidation, casual employees, employees on probation, or an employee who was offered alternative employment and refused (Section 26B (4)). The EA distinguishes between written and oral contracts of employment and provides for contracts of employment, which are required to be in writing, such as a contract for a period of six months or more and a contract of foreign service (Section 28(1)). If the parties are illiterate, a written contract is enforceable only with the attestation of a proper officer (Section 29).

Substantive requirements for dismissals: An oral contract can be terminated by notice to the other party, with payment in lieu of notice, or by summary dismissal without notice or payment in lieu of notice (EA, Sections 20 and 21). Section 36 of the EA provides for ways in which a written contract of service can be terminated and this includes the death of the employee before the expiry of the contract. The CEACR has noted that the legislation does not prohibit termination of an employee without good reason and has asked Zambia to amend its legislation. Prohibited grounds for dismissal: race, sex, marital status, religion, political opinion or affiliation, tribal extraction or status of employee (Section 108 EA). Workers on temporary sick leave and pregnant workers enjoy special protection.

Procedure for individual dismissals: Notice periods (EA) - Oral contracts (Section 20) provides for – twenty-four hours' notice where the contract is for a period less than a week; fourteen days for a daily contract and cases where wages are paid at interval not exceeding one month; and thirty days for a contract of one week or more.

An employer who summarily dismisses an employee without notice or payment in lieu of notice is required to send an explanatory written statement to the labour officer in the district where the employee was working (Section 25). An employee must be heard before being dismissed on grounds related to conduct or performance (Section 26A). MWCEA: The employer has to send the Labour Commissioner/officer a written report explaining the reasons for the dismissal. If the dismissal is considered not justified, the employee will be entitled to severance benefits of not less than two months basic pay for each year of service (Paragraph 12(3) of the schedule, MWCEG and MWCES).

Collective dismissals for economic reasons: EA: An oral contract may be terminated by redundancy when the employer ceases or intends to cease to carry on the business by virtue of which the employee was engaged; or the business ceases or reduces the requirement for the employees to carry out work of a particular kind in the place where the employee was engaged and the business remains a viable ongoing concern. The employee is entitled to "such redundancy payment as agreed by the parties or as determined by the Minister" (Section 26B). MWCEA: An employee is entitled to a minimum of one month's notice and redundancy benefits of at least two months (Paragraph 10 of the schedule, MWCEG and MWCES). Under the EA and the MWCEA, notice with proper explanations of not less than 30 days must be given to the representative of the employee and not less than 60 days to the proper officer. The CEACR has noted that the EA does not provide for consultation with representatives of the employee on measures to avert terminations.

Severance pay: N/A

Evidence of implementation effectiveness: The CEACR noted, *inter alia*, that section 26B (2) (b) (i) of the EA provides that whenever an employer intends to terminate a contract of employment for reasons of redundancy, the employer shall afford the representatives of the employee an opportunity for consultations on the measures to be taken to minimize the terminations and the adverse effects on the employees. The CEACR pointed out that Article 13(1) (b) of Convention No. 158 also requires consultation on measures to be taken to avert the terminations. The CEACR asked the Government to take measures to give full effect to Article 13(1) (b) of the Convention in order to give the workers' representatives concerned an opportunity for consultation on measures to be taken to avert or to minimize the terminations.

Coverage of workers in law: No data is available.

Coverage of workers in practice: No data is available.

Ratification of ILO Conventions: The Termination of Employment Convention, 1982 (No. 158) has been ratified by Zambia on 9 February 1990.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB);
2. CEACR comments on the application of Convention No. 158;
3. DIALOGUE – EPLex Database (<http://www.ilo.org/public/english/dialogue/ifpdial/info/termination/countries/zambia.htm>).

Table 6. Stability and security of work

		LFS	
		2005	2008
STAB-1	Proportion of paid employees in precarious types of work (temporary, part-time,⁽¹⁾ and seasonal workers), as % of all paid employees	69.35	59.10
	Male	63.69	53.60
	Female	75.39	65.20
	Rural areas	84.20	71.90
	Urban areas	27.20	25.10

Note:

⁽¹⁾ Part-time workers are considered to be in precarious employment only if they are willing to work more hours. The willingness to work more hours is interpreted as involuntary part-time employment.

Casualization of employment has adversely affected the stability and security of work in Zambia. For example, most of the growth in employment in the mining sector since the privatization process has been in labour employed by contractors and labour brokers. Close to half of the labour force in the mining industry is employed by contractor companies, mostly on short-term contracts.¹

A study on practices by recruitment agencies in Zambia² noted that workers on short-term contracts are contracted either directly by the employers or through contracts signed with the agencies that act as brokers in the supply of labour to employers. The study found that “the law requires that a written contract of service should be made for a period of or exceeding six months or for a number of working days equivalent to six months from the start of the contract. In the case of employees that were hired by brokers to work for the mining companies, their contracts were for three months duration at a time. This could partly explain why the concerned companies saw no need to have these contracts attested by the labour officer, who in turn would have ensured that the drafting conformed to the requirements of the

law. This is a legislative weakness that needs to be remedied.”³

Oral contracts are accepted for employment for periods less than six months; the law requires however that a contract be written if it is concluded for a period of or exceeding six months. Furthermore, such contracts are not attested by the labour officer as required by law.

Jobs and conditions of employment can be effectively protected in an environment where there is stable, secure, long-term employment and it is evident that workers on permanent and/or long-term contracts of employment enjoy the benefits stipulated in the labour laws. Workers on long-term employment also enjoy fringe and social benefits, as well as good prospects for upward mobility. For workers on short-term and casual employment, the opposite seems to apply as such employment is characterized by job insecurity, low income, low mobility, lack of significant rewards and fringe benefits, and a general lack of social security. In addition to the above, workers on short-term and casual employment have no terminal benefits to look forward to upon expiry of contract, thus rendering them vulnerable upon leaving employment. The lack of stability and security of work is worse in the informal sector as there are no regulations applicable in matters such as wages, working hours and rest periods.⁴

Economic crises, such as was the case in 2008, can substantially affect stability and security of work. As already stated in Chapter 1, the effect of the GEFC in Zambia included loss of jobs and deteriorating conditions of service. However, the study on the impact of the GEFC on the mining sector also showed that not all mining companies laid off workers as a result of the crisis.⁵ Companies that shut down operations completely and placed their entities on care and maintenance were Luanshya Copper Mines, Chambeshi Metals, Albidon Munali Nickel Mine, and Bwana Mkubwa Mine.

³ C. Matenga and F. Mutesa op. cit.

⁴ J. L. Daza: *Informal economy, undeclared work and labour administration*, Paper No. 9 Social Dialogue (Labour Law and Labour Administration Department, International Labour Office – Geneva, June, 2005).

⁵ C. Matenga: *The impact of the global financial crisis on the mining sector in Zambia* (ILO, Lusaka, 2009).

¹ C. Matenga: *The impact of the global financial crisis on the mining sector in Zambia* (ILO, Lusaka, 2009).

² C. Matenga and F. Mutesa: *Recruitment agencies and practices in Zambia* (International Labour Office and Ministry of Labour and Social Security, Lusaka, 2007).

The mining companies that continued with their operations but downsized the workforce were Konkola Copper Mine (KCM), Mopani Copper Mine (MCM) and Kansanshi Mine. The only large-scale copper mining company that did not downsize the labour force was the Chinese-owned NFCA Chambishi Mine. Conditions of work for some workers changed for the worse due to the impact of the crisis. Some workers employed in the mines by the contractor companies agreed to a reduction in wages as a way of saving their jobs.

The study on the impact of the GFEC in the tourism sector found that short-term contracts and casualization of labour worked against the principle of creating decent employment in the country. The study also showed that the formal sector of employment in tourism declined between 2008 and 2009.⁶ The Tourism Council of Zambia projected that job

losses in the sector would reach 2,500 with a possibility of reaching 5,000 by the end of 2009 if the Government did not intervene. Job losses affected mostly staff on short-term employment contracts of one year or less duration. The trend of employing workers on short-term contracts has continued since the state-owned companies were privatized starting in 1994. Short-term contract workers are very vulnerable as the cost of separation is not as high as for long-term pensionable employees. The redundancy provisions in the labour laws specify that long-term pensionable workers who are laid off are entitled to two months' pay for each completed year of service, as well as accumulated benefits, such as entitlements to pension, retirement benefits and accrued leave. In some collective agreements the redundancy benefits which have been negotiated are better than the minimum designated for such benefits in the Act.

⁶ E.Jere and A.Valeta: *The impact of the global financial crisis on the tourism sector in Zambia* (ILO, Lusaka, 2010).

8 Equal opportunity and treatment in employment

The Government of Zambia acknowledges that sustainable development can only be achieved if social factors, such as gender are integrated into the various policies and strategies. The Government has put in place various pieces of legislation and policies in order to reverse the marginalization of women and other marginalized groups in the development process. The Zambian Constitution prohibits discrimination based on race, tribe, sex, place of origin, marital status, political opinions, colour or creed.

The Employment Act (EA) prohibits dismissals based on pregnancy or maternity leave and the Industrial Labour Relations Act (ILRA) prohibits the termination of the services of an employee on grounds of race, sex, marital status, religion, political opinion or affiliation, tribal extraction or status of the employee. The Persons with Disabilities Act of 1996 prohibits discrimination in employment based on disability.

As testimony of the importance of gender issues, the Government adopted the national Gender Policy in 2000. The vision of the policy is the achievement of full participation of both men and women in the development process at all levels in order to ensure sustainable development and the attainment of gender equality between sexes. The national Policy on Disability, developed in 2008, aims at providing persons with disabilities equal opportunities that are fundamental for living and development. The policy recognizes that persons with disabilities are among the most disadvantaged with disabled women and children being the most vulnerable.

In order to address the inequalities in the labour market, the 2005 National Employment and Labour Market Policy (NELMP) prioritizes job creation for women, young people and people with disabilities. In support of the NELMP objec-

tive the Citizens Economic Empowerment Act 2006 aims to promote gender equality and equal opportunities of targeted citizens. A targeted citizen is defined as a citizen who is or has been marginalized or disadvantaged and whose access to economic resources and development capacity has been constrained, due to various factors including race, sex, educational background, status and disability (see Legal Framework Indicator 12).

Most employers in Zambia state that they do not discriminate based on disability and gender. Stakeholders in the mining sector rationalize the low employment level of female workers in mining by the nature of the industry that tilts employment towards men.¹ Employers in the tourism industry also attest to being equal opportunity employers in their recruitment policies and claim that no one is discriminated against based on gender, disability or their HIV and AIDS status.² Many establishments do not employ disabled persons owing to the prevailing perceptions regarding the manual and laborious nature of the work in tourism establishments. However, it is also evident that the employment of people with disabilities remains a big challenge as the majority of establishments lack 'disability friendly premises'.

One of the priorities of the 2007–2011 ZDWCP is increased and better employment opportunities for women, youth and persons with disabilities. Measurement of progress made in employment opportunities for persons with disabilities is not possible as data disaggregated by disability do not exist. Nonetheless, there is a consensus that more needs to be done in order to address the challenges of unemployment among persons with disabili-

¹ C. Matenga: *The impact of the global financial crisis on the mining sector in Zambia* (ILO, Lusaka, 2009).

² E. Jere and A. Valeta: *The impact of the global financial crisis on the tourism sector in Zambia* (ILO, Lusaka, 2010).

Legal Framework Indicator 12. Equal opportunity and treatment

Law, policy or institutions: The Constitution of Zambia (Article 23) prohibits discrimination based on race, tribe, sex, place of origin, marital status, political opinions colour or creed. The Employment Act (EA) prohibits dismissals based on pregnancy (Section 15B). The Industrial Labour Relations Act (ILRA) provides that an employer cannot terminate the services of an employee or impose any other penalty or disadvantage on any employee, on grounds of race, sex, marital status, religion, political opinion or affiliation, tribal extraction or status of the employee (Section 108 (1); if such discrimination happens, the employee has 30 days to make a complaint before the Court). The Persons with Disabilities Act of 1996 prohibits discrimination in employment based on disability (Section 20).

Job creation for women, young people and people with disabilities has been highlighted in the 2004 National Employment and Labour Market Policy (NELMP). The CEACR noted the adoption of the Citizens Economic Empowerment Act, No. 9, of 2006, which establishes the Citizens Economic Empowerment Commission and the Citizens Economic Empowerment Fund and which aims to promote gender equality and equal opportunities of targeted citizens (i.e. marginalized or disadvantaged and with constrained access to economic resources and development capacity due to factors including race, sex, educational background, status and disability). Training of vulnerable groups is addressed through inter-governmental collaboration between the Ministry of Science Technology and Vocational Training and the Ministry of Gender and Women in Development. Women have been most affected by the erosion in employment opportunities, especially in the formal sector. Programmes targeting women and other vulnerable groups are being undertaken by the Ministry of Information, Broadcasting and Labour to facilitate and enhance accessibility to employment and to reduce the gender imbalance in employment. The National Gender Policy (NGP) provides for measures aimed at devising mechanisms to ensure equal access of women to effective skills training, retraining and counselling and placement services that are inclined to stereotype employment perceived to be suitable only to women.

Evidence of implementation effectiveness: The CEACR noted from the Labour Force Survey of 2007, that men are the majority in all occupational categories, except for agriculture, forestry and fisheries and that gender imbalances cut across all educational levels. The CEACR noted that in 2008 only two cases concerning discrimination were recorded at the Industrial Relations Court, and that the Human Rights Commission received 25 cases on discrimination between May 2006 and April 2008. The CEACR further noted the Government's statement that information on the principle of non-discrimination is being disseminated through its labour inspection programme. The Government has also been promoting access of girls to education and has undertaken awareness campaigns on sensitizing girls at high school level on the benefits of enrolling for occupations currently dominated by men such as engineering and construction. The CEACR noted that the definition of discrimination in the draft Employment Act (Amendment Bill) does not appear to include the grounds of national extraction and colour, nor does it contain provisions on sexual harassment at work.

Coverage of workers in law: No data available

Ratification of ILO Conventions: The Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) have been ratified by Zambia on 20 June 1972 and 23 October 1979, respectively.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB);
2. CEACR comments on the application of Convention No. 100 (<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displaycomment.cfm?hdroff=1&ctry=2030&year=2010&type=R&conv=C100&lang=EN>).

ties. The national enactment of the United Nations Convention on the Rights of People with Disabilities (UNCRPD) which recognizes the rights of persons with disabilities to work on an equal basis with others will go a long way in addressing some of the concerns of people with disabilities.³

With regard to HIV/AIDS, the stigmatization of persons living with HIV/AIDS continues to be a

source of concern. Even though no data have been collected on discrimination based on HIV/AIDS, there is evidence of termination of employment attributed to the stigma attached to HIV/AIDS. According to a 2003 study, mandatory HIV testing, breaches of confidentiality and dismissal on grounds of seropositivity have been reported.⁴ The Constitution of Zambia (Bill of Rights, Article 11)

³ Zambia ratified the United Nations Convention on the Rights of People with Disabilities in February 2010.

⁴ L. Garbus: MPP "HIV/AIDS in Zambia", Country AIDS Research Policy Analysis Project (AIDS Policy Research Center, University of California San Francisco, 2003).

does outlaw discrimination, but there are no specific references to discrimination based on infirmity due to illness or physical handicap; nor are there laws covering employment-related HIV/AIDS issues such as pre-employment HIV testing. However, a landmark judgment has set a precedence in terms of mandatory testing, as well as the right to confidentiality and privacy for all Zambians, and in particular for people living with HIV. In this case, two Zambia Air Force officers took their former employers to court claiming they were tested for HIV without their consent during an annual medical check-up in 2001. The High Court ruled in their favour stating that mandatory testing violated Zambia's international and regional legal obligations and held that although the EA (Cap. 268) in section 34(1) allows applicants for employment to undergo compulsory medical examinations, if any test is done without a person's consent, then it means that the test is mandatory. Nonetheless, there is a process underway to develop the national HIV/AIDS Workplace Policy.

In 2003, the Ministry of Defence announced that new entrants to the army would undergo a compulsory HIV/AIDS test in order to recruit only those that were free from the virus.⁵ The Zambian AIDS Law Research and Advocacy Network, an association of lawyers and students, conducted a successful advocacy campaign, which led the Government to reverse that proposal which would exclude HIV positive recruits from the Zambian armed forces.⁶

The training and education of disadvantaged groups is one way to address existing imbalances and must successfully enhance the employability of vulnerable groups. Policies targeting gender, vocational and education all provide for measures to ensure equal access of women to effective skills training, retraining, counselling and placement services. Gender-determined roles based on cultural and social norms, such as domestic chores, early marriage, care and support of family members, and child rearing, preclude women and girls

in Zambia from participating effectively in education, training and human resource development, as they are inclined to stereotype employment perceived to be suitable only to women or men. The interventions targeting girl children in the education sector have led to considerable progress in increasing access to education.

In terms of distribution of employment, in 2008 the highest concentration for both males and females was in skilled agriculture and fishery work. Women's participation was found to be lowest in the occupational categories of plant and machine operators, as well as assemblers followed by legislators, administrators and managers (Table 7.1).

In 2005, women's occupations were, as in the 2008 LFS, concentrated in agriculture, animal husbandry and forestry work, fishing and hunting. Though a direct comparison cannot be made between the 2005 LFS and the 2008 LFS due to differences on the ISCO classifications, it can be inferred that some progress, albeit marginal, has been made to promote equal opportunity and treatment in employment in Zambia. The women's share of the administrative and managerial positions rose from 0.09 per cent in 2005 to 0.31 per cent in 2008.

On the other hand, considerable progress has been made to promote equal opportunity and treatment in employment in Zambia. The women's share of the labour force in Zambia increased from 45.9 per cent in 1998 to 48.7 per cent in 2008 with agriculture and service sectors being the main providers of employment for female workers (Table 7.2).

The rapid assessment on Women Workers' Rights revealed that women workers faced discrimination in accessing employment, particularly in the male dominated professions and sectors. These include technical fields such as mining, energy, science and technology, metal fabrication, and occupational fields such as management, accountancy, strategic planning, and business administration.

Women continue to experience difficulty in accessing employment opportunities in these fields largely due to their educational standards which are relatively lower as compared to men's, and their situation is further exacerbated by bar-

⁵ The Sunday Mail (Zambia): "HIV testing: How will it affect recruitment in the military?" (Lusaka, 23 March 2003).

⁶ D. Patterson: (*Programming HIV/AIDS: a human rights approach-A tool for international development and community-based organizations responding to HIV/AIDS*, Canadian version (Canadian HIV/AIDS Legal Network, 2004).

Table 7.1. Equal opportunity and treatment in employment⁽¹⁾

EQUA-1		LFS			
		2005		2008	
		Male	Female	Male	Female
	Occupational segregation by sex (distribution of employment within ISCO-88 major groups), %				
	Total employment			100.00	100.00
	0 Armed forces			0.00	0.00
	1 Legislators, administrators and managers			0.70	0.30
	2 Professionals			2.90	1.90
	3 Technicians and associate professionals			1.80	1.20
	4 Clerks			0.90	0.80
	5 Service workers and shop sales workers			11.70	12.28
	6 Skilled agricultural and fishery workers			72.30	80.30
	7 Craft and related workers			7.70	2.60
	8 Plant and machine operators and assemblers			1.20	0.10
	9 Elementary occupations			0.90	0.60
	10 Others ⁽²⁾			0.00	0.00
	Occupational segregation by sex (distribution of employment within ISCO-68 major groups), %				
	Total employment	100.00	100.00		
	0 Professional, Technical and related workers	4.64	2.81		
	1 Administrative and Managerial Workers	0.22	0.09		
	2 Clerical and related workers	1.28	1.02		
	3 Sales Workers	7.21	7.74		
	4 Service Workers	4.12	3.28		
	5 Agricultural, Animal Husbandry and Forestry workers, Fisherman and Hunters	69.34	81.27		
	6 Production and related workers, transport equipment operators and labourers (7/8/9)	12.83	3.31		
	7 Others ⁽²⁾	0.36	0.48		

Notes:

⁽¹⁾ Indicators are computed based on ISCO-68 classification for 2005 and on ISCO-88 classification for 2008.

⁽²⁾ "Others" in the above table refer to economic activities/occupations that cannot be classified due to problems in ISIC/ISCO data.

riers they face in pursuing higher education, which is a prerequisite for entry in most of the professions.

From LFS data, *the female share of employment in high status occupations* declined from 28 per cent in 2005 to 26.83 per cent in 2008. *The female share of employment* has been consistently marginally higher in agriculture where the skill levels are relatively lower. LCMS sources show the same proportions and trends (Annex IV).

The share of women in wage employment remained more or less constant at around 27 and 28 per cent. *The share of women in wage employment in the non-agricultural sector* slightly increased from 27.7 per cent in 2005 to 29.6 per cent in 2008 (Table 7.2).

Although some progress has been made towards wage equity in Zambia, significant differences in earnings continue to exist between men and women (see Legal Framework Indicator 13). In terms of progress, the gender wage gap which

Table 7.2. Equal opportunity and treatment in employment – Gender differences⁽¹⁾

		LFS	
		2005**	2008
EQUA-2	Female share of employment in high-status occupations (ISCO-88 groups 11, 12 and 13), %	28.00	26.80
	Sub Major groups 11-12	39.24	26.70
	Sub Major group 13	24.17	26.90
	Female share of employment (in total employment by sector and location)	48.36	48.80
	Agriculture	–	51.90
	Industry	–	21.80
	Services	–	36.90
	Others ⁽²⁾	–	n/a
	Rural areas	0.00	50.30
	Urban areas	39.65	50.60
	Share of women in wage employment in the non-agricultural sector, %	27.75	29.60
	Share of women in wage employment (all sectors)	27.63	28.00
	Rural areas	22.81	27.30
	Urban areas	28.82	28.30
	Female share of employment by major occupational groups, %		
	Female share of employment by ISCO-88 major groups (all occupations, in total employment)		48.10
	0 Armed forces		–
	1 Legislators, administrators and managers		26.80
	2 Professionals		38.70
	3 Technicians and associate professionals		38.60
	4 Clerks		45.10
	5 Service workers and shop sales workers		50.00
	6 Skilled agricultural and fishery workers		51.50
	7 Craft and related workers		24.60
	8 Plant and machine operators and assemblers		9.50
	9 Elementary occupations		39.50
	10 Others (3)		Na
	Female share of employment by ISCO-68 major occupational groups, %	48.36	
	0 Professional, Technical and related workers	36.21	
	1 Administrative and Managerial Workers	28.00	
	2 Clerical and related workers	42.73	
	3 Sales Workers	50.12	
	4 Service Workers	42.69	
	5 Agricultural, Animal Husbandry and Forestry workers, Fisherman and Hunters	52.33	
	6 Production and related workers, transport equipment operators and labourers (7/8/9)	19.46	
	7 Others ⁽³⁾	55.72	
EQUA-3	Gender wage gap (Average monthly earnings from paid employment, all jobs), %		
	Monthly wages/earnings from paid employment (all sectors)		17.91
	Rural areas		44.98
	Urban areas		10.53

Notes:

⁽¹⁾ Indicators are computed based on ISCO-68 classification for 2005 and on ISCO-88 classification for 2008.⁽²⁾ It is not possible to have a breakdown of economic activities beyond agricultural and non-agricultural activities for 2005 due to the inconsistencies in the ISIC data.⁽³⁾ "Others" in the above table refer to economic activities/occupations that cannot be classified due to problems in ISIC/ISCO data.

Legal Framework Indicator 13. Equal remuneration of men and women for work of equal value

Law, policy or institutions: The Constitution of Zambia prohibits discrimination based on sex, the Industrial and Labour Relations Act states that an employer shall not terminate any employee's employment on grounds of sex (Section 108(1)), the Citizen Economic Empowerment Act, No. 9 of 2006 that establishes the Citizen Empowerment Commission aims to promote gender equality. A National Gender Policy was adopted in 2000; it envisages measures aimed at (a) removing barriers that prevent women's effective participation in formal and informal employment, and (b) ensuring equal employment opportunities in all sectors of the economy. A National Action Plan on gender-responsive budgeting is presently in development.

The Gender in Development Division is mandated to coordinate, monitor, and evaluate the implementation of the National Gender Policy (NGP) in order to achieve full and equal participation of both females and males in the socio-economic and political development processes.

Evidence of implementation effectiveness: The CEACR has noted that significant differences in earnings exist between men and women according to the Labour Force Survey. According to the Permanent Secretary of the Gender in Development Division at the Cabinet Office, the National Gender Policy lacks a budget component to ensure the adequate allocation of resources towards the promotion of gender equality (UNIFEM). The CEACR noted the draft Employment Act (Amendment Bill) which defines equal pay for work of equal value as meaning that "an expatriate or Zambian professional with matching qualifications holding similar roles be remunerated equitably". This is narrower than the concept of "equal remuneration for work of equal value" set out in Convention No. 111. Moreover, the definition does not address equal remuneration between men and women, which is often where disparity or inequality in wages can be found.

Coverage of workers in law: No data available.

Ratification of ILO Conventions: The Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) have been ratified by Zambia on 20 June 1972 and 23 October 1979, respectively.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB)
2. CEACR comments on the application of Convention No. 111 (<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displaycomment.cfm?hdroff=1&ctry=2030&year=2010&type=R&conv=C100&lang=EN>);
3. ILO: Report VI - Gender equality at the heart of decent work, 2009 (http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_105119.pdf); 4. UNIFEM News: *UNIFEM Supports the Government of Zambia to Implement Gender-Responsive Budgeting*, 23 April 2010 (http://www.unifem.org/news_events/story_detail.php?StoryID=1078). (<http://www.uneca.org/acgd/beijingplus15/Questionnaire/DAW/English/Zambia.pdf>).

measures the extent to which the wages of women differ from those of men, shows that great strides have made in this regard. According to the 2008 LFS, at the national level women earn 18 per cent less than men, while in urban areas, women receive only 11 per cent less than what men are paid. However, the gender gap – which stands at 45 per cent in rural areas – is rather high, and women's earnings there are almost half of what men receive. The gender wage gap is partly due to the concentration of high numbers of women who find themselves in low-skilled and low-status jobs due to lower education levels, and to the segmentation of the labour market into feminine or masculine occupations. Furthermore, the gender wage gap is sometimes widened by women's shorter working hours and their unavailability for

overtime or night-work because of legal barriers and/or family responsibilities.⁷

In the informal sector, the situation is worse as the ILO Convention No. 100 (Equal Remuneration), although applicable, is not applied. In the formal sector, of concern are cases where workers doing the same job receive different wages and benefits based on differences in their qualifications. This, according to Wonani (2010), tends to disadvantage women, who get paid less whilst doing the same type of job due to their level of qualifications which are generally lower.⁸

⁷ C. Wonani. *Rapid assessment on raising awareness on women workers and their rights in Zambia* (ILO Lusaka, 2010).

⁸ Op.cit.

9 Safe work environment

The Ministry of Information, Broadcasting and Labour is mandated to enforce the relevant legislative and statutory instruments pertaining to work place safety. Safety standards in the mining sector are enforced by the Mines Safety Department (MSD) of the Ministry of Mines and Minerals Development (MMMD). The Factories Act, the Mines and Minerals Act, the Workers Compensation Act and the Occupational Health and Safety Act, 2010 are the main pieces of legislation dealing with safety and health issues in the work place. Review of safety and health legislation is currently ongoing and it is anticipated that by the end of the process the scope of coverage will be increased.

The MSD is mandated to enforce the relevant legislative and statutory instruments, formulate new legislation and regulations, evaluate all aspects of safety in mining operations, offer technical advice and training, and offer exemptions from the relevant regulations where appropriate. The Occupational Safety and Health Services Department promotes and enforces occupational health and safety standards at places of work outside the mining sector to ensure a safe and healthy working environment.

A number of ILO Conventions pertaining to safe working environment have been ratified¹ and legislation has been adopted at the national level relevant to the topics of these Conventions, such as the Factories Act, Cap. 441, particularly the Factories (Benzene) Regulations which is Statutory Instrument No. 179 of 1978; the Workers' Compensation Act No. 10 of 1999; the Mines and Minerals (Envi-

ronmental) Regulations, which are meant to prevent and control air pollution, noise and vibration in the mining sector; and the Mines and Minerals Development Act, 1995, as amended by Act No. 7 of 2008.

The Workers' Compensation Act provides compensation for disabilities and diseases suffered during the course of employment. As concerns equality of treatment, the Act covers all workers in Zambia regardless of nationality. It also covers accidents which occur or diseases contracted outside Zambia. Section 9(1) states that if an accident occurs or a disease is contracted by the worker while temporarily employed by a Zambian based employer outside Zambia, the worker shall be entitled to compensation in the same manner as if the accident or disease had occurred or been contracted in Zambia.

The biggest challenge to maintaining a safe work environment in Zambia lies in the inadequacies of the institutions tasked to enforce regulations (see Legal Framework Indicator 15). Enforcement of safety and health legislation is severely constrained by inadequate funding which results in the lack of support infrastructure with which to carry out inspections, thus limiting the ability to carry out the statutory functions.²

Two departments in the Ministry of Information, Broadcasting and Labour, the Labour and Occupational Safety and Health Inspectorates which are charged with the responsibility of enforcing labour laws through the inspection of work places and factories are severely handicapped in effectively carrying out their functions. The Ministry has only 22 offices throughout the country which

¹ The Benzene Convention, 1971 (No. 136), ratified in 1973; the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), ratified in 1965; the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), ratified in 1964; the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148), ratified in 1980; the Safety and Health in Mines Convention, 1995 (No. 176), ratified in 1999.

² The inability of government departments to enforce the safe work environment laws due to inadequate implementation capacity was also cited as contributing to the deteriorating situation in occupational safety and health by Silane K Mwenechanya in "An Issue Paper prepared for the UNDP – Commission on Legal Empowerment of the Poor", August, 2007.

Legal Framework Indicator 14. Employment injury benefits

Law, policy or institutions: The Workers' Compensation Act No. 10 of 2009 (WCA) and the Workers' Compensation Fund Control Board (WCFCB). The WCFCB has 11 members representing the Government, workers, employers and pensioners. It is a social security institution, which provides mainly for: the establishment and administration of the Fund for compensation of Workers disabled by occupational accidents or diseases; the payment of compensation to dependants of workers who die as a result of occupational accidents or diseases; the payment of contributions to the Fund by registered employers. Special provisions exist under the Public Service Pensions Act for the public service. A 'worker' under the WCA is any person who has entered into or works under a contract of service or of apprenticeship with an employer whether the contract is expressed or implied, is oral or in writing. There is no disqualification by reason of any salary or payment in kind the person may earn. However, members of the Defence Force and the Police, Public Servants, persons employed casually by an employer and not in connection with the employer's trade or business and outworkers are excluded.

Qualifying conditions: The Act covers disabilities suffered or diseases contracted during the course of employment.

Benefits (level and duration): Temporary disability: monthly periodical payments for a period not exceeding 18 months; permanent disability: lump sum payment for workers with disability below 10 per cent (calculated on such basis as the Minister may prescribe); monthly life pension for workers with disabilities above 10 per cent (the amount varies but is equal to 50 per cent of monthly earnings for total disability).

Financing: Employers' contributions (employers are classified according to economic activities and their associated risks). Employers of private domestic servants are required to pay assessments by way of domestic contribution stamps through the Post Office to NAPSA.

Evidence of implementation effectiveness: No information provided by ILO supervisory bodies.

Coverage of workers in law: No data available.

Coverage of workers in practice: No data available.

Ratification of ILO Conventions: The Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Employment Injury Benefits Convention, 1964 (No. 121), have not been ratified by Zambia. The Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), the Workmen's Compensation (Accidents) Convention, 1925 (No. 17) and the Safety and Health in Mines Convention, 1995 (No. 176) have been ratified by Zambia on 22 February 1965, 12 December 1964 and 4 January 1999, respectively.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB).
2. Workers' Compensation Fund Control Board (WCFCB) website (<http://www.workers.com.zm>).

means that less than one-third of the country's 74 districts have a Labour/Occupational Safety and Health office. To compound matters, most of the 22 offices are poorly funded, inadequately staffed, have neither transport nor appropriate infrastructure such as occupational hygiene laboratories and equipment for them to carry out their duties. (See also Legal Framework Indicator 15). In fact, the Ministry is the least funded government ministry. In the national budget of 2010 and 2011, the Ministry received a paltry 0.11 per cent and 0.12 per cent, respectively. Budgetary allocations for the Ministry of Youth and Sports, as well as of Child Development and the Ministry of Community Development and Social Welfare were also low. The corresponding allocations for the Ministry of Community Development were

0.46 per cent and 0.65 per cent in 2010 and 2011, respectively and 0.18 per cent and 0.20 per cent for the Ministry of Youth and Sports.

It is no wonder then, as shown in Table 8, that the number of inspectors per 10,000 employees stands at 0.8 inspectors in 2009. The number of inspectors reached its highest in 2005 when the Ministry recruited over 40 labour inspectors. Unfortunately, more than half have left, the majority opting to join other government ministries, perhaps an indictment of the low budget allocation to the Ministry.

Table 8 shows that reported occupational injuries (fatal and non-fatal) in Zambia have experienced mixed swings. The injury rate declined between 2000 and 2002 but reached its highest

Legal Framework Indicator 15. Labour inspection

Law, policy or institutions: Labour inspection covers wages, rate of pay, employment of children, working days, hours of work, annual leave, paid sick leave, maternity leave, provision of transport, lunch, subsistence and overtime allowance, funeral assistance, industrial relations, occupational safety and health and social security and welfare. The DOL (Labour Inspection Unit) and the DOSH are in charge of labour inspection. The Employment Act (EA), the Factories Act (FA), the Mines Safety Act (MSA) all deal with labour inspection related to safety and health. Labour and Occupational Safety and Health Inspectorates are established within the Ministry of Information, Broadcasting and Labour. The Ministry of Information, Broadcasting and Labour collaborates with other institutions such as the Mines Safety Department and the Zambia Environmental Management Agency on health and safety issues.

The FA requires, for example, that a certificate of registration established by a Labour Commissioner is obtained before using any premises as a factory. Factory owners are required to notify the Factories Department of occupational accidents and diseases and Labour/Factory inspectors have a duty to raise awareness on matters of occupational health and safety through workshops with employers and workers, as well as with the media. According to the EA an inspector can conduct interviews and make observations, verify documents, enforce the posting of notices required by the legislation, inspect materials and substances used. Under the FA, an inspector has the power to order the closure of a plant or factory.

Evidence of implementation effectiveness: Out of 74 districts, less than one-third has a labour and Occupational Safety and Health Inspectorate. The Government has reported deterioration in the quantity and the quality of labour inspectorates due to insufficient resources.

Coverage of workers in law: No data is available. All establishments may be inspected.

Coverage of workers in practice: No data is available. Formal establishments in practice.

Ratification of ILO Conventions: The Labour Inspection Convention, 1947 (No. 81), and the Protocol (No. 81) of 1995 to the Labour Inspection Convention, the Labour Inspection (Agriculture) Convention, 1969 (No. 129) have not been ratified by Zambia.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB).
 2. Government report submitted under article 19 on unratified conventions for the preparation of the CEACR 2006 General Survey on labour inspection (<http://www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-iii-1b.pdf>).
- Labour inspection country profiles, LAB/Admin (http://www.ilo.org/labadmin/info/lang--en/WCMS_112936/index.htm)

point in 2006 when the number of injuries reached 1,388. The number of reported occupational injuries declined in 2007, rose again in 2008 before declining marginally in 2009. The pattern for fatal injuries was slightly different in that the number of deaths rose in 2009.

The Mines Safety Department (MSD) is responsible for enforcing the relevant legislation concerning all aspects of safety in mining operations. This includes providing the mining industry with technical advice and training. As is the case with the Labour and Occupational Safety and Health Inspectorates, the Mines Safety Department has mostly remained grossly underfunded and thus faces inadequate staffing, as well as shortage of transport and fuel to carry out inspections. This situation has limited the Department's ability to perform its statutory functions satisfactorily and, consequently the Department has been relegated to taking a reactive

role often involving attending to emergencies after accidents have already occurred.³

A workshop organized under the European Union funded ILO project called Improving Safety and Health at Work through a Decent Work Agenda, identified a number of weaknesses in Zambia's OSH system, including the lack of OSH National Policy, limited coverage of workplaces by OSH legislation and inadequate capacity among stakeholders including critical shortage of trained personnel.⁴

The Occupational Health and Safety Institute (formerly known as the Occupational Health Safety and Research Bureau), is another governmental organization dealing with issues of occupational

³ C. Matenga: *The impact of the global financial crisis on the mining sector in Zambia* (ILO, Lusaka, 2009).

⁴ ILO, Workshop Report on "Development of a National Occupational Safety and Health Programme for Zambia, March 2011

Table 8. Safe work environment

Occupational injury rate	2002	2003	2004	2005	2006	2007	2008	2009
Reported occupational injuries (fatal and non-fatal), total number ⁽¹⁾	335	554	1,085	1,364	1,388	876	982	923
Reported occupational injuries (non-fatal), total number ⁽¹⁾	313	500	984	1,271	1,254	805	945	847
Reported occupational injuries (fatal), total number ⁽¹⁾	22	54	101	93	134	71	37	76
Number of labour inspectors per 10,000 employed persons ⁽²⁾	0.51	0.5	0.55	1.5	1.3	1.1	1	0.8
Number of labour inspections per 10,000 employed persons ⁽³⁾	20	11	10	11	21	46	34	26

Source: CSO-2005 and 2008 Labour Force Surveys Reports, 2002 to 2010 Annual Reports for Ministry of Information, Broadcasting and Labour, Workers Compensation Control Fund Board.

Notes:

⁽¹⁾ The figures for occupational injuries were extracted from the records at the Workers Compensation Control Fund Board.

⁽²⁾ Number of labour inspectors per 10,000 employed persons was calculated by cross multiplication of the number of inspectors in a year by the given baseline of 10,000 employees and divided by the total employment being the denominator, obtained from the CSO records.

⁽³⁾ The Number of labour inspections per 10,000 employed persons was arrived at after cross-multiplying the number of labour inspections in a year by the given baseline of 10,000 employed persons and divided by the total number of employed persons being the denominator that was provided by CSO.

safety and health. The Institute carries out medical examinations of miners with a focus on the effect of silica. It draws its legal mandate from the Workers Compensation Act No. 10 of 1999 (formerly Pneumoconiosis Act No. 217) which makes it mandatory for miners to undergo a pre-placement (initial) medical examination, as well as a periodical (annual) medical examination. The Act also prescribes other compensable occupational diseases for control at places of work and for determination of certification for purposes of compensation. Currently, the Institute is restricted to examining only miners and former miners, as well as carrying out examinations for those companies that request the Institute's services. The Institute is equipped with state of the art equipment providing investigative facilities.

The global financial crisis did not affect occupational health and safety standards in the tourism sector. The report on the impact of the crisis found that there were no reports of increases in accidents or disease resulting from a poor work environment in that sector attributable to the financial crisis.⁵ However, safety standards in the mines are reported to have deteriorated since the onset of the global financial crisis between 2008 and 2009.

⁵ E. Jere and A. Valeta: *The impact of the global financial crisis on the tourism sector in Zambia* (ILO; Lusaka, 2010).

Records at the MSD point to an increase in both fatal and reportable accidents with 79 reported accidents during the early part of 2009.⁶ This increase has been attributed to, *inter alia*: employment by mines of largely casual labour that is unqualified; long shifts being worked by fewer workers for specific jobs; and employing cheaper but unsafe mining methods.⁷

In 2010, the Government enacted the Occupational Health and Safety Act which seeks to expand the mandate of the Occupational Health and Safety Institute to include occupational health and safety services in all sectors in order to contribute more widely to the promotion of health and safety at places of work.⁸ The focus will not only be on pneumoconiosis and pulmonary tuberculosis, but will also include other occupational health diseases, such as worksite organic dust, noxious fumes, gases and work related injuries.

⁶ C. Matenga op. cit.

⁷ Matenga notes that while no mining company can be expected to accept that it has compromised the occupational health and safety standards in their operations, this can only be seen in the adjustments made to the measures that companies have undertaken to reduce production costs.

⁸ Report of the Committee on Health, Community Development and Social Welfare on the Occupational Health and Safety Bill, N.A.B No. 35 of 2010 for the Fifth Session of the Tenth National Assembly, appointed on 23rd September, 2010.

10 Social security

The Zambian Government is cognizant of the inadequate nature of the social protection system in Zambia and has set the broadening of social security to include currently uncovered groups at the core of its efforts to reduce poverty. The Fifth National Development Plan and the National Employment, as well as the Labour Market Policy point to Government's desire to address the social protection needs of currently uncovered groups. In the Sixth National Development Plan, social protection is included in the chapter on "Macroeconomic Policies and Structural Reforms" as a crosscutting issue. The Government's objectives include promoting social security for the informal sector, as well as expanding the social welfare system for incapacitated households.

The Government is also in the process of finalizing the National Social Security Policy and a coherent national social security strategy that is responsive to poverty and vulnerability, including a basic social security package which was the result of the resolution of the 11th ILO African Regional Meeting in 2007.¹ Social security is defined as "all social transfers in kind and in cash that are organized by the state or para-statal organizations or are agreed upon through collective bargaining".² Currently, there are several social security schemes in Zambia of which the National Pension and Scheme (NAPSA) is the largest with an estimated coverage of 8 per cent of the labour force. Other schemes include the Public Service Pension Fund (PSPF) established under the Public Service Pensions Act, Cap.

260, the Local Authority Superannuation Fund (LASF), established under the Local Authorities Superannuation Fund Act, Cap. 286 of 1996 and the Workers Compensation Act no. 10 of 1999. Benefits of social security schemes include cash transfers such as pensions, employment injury benefits, short term cash benefits (sickness and maternity benefits, etc.), as well as benefits in kind such as health services.³

The operations of some of the pension schemes have faced a major challenge as a result of previous actions taken to streamline social security in Zambia. The establishment of NAPSA in 2000 with the requirement that all new employees in the public service and local government contribute to NAPSA, means that public pension schemes like the PSPF and the LASF cannot generate new income, a situation that will eventually lead to their insolvency.⁴ Since that decision was made, the PSPF and LASF have not recruited new members and without new contributions, they will not be able to amortize pension payments and eventually will have to close down. This concern had been raised at the time of establishing NAPSA but the policy direction at the time was that PSPF and LASF be incorporated into NAPSA. However, the draft social security policy proposes that the two schemes should continue operating and that new entrants to the public and local government services would contribute to PSPF and LASF respectively.

The majority of the population in Zambia does not have access to any form of social security as their livelihood comes from informal employ-

¹ G. Nyirongo *Policy coherence for growth, employment and decent work in Zambia*, Report of the Technical Meeting in Preparation of the 2nd African Decent Work Symposium, September 2010 (Lusaka, 2010).

² Ministry of Finance and National Planning: Fifth national development Plan (Lusaka, 2005).

³ ILO: *Zambia: Social protection expenditure and performance review* (Geneva, 2008).

⁴ G. Nyirongo op.cit.

Legal Framework Indicator 16. Pension

Law, policy or institutions: The Constitution of Zambia (Article 24); the National Pension Scheme Authority (NAPSA), created under the National Pension Scheme Act (NPS Act), was established in 2000 (it replaced the Zambia National Provident Fund (ZNPF) which had been in existence since 1966). The NAPSA is the mandatory scheme designed to provide a basic pension to all regularly employed persons in all sectors of the economy, although coverage is currently restricted to the formal sector. All workers, whether part time, casual, on probation, domestic, contract or permanent workers fall under the scope of the law; their employer needs to register with the NPS. Employers covered by the act need to be registered as a taxpayer and have a contract of service with an employee (NPS Act, Sec. 12). Workers aged below 15 and over 55, those earning below K15, 000 per month and the armed forces are exempt from membership in the NPS.

Other funds include the Public Service Pension Fund (PSPF) established under the Public Service Pensions Act, Cap. 260, and the Local Authority Superannuation Fund (LASF), established under the Local Authorities Superannuation Fund Act, Cap. 284.

Qualifying conditions: A member of the National Pension Fund must have reached 55, or five years prior to retirement age, in order to receive pension benefits and must have made 180 monthly contributions. Note that under the MWECSO and the MWECSO, an employee who has worked for at least ten years for the same employer, who has attained the age of 55 and who is not a member of a pension scheme, is entitled to three months basic pay for each year of service.

Benefits (level and duration): Benefits are adjusted annually in line with increases in national average earnings. Benefits are calculated according to average monthly earnings and the number of months of contribution. The minimum monthly pension is 20 per cent of national average earnings. Members who fail to meet the minimum requirements for a pension are paid a lump sum.

Financing: The contributions are shared between the employer and the insured (5 per cent each). Contributions to the scheme consist of 10 per cent of total gross earnings for each year up to a ceiling of four times the national average earnings (NAE).

Evidence of implementation effectiveness: Inspectors may be appointed to ensure that the NAPS Act is complied with (NPS Act, Section 7). Any employer who contravenes the NPS Act is liable to a maximum of three months' imprisonment and/or a fine.

Coverage of workers in law: No data is available.

Coverage of workers in practice: The cumulative number of members registered since 2000 is slightly above 900,000 (active members: 600,000). In 2010, 18,000 employers were registered with the scheme. In January 2010, 2,888 pensioners were on the payroll.

Ratification of ILO Conventions: The Social Security (Minimum Standards) Convention, 1952 (No. 102) has not been ratified by Zambia.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB).
2. National Pension Fund Authority website (<http://www.napsa.co.zm>).
3. ISSA country profile (<http://www.issa.int/aiss/Observatory/Country-Profiles/Regions/Africa/Zambia>).

ment, including subsistence agriculture where incomes are low and producers are not in a position to meet their basic needs, let alone subscribe to social security schemes.⁵ Coverage of social security in Zambia is limited to employees in the

formal sector. Some 89 per cent of the employed labour force works in the informal employment and is thus excluded from social security. Such exclusions are in some cases due to the inability of the informal sector to meet the statutory contributions that such schemes demand. Accordingly, persons who are employed informally have no recourse to pensions or any income in the event of illness. For those in formal employment, coverage can be affected by the fact that not all employers are registered with the social security schemes. A

⁵ The formal employment consists of all employed persons who work in Government, and in the private enterprises as self-employed, paid employees or employers and also in exceptional cases enterprises employing not less than five persons - that contribute to social security, are entitled to annual paid leave.. All employed persons who worked in an enterprise that did not meet any of the above conditions fall in the informal employment.

Legal Framework Indicator 17. Incapacity for work due to sickness / sick leave

Law, policy or institutions: Collective agreements provide for incapacity due to sickness and sick leave. The Employment Act (EA) and the Minimum Wages and Conditions of Employment Act, in the three statutory instruments (MWCEG, MWCES and MWCED) have provisions regarding sick leave. Special regulation exists for the public sector, for apprenticeships, etc.

Qualifying conditions:

Benefits (level and duration): According to the EA, an employee who is temporarily incapacitated due to sickness or accident is entitled to receive pay for three days of absence up to a maximum of 26 working days in any period of 12 months upon production of a medical certificate (Section 54 (1)). In addition, a female employee is entitled to one day's absence from work each month without having to produce a valid medical certificate (Section 54(2)). A contract of service shall not be terminated while these provisions apply. With a medical certificate, an employee is entitled to three months sick leave with full pay and three months with half-pay (MWCEG, MWCES). A domestic worker is entitled to one month with full pay; if the worker does not recover, s/he may be dismissed (MWCED). An employee on probation is entitled to a maximum of 26 working days on full pay (MWCES). After six months, the employee may be discharged (MWCEG). EA: 36(2) if an employee is unable to fulfil a written contract of service owing to sickness or accident, the contract may be terminated based on the report of a registered medical practitioner.

Financing: Employer.

Evidence of implementation effectiveness: No information provided by ILO supervisory bodies.

Coverage of workers in law: No data is available.

Coverage in practice: No data is available.

Ratification of ILO Conventions: The Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Medical Care and Sickness Benefits Convention, 1969 (No. 130) have not been ratified by Zambia.

Source

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB).

study on social protection expenditure in Zambia suggests that social security schemes cover 79 per cent of their possible membership.⁶

As a result of the low coverage, very few people contribute to and benefit from pension schemes. Table 9 shows that even though the share of population aged 55 years and above benefiting from a social security scheme rose from 7 per cent in 2001, it remained low at only 12.30 per cent in 2006. The share of population benefiting from a pension scheme is higher among males than females with the share of males rising from 16.2 per cent to 18.7 per cent between 2004 and 2006. The share of the female population aged 55 years and above benefitting from a social security scheme remained more or less constant from 2 per cent in 2004 to 2.6 per cent in 2006.

Table 9 also illustrates the low participation of the economically active population in terms of contributing to a pension scheme. The share of the economically active population contributing to a pension scheme was 10.18 per cent in 2008 and had not shown any significant increase since 2001. Paradoxically, the share of the working population that contributes to social security declined while formal sector employment increased. This decline could be attributed to increasing casualization of labour in Zambia which has become the preferred employment option in Zambia (see Chapter 3: Adequate earnings and productive work).

The tendency by employers to opt for short-term contract employment and casual labour did not start as a result of the global crisis, but has become a general trend in the labour market and particularly in the private sector. In practice, casual employment is characterized by job insecurity, low income, little training, low mobility, lack of significant rewards or fringe benefits, and a general

⁶ International Labour Office: *Zambia: Social protection expenditure and performance review and social budget* (Executive Summary) (Social Security Department, Geneva, 2008).

Table 9. Social security

		2001	2002	2003	2004	2005	2006	2007	2008
SECU-1	Share of population aged 55 years and above benefiting from a pension, %⁽¹⁾	7.30	7.00	7.20	8.50	11.20	12.30		
	Male			16.20	16.70	18.70			
	Female			2.00	2.20	2.60			
SECU-2	Total public social security expenditure, % of GDP⁽²⁾				7.50	7.60	7.50	7.60	
	Public health-care expenditure, % of GDP				5.90	5.90	5.70	5.70	
	Other public social security expenditure, % of GDP				1.60	1.70	1.80	1.90	
SECU-3	Share of economically active population contributing to a pension scheme, %⁽³⁾		8.24	10.24	8.20	8.81	10.18		
	Male		12.48	14.92	11.40	12.34	14.25		
	Female		3.61	5.50	4.70	4.84	5.79		
	Rural areas		2.64	3.40	1.70	3.20	3.94		
	Urban areas		23.80	25.71	21.10	24.70	26.76		

Source: CSO statistics on GDP, Ministry of Community Development and Social Service annual budgetary allocations, NAPSA, LASF and PSPF records

Notes:

⁽¹⁾ Share of population aged 55 years and above benefiting from a pension is based on administrative records from NAPSA, PSPF and LAF. This data is available from the ILO social security inquiry. Calculated by dividing the number of pension recipients above the retirement age of 55 years by the total number of persons above the retirement age. Population above the age of 55 years and above was obtained from CSO records.

⁽²⁾ Other public social security expenditure includes long-term social security benefits (pensions), short-term work-related benefits both from statutory and occupational schemes. It also includes social assistance expenditure.

⁽³⁾ Share of economically active population contributing to a pension scheme refers only to old age pensions in contributory social security schemes. The data source for this indicator is the Zambia Labour Force Survey.

lack of social security.⁷ On the other hand, workers on permanent contracts of employment enjoy the benefits stipulated in the labour laws including social security. Short-term contracts and casualization of labour are hindering the progress of decent employment in the country. It is only in an environment where critical conditions of employment, such as the real wage and social protection for the vulnerable, are met that jobs and conditions of employment can be effectively protected.

However, even in cases where workers are on permanent contracts of employment and enjoy the benefits stipulated in the labour laws including social security, there are challenges attached to the scope of coverage and the adequacy of benefits/ payments provided. Although this should apply to all employed workers, little monitoring or enforcement takes place to ensure that contributions are in fact made to the various schemes.

In the research commissioned by the Jesuit Centre for Theological Reflection in Zambia, it was found that some employers deduct five per cent from the employee's salary to pay towards their pension in line with employment laws, yet do not submit this to the pension authority, resulting in no pension entitlement being accrued by the worker.⁸ The weakness in enforcement reinforces the trend towards casualisation and explains why only 410,636 of the 619,000⁹ workers in the formal sector are covered by social security. The scope of coverage is further reduced by the exclusion of some of the workers in the mining sector from contributing to the local pension scheme. In 2000, the two major mine companies and employers, KCM and MCM were granted an exemption from subscribing to the national pension scheme and they opted to put their workers on a private-

⁷ E. Jere and A.Valeta: *The impact of the global financial crisis on the tourism sector in Zambia* (ILO, Lusaka, 2010).

⁸ C. Petrauskis: *Restoring dignity to employment In Zambia: Legal and moral motivation to promote the common good – preliminary reactions* (Jesuit Centre for Theological Reflection, Lusaka, 2005).

⁹ Ministry of Labour computation.

Legal Framework Indicator 18. Incapacity for work due to invalidity

Law, policy or institutions: Provisions for invalidity benefits are incorporated in the National Pension Scheme Act (NPS Act); the National Pension Scheme Authority (NAPSA), created under the NPS Act, was established in 2000. The National Pension Scheme is the mandatory scheme designed to provide a basic pension (retirement, invalidity and survivors) to all who work in the formal economy. All workers, whether part time, casual, on probation, domestic, contract or permanent workers fall under the scope of the law; their employer needs to register with the NPS. Employers covered by the act need to be registered as a taxpayer and have a contract of service with an employee (NPS Act, Sec. 12). Workers aged below 15 and over 55, those earning below K15, 000 per month and the armed forces are exempt from membership in the NPS.

Qualifying conditions: A member of the NPS qualifies for invalidity pension if that person suffers from permanent invalidity (as defined in the Act), is under pensionable age and either, has made not less than 180 monthly contributions or has paid at least 60 monthly contributions of which 12 or more were paid in the period of 36 months immediately preceding the date the invalidity began (NPS Act, Section 23).

Benefits (level and duration): The Minister prescribes the monthly rate of the invalidity pension determined by the member's average monthly earnings and the length of pensionable service. The minimum invalidity pension is set at 20 per cent of the national average earnings. Invalidity pension ceases when the invalidity ceases or when the member reaches pensionable age if the retirement pension is higher. If the member has not made enough contributions, a lump sum is attributed.

Financing: Contributions to the scheme consist of 10 per cent of total gross earnings for each year up to a ceiling of four times the national average earnings (NAE). The contributions are shared between the employer and the insured (5 per cent each).

Evidence of implementation effectiveness: No information provided by ILO supervisory bodies.

Coverage of workers in law: No data is available.

Coverage of workers in practice: The cumulative number of members registered since 2000 is slightly above 900,000 (active members: 600,000). In 2010, 18,000 employers are registered with the scheme.

Ratification of ILO Conventions: The Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Invalidity, Old Age and Survivors' Benefits Convention, 1967 (No. 128) have not been ratified by Zambia.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB).
2. National Pension Fund Authority website (<http://www.napsa.co.zm>).
3. ISSA country profile (<http://www.issa.int/aiss/Observatory/Country-Profiles/Regions/Africa/Zambia>).

operated money purchase pension scheme known as Saturna Regna, managed by an off-shore private company.¹⁰

Most of the social security schemes rely on mandatory contributions from both registered employers and employees. Under such conditions, social protection for workers of the informal economy may not be easily achieved through schemes where these workers are expected to make mandatory contributions. Even in cases where very poor workers may be willing to contribute, the question

is whether the level of contributions would be sufficient to provide them with social provisions and protection against risk. In order to provide social protection for workers of the informal economy, the state, the private sector, trade unions, and other civil society organizations would need to play an active role.

The Government together with cooperating partners has put in place several social assistance programmes targeting incapacitated households, rather than the working poor which would include workers of the informal economy. The schemes are a combination of transfers in kind and in cash which target poverty alleviation within vulnerable groups. Such social assistance measures cur-

¹⁰ With privatization of the mines, the Government and the new private mine owners signed mine development agreements that exempted the new owners from taking over certain employment obligations under the previous employer, ZCCM.

rently cover approximately four per cent of the population. The Government is running five pilot schemes: four schemes target the poorest 10 per cent of households in the pilot districts and the pension scheme in the fifth pilot district targets the elderly (60 years and above). With assistance from the donor community, plans are underway to develop a nationwide social pension for the elderly and scale-up child/family cash transfers to 15 districts. Unfortunately, however, the current social protection programmes are under-funded¹¹ with current expenditure on social assistance schemes amounting to 0.2 per cent of GDP and one per cent of total Government expenditure. Preliminary analysis demonstrates that well-coordinated programmes of a basic social protection floor that covers a larger population would cost less than 1.5 per cent of GDP.¹²

The Government budget has not provided the required capacity in order to extend social security to those that are presently not covered. Table 9 above shows that total public and private social

security expenditure as a percentage of GDP has remained static at around 7.5 per cent. The table also shows that other public social security expenditure as a percentage of GDP has remained very low, below two per cent. Included under other public social security expenditure are long-term social security benefits (pensions), short-term work related benefits both from statutory and occupational schemes, as well as social assistance expenditure.

Public expenditure on health has hovered close to six per cent of GDP as shown in Table 9 above, although it declined moderately from 5.9 per cent to 5.7 per cent since 2006. The expenditure levels fall far short of meeting the cost of healthcare for the population. In fact, the assessment of household expenditure on health reveals a highly regressive spending pattern on healthcare with poorer households spending proportionately more on health than higher income households. Government has been discussing modalities of establishing a Social Health Insurance Scheme.

¹¹ L. Aguzzoni: *The concept of fiscal space and its applicability to the case of social protection policy development in Zambia* (Lusaka and Geneva, ILO, 2009).

¹² T. Wiechers: *Social protection and the Global Jobs Pact*, paper presented at the Technical Meeting in Preparation of the 2nd African Decent Work Symposium on Building a Social Protection Floor With The Global Jobs Pact, September 2010

11 Social dialogue, workers' and employers' representation

A number of institutions dealing with labour, employment and related matters exist in Zambia. They include Government institutions such as the Ministry of Information, Broadcasting and Labour which is responsible for the oversight of employment and labour policy, and the Industrial Relations Court (IRC) under the Judiciary which adjudicates in employment and labour disputes.

There is one organization representing employers, the Zambia Federation of Employers (ZFE). The two apex bodies representing workers organizations are the Zambia Congress of Trade Unions (ZCTU) and the Federation of Free Trade Unions of Zambia (FFTUZ).

The ZFE was formed in 1966 by an Act of Parliament (Industrial and Labour Relations Act Cap. 269). The main aims and objectives of the ZFE are to promote and protect the interests of its members which comprise employing enterprises, both in the private and para-statal sectors. The principal objectives of the ZFE are the protection of members' interests, the establishment, promotion and maintenance of good relations between employers and employees throughout the country, as well as to be the highest and central organization representing employers to the Government and the labour movement.

Prior to the return to plural politics in Zambia in 1991, the legal framework in place designated the Zambia Congress of Trade Unions as the sole trade union federation. At that time, the one industry-one union principle guided the organization of trade unions and there were only 17 trade unions in existence. This arrangement was clearly in breach

of the ILO Convention No. 87 which guarantees workers the freedom to form and join trade unions of their choice. The ratification of ILO Convention No. 87 in 1996 led to the amendment of the labour law and opened up the possibility for workers to join and form trade unions of their choice. It has been suspected by some that this action was aimed at weakening the labour movement as it came at a time when trade unions resisted the IMF sponsored Structural Adjustment Programme (SAP) due to the negative social effects.¹ The amendment to the legislation gave rise to the formation of the FFTUZ. The ZCTU remains the largest federation with 34 affiliates in 2010, while the FFTUZ had 12 affiliates at that time.

Table 10 shows that while the membership of the employers' organizations has been rising consistently since 2000, the membership of the trade unions declined between 2006 and 2010. Prior to this, trade union membership had exhibited consistent growth between 2003 and 2006, when membership peaked at 282,000. The decline is due to the trend towards casualization and the exclusion of the defence and police force, prison services, security intelligence services and judiciary from forming trade unions reduces the number of workers who can be members of trade unions.

The inverse relationship between rising formal sector employment and decreasing union membership is aptly captured in the union density rate which was at an all low rate of 38 per cent in

¹ E. Chisupa: *Trade Union History*, www.200808131555030.Trade_Union_History.doc.

Table 10. Social dialogue, workers' and employers' representation

Decent Work Indicator	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Trade union members, total⁽¹⁾				232,141	238,331	259,564	281,554				259,294
Male											177,841
Female											81,453
Rural areas											
Urban areas											
Enterprises that are members of all employers' federations	132	145	156	173	178	190	198	208	219	225	292
Number of employees in member enterprises											
Density rate (weighted), in % ⁽²⁾											
Total number of Collective Bargaining agreements							82	138	169	183	176
Collective Bargaining coverage rate %				54	57	52	64				38
Strikes and lock outs man hours lost			8,802	52,638	33,261	772	1,381		33,155	17,299	

Sources: ZCTU and FFTUZ annual returns, CSO, MIBL.

Notes:

⁽¹⁾ Members of trade unions affiliated to mother bodies i.e. ZCTU and FFTUZ.

⁽²⁾ The percentage of employed population that belong to ZCTU and FFTUZ, calculated as trade union members divided by formal sector employment multiplied by 100.

2010. This compares to an all high union density rate of 64 per cent in 2006 when formal sector employment was 475,835 at 38 per cent and when employment had risen to 619,000.²

The framework and structure of social dialogue in Zambia is largely provided for in the Industrial and Labour Relations Act (ILRA). The Act recognizes bipartite and tripartite mechanisms of social dialogue. At the tripartite level the consultations take place between governments, employers and workers, while the bipartite level involves only workers and employers. Section 79 of the ILRA establishes the Tripartite Consultative Labour Council (TCLC) which consists of an equal number of members representing the trade unions, the employers and the Government. The functions of the Council as stipulated in the ILRA are to advise the Government on all issues relating to labour matters, manpower development and utilization, as well as any other matters referred to it by the Government.

The TCLC has contributed to the review of labour laws that facilitated the liberalization of the Zam-

bian labour market in mid 1990. The TCLC has also contributed to the ratification of some of the ILO Conventions. Through discussions held in the TCLC, the Government in 1996 ratified ILO Conventions No. 87 and No. 98 on the Freedom of Association and Protection of the Right to Organise Convention and the Right to Organise and Collective Bargaining Convention, respectively. In line with the provisions of these two Conventions, the TCLC subsequently recommended revisions to the Employment Act, Cap. 268 and the ILRA, Cap. 269 in order to harmonize them with the two ILO Conventions which had been ratified. However, such revisions have not always been forthcoming as was noted in the study which assessed the extent to which ILO Conventions had been domesticated into the legislation in Zambia. Following a review of the minutes of the past meetings (years 2001–2009) of the TCLC, the study noted that the TCLC hardly discussed ratifications of ILO Conventions or matters pertaining to adequate domestication of ratified Conventions.³

² CSO: *Quarterly Employment and Earnings Inquiry* (Lusaka)

³ Ministry of Labour and Social Security: *Analysis of labour and employment legislation with a view to harmonize them with International Labour Standards and related ILO Conventions* (Lusaka, ILO, 2009).

Legal Framework Indicator 19. Freedom of association and the right to organize

Law, policy or institutions: The right to be elected in any organization, the right to strike and the right to fair and just working conditions are protected under the Constitution; the Constitution does not protect the right to establish and join an organization. The Industrial and Labour Relations Act, (ILRA) establishes the right of every employee to take part in the formation of a trade union and to be a member of a trade union. The application to register a trade union has to be signed by no less than 50 supporters (Sec. 9(2)). The ILRA prohibits anti-union discrimination and employers and employers' organizations from interfering in the internal workings of a trade union. The ILRA prohibits dismissals, victimization or prejudice for exercising the rights granted in the ILRA (Sec. 5).

The ILRA covers any person who has entered into, or works under, a contract of employment with an employer whether such contract is express or implied, oral or written, or serving a probationary period of employment, a casual employee, an employee specifically engaged on a temporary basis for work of an intermittent or seasonal nature. It does not include in its scope members of the defence force, the police force, the prison services, the security intelligence services, and the judiciary.

Evidence of implementation effectiveness: The CEACR has requested that the Government take the necessary measures to amend, *inter alia*, Section 2(e), which excludes from the scope of the Act workers in the prison service, judges, registrars of the court, magistrates and local court justices, and Section 2(2), which accords the Minister discretionary power to exclude certain categories of workers from the scope of the Act. It has requested the Government to bring into conformity with Convention No. 87 several sections of the ILRA regarding the right to strike. Finally, it has commented on several sections of the ILRA which were recently adopted, insisting, *inter alia*, on the fact that the period to register a trade union (six months), as well as the maximum duration of a strike (14 days), was too long.

Coverage of workers and employers in law: No data is available.

Coverage of workers and employers in practice: No data is available. In practice, only formal workers are unionized.

Ratification of ILO Conventions: The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) have both been ratified by Zambia on 2 September 1996.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB).
2. Comments of the CEACR (2010 Observation on the application of Convention No. 87, (<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displayAllComments.cfm?hdroff=1&ctry=2030&conv=C087&Lang=EN>).

Nonetheless, the last TCLC in 2010 discussed and recommended ratification of the Conventions on Labour Statistics (160), Labour Inspections (81) and Private Employment Agencies (181). The TCLC is supposed to meet twice per year but in the past three years has only met three times.

The Government of Zambia with the support the ILO is in the process of revising the country's employment and labour legislation with a view of constructing a legal framework that will play a positive role in protecting fundamental human rights at work, in promoting employment and economic growth, and in improving labour market performance. In supporting the Government request an Issues Paper will be developed that will serve as the basis for the labour law reform process. The TCLC through the Tripartite Technical Committee will be involved in development of

this paper that involves a comprehensive review of the current labour legislation in Zambia and recommendations of reforms coherent with other relevant policy initiatives.

In line with the labour law reform process, the ILO is implementing the Law Growth Nexus (LGN) II Project in Zambia, which attempts to explore the effect of labour and labour related laws on micro and small enterprises.⁴ The overall outcome is more and better jobs in the MSME sector. The immediate project objectives of LGN II are: (i) to nurture respect for the rule of Labour Law among MSME in priority sectors; (ii) to strengthen the capacity of ILO constituents to engage in social dialogue on the nexus between Labour Law com-

⁴ The Law Growth Nexus (LGN) II Project in Zambia runs from March 2011 to June 2013.

Legal Framework Indicator 20. Collective bargaining right

Law, policy or institutions: The Industrial and Labour Relations Act (ILRA) provides for the obligation of an employer with 25 or more employees to register (Sec. 63) in order to enter into a recognition agreement with the trade union and, within three months, to enter into collective bargaining (Sec. 66) and to conclude a recognition agreement (Sec. 64). Collective bargaining may be undertaken at the level of the enterprise or at industry level. Workers have the right to strike, except those engaged in essential services (defined in Sec. 107). The ILRA covers any person who has entered into, or works under, a contract of employment with an employer whether such contract is express or implied, oral or written, or serving a probationary period of employment, a casual employee, an employee specifically engaged on a temporary basis for work of an intermittent or seasonal nature. It does not include in its scope members of the defence force, the police force, the prison services, the security intelligence services, the judiciary and members of the management of an undertaking.

Evidence of implementation effectiveness: The CEACR has commented on provisions of the ILRA which were recently adopted; several sections are considered not in line with Convention No. 98 (concerning the deferral of a dispute to a court or arbitration by one party instead of both and the length of time – one year within which certain matters are dealt with by the court). The CEACR has once again emphasized the importance that should be attached to full and frank consultation taking place on any questions or proposed legislation affecting trade union rights. The CEACR noted the comments made by ITUC stating that trade union rights are widely flouted, particularly in the mining sector, which is dominated by foreign owners who are often accused of intimidating behaviour. The ITUC further indicated that the increasing number of sub-contractors in the mining industry makes it harder to organize, and when trade unions do succeed, they are faced with obstacles to bargain collectively. The Committee requested the Government to provide its observations thereon.

Coverage of workers in law: No data is available.

Coverage of workers in practice: No data is available. In practice, only formal workers are unionized.

Ratification of ILO Conventions: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), have both been both ratified by Zambia on 2 September 1996.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB);
2. CEACR comments (2010 observation on the application of Convention No. 98, (<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displaycomment.cfm?hdoff=1&ctry=2030&year=2010&type=O&conv=C098&lang=EN>).

pliance and MSME development; (iii) to facilitate sector-specific regulatory reform; and (iv) to strengthen the capacity of MSME to comply with the revised labour law.

The core preoccupation of labour laws is to foster and uphold decent working conditions for the employed. The impact of labour laws on the development and growth of MSMEs must be assessed using the yardstick of the Government's central objective of creating decent and sustainable jobs as the vehicle to reducing poverty levels and elevating the status of the country to a middle-income economy by 2030.

At the enterprise level, employers and unions undertake bipartite social dialogue for the purpose of collective bargaining as provided for by law.

Whilst social dialogue has been used as a tool for dispute resolution, facilitating consultation and effectively addressing strategic issues on employment and labour in the workplace, coverage only extends to workers represented by unions. The low collective bargaining rate of 38 per cent in Table 10 above illustrates that the majority of employees have no union representatives. This is partly due to the provisions of the ILRA which exempt establishments employing less than 25 workers and workers working in public security institutions from the formation of a trade union. Section 63 of the ILRA obliges the employer to register with the Labour Commissioner upon employing 25 or more eligible employees for purposes of signing a recognition agreement with eligible employees and according to section 64 such an agreement must be concluded within three months of regis-

Legal Framework Indicator 21. Tripartite consultations

Law, policy or institutions: The Industrial Labour Relations Act (ILRA) establishes the Tripartite Consultative Labour Council (TCLC) whose function is to advise the Government on all issues relating to labour matters, manpower development and utilization and any other matter referred to the Council by the Government (Section 83). The TCLC meets at least twice a year.

Evidence of implementation effectiveness: No information provided by ILO supervisory bodies.

Ratification of ILO Conventions: The Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) has been ratified by Zambia on 4 December 1978.

Sources:

1. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=ZMB).
2. Comments of the CEACR on the application of Convention No. 144 (<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displaycomment.cfm?hdroff=1&ctry=2030&year=2010&type=R&conv=C144&lang=EN>).

tration. Clearly, social dialogue is absent from the informal sector due to the provisions of the ILRA as, on the whole, employers in this sector employ less than five workers.

Concern has also been raised by the unions whose members work in public institutions that receive grants from the state for their operations; such grants include the payment of wages and salaries. According to the unions, negotiations are limited by the condition attached to the grant and therefore do not amount to fair negotiations. Negotiations on how much can be awarded to unionized workers in form of wage increase are constrained by Section 35 of the Public Finance Act which stipulates that before any grant can be released to a particular grant aided statutory corporation, the Secretary to the Treasury shall, in writing, set conditions for the appropriation of the grant. The Act also provides for the Secretary to the Treasury to suspend release of further grants to the statutory corporation if the conditions for the appropriation of the grant are violated. In practice, conditions for the appropriation of the grant have included limits on how much can be awarded to unionized workers in form of wage increase.

Social dialogue was effective in mitigating the impact of the global financial crisis. During the crisis the Mineworkers Union of Zambia, the National Union of Miners and Allied Workers of Zambia, as well as the Government engaged the mining companies to discuss matters affecting personnel and production. The unions representing workers in the mining sector also engaged

their members to an extent that the workers themselves proposed certain measures to forego specific conditions.⁵

According to Matenga (2009), some critics have maintained that the dialogue has not been strong enough due to the power imbalance among the different stakeholders, i.e. employers and Government benefiting from more power than the workers. Consequently, the unions have recently been in the weakest position during the processes of social dialogue, as they have had to make concessions to downgrade some of their conditions of service in order to save jobs, yet companies have gone ahead and retrenched labour contrary to what the parties (i.e. Government, unions and the companies) had agreed.⁶

The study by Jere and Valeta (2010) on the impact of the GFEC in the tourism sector found that social dialogue played an effective role in protecting jobs and conditions of employment. The unions engaged management and agreed to the partial erosion of conditions of service which is unprecedented in the history of negotiations and agreements in Zambia.⁷

In terms of gender, there are more male members of trade unions as compared to females. In 2010, 69 per cent of union membership was male while

⁵ C. Matenga: *The impact of the global financial crisis in the mining sector in Zambia* (ILO, Lusaka, 2009).

⁶ C. Matenga op. cit.

⁷ E. Jere and A. Valeta: *The impact of the global financial crisis on the tourism sector in Zambia* (ILO, Lusaka, 2010).

only 31 per cent was female. According to 2010 data, the level of participation of women workers in leadership positions of trade unions is extremely low. That year, the ZCTU executive had only one female out of ten office bearers and the FFTUZ had four females out of nine. The highest number of female representatives recorded during a study on women workers' rights was three women in one union. The study found that women tend to hold the position of treasurer or trustee in a union, and are often denied chances to reach top leadership for various reasons, such as: lack of gender policies in places of work and in the unions; prevailing culture of stereotypes (of women and men) which dictate that only men should take up the leadership of unions; patriarchal nature of many unions; lack of information on the part of women workers about union operations; lack of support from other women; lack of confidence on the part of potential female candidates; lack of support from spouses and family and family responsibilities which can leave little time for involvement in union activities.⁸

Other mechanisms in Zambia can also be utilized to foster social dialogue; these include the Employment and Labour Sector Advisory Group (EL-SAG), the Human Rights Commission (HRC) and the African Peer Review Mechanism (APRM). The EL-SAG is a tripartite-plus group that was setup by the Government in 2007, primarily to monitor the implementation of the employment and labour programmes in the Fifth National

Development Plan. The EL-SAG operates through various sub-committees on Labour Migration, Child Labour, Labour Market Information, Social Security, Decent Work Country Programme and HIV/AIDs at the work place. According to the Ministry of Information, Broadcasting and Labour study, the EL-SAG sub-committees provide an excellent forum for programme monitoring, as well as mechanisms to deliberate on relevant legal reforms needed to buttress the effective implementation of programmes under the mandate of these committees.⁹

The HRC was established in 1997 to investigate human rights violations and maladministration of justice, as well as propose measures to prevent human rights abuses. The HRC receives labour related complaints, the main ones being lack of payment of dues and wages and unfair dismissal.¹⁰ The APRM¹¹ is at the disposal of tripartite partners and other civil society organizations to assess the domestication of ratified ILO Conventions and recommend appropriate measures to improve implementation of Conventions. The APRM is a self-monitoring mechanism under the New Partnership for Africa's Development (NEPAD) voluntarily acceded to by African Union (AU) member states with the aim of fostering the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated regional and economic integration. Zambia joined the APRM process in 2006 and was under review in 2011.

⁸ C. Wonani: *Rapid assessment on raising awareness on women workers and their rights in Zambia* (ILO, Lusaka, 2010).

⁹ MLSS op. cit.

¹⁰ ILO: *Forced labour and human trafficking: A toolkit for trade unions in Zambia* (Geneva, 2008).

¹¹ For details on this, see the APRM MOU – www.au.org

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Annex I: Percentage changes in GDP by kind of economic activity at constant 1994 prices

Sector	2007	2008	2009
Agriculture, Fisheries & Cooperatives	0.4	2.6	7.1
Mining & Quarrying	3.6	2.5	15.8
Manufacturing	3.0	1.8	2.5
Electricity, Gas & Water	1.0	1.2	8.6
Construction	20	8.7	15.5
Trade, Wholesale, Retail,	2.4	2.5	3.0
Bars, Rest & hotels	9.6	5.0	(14.5)
Transport, Storage & Communication	19.2	15.8	3.1
Financial Institutions /& Insurance	4.1	8.7	5.0
Real Estate & Business Services	3.1	3.1	3.1
Personal & Community Services	12.5	11.7	6.8
Total	6.2	5.7	6.3

Source: CSO Monthly Bulletin, October 2009

Annex II: Coverage of the minimum wages and conditions of employment

The Minimum Wages and Conditions of Employment (General Order), 2011 covers the following five categories of employees, with the following minimum monthly wages and allowances:

	General Worker, Cleaner, Handyperson, Office Orderly	Guard or watchperson ¹	Driver	Typist, Receptionist or Telephonist	Qualified Clerk (with a general certificate of education)
Basic Pay	K2, 182 per hour or K419, 000	K2, 298 per hour or K419, 000	K3, 125 per hour or K600, 000	K3, 385 per hour or K650, 000	K4, 505 per hour or K865, 000
Transport Allowance	K102, 400	K102, 400	K102, 400	K102, 400	K102, 400
Lunch Allowance	K120, 000	K120, 000	K120, 000	K120, 000	K120, 000
Housing Allowance	K125, 700	K125, 700	K180, 000	K195, 000	K259, 500
Minimum Monthly Pay and Allowances	K767, 100	K767, 100	K1, 002,400	K1, 067,400	K1, 346,900
Minimum Monthly Pay and Allowances (2006)	K499,440	K528,560	K735,000	K800,000	K1,079,500

Notes: Transport Allowance if residence is beyond 3 km radius of duty station.

Housing Allowance is 30% basic pay if housing is not provided.

Lunch Allowance – K120, 000 per month or free nutritious lunch

¹ The Jesuit Centre for Theological Reflection have noted an anomaly here as the per hour wage sums to a much higher monthly figure than K419,000 considering the 48 working hours per week.

Annex III: LCMS data for Employment opportunities

	1998	2002/03	2004	2006
Employment-to-population ratio (15-64 years), in %¹	63,02	75,89	66,95	64,21
Male	69,26	74,20	71,58	68,66
Female	56,97	77,83	62,84	59,78
Rural areas	74,20	83,78	78,25	75,36
Urban areas	44,40	60,18	50,46	45,29
Unemployment rate, in %²	7,21	4,72	6,27	8,90
Male	7,95	5,28	5,86	8,37
Female	6,31	4,11	6,68	9,48
Rural areas	2,89	0,83	1,41	2,87
Urban areas	17,42	14,10	15,67	22,47
Youth not in education and not in employment (15-24 years), in %³	32,07	13,34	20,83	21,73
Male	25,11	12,87	14,94	16,79
Female	38,42	13,88	25,88	26,42
Rural areas	21,31	4,29	9,31	10,49
Urban areas	47,96	30,08	36,09	40,11
Informal employment (proxy), in %⁴	86,10	91,01	90,20	91,55
Male	80,27	86,27	85,71	88,34
Female	92,95	96,18	94,75	95,22
Rural areas	95,91	97,01	97,25	97,75
Urban areas	58,76	74,36	74,24	74,06
Youth unemployment rate (15-24 years), in %⁵	14,97	10,15	16,16	21,14
Male	17,68	13,08	16,97	22,85
Female	12,42	7,50	15,51	19,67
Rural areas	5,64	1,72	3,13	7,87
Urban areas	42,13	33,07	43,48	55,21
Unemployment rate by level of education, in %⁶	100,00	100,00	100,00	
None	5,74	4,33	4,12	
Primary	38,85	33,03	26,32	
Junior secondary	20,64	19,04	18,53	
Senior secondary	30,28	37,92	42,20	
Tertiary	3,06	5,24	6,39	
Others	1,43	0,43	2,44	
Employment by status in employment, in %⁷	100,00	100,00	100,00	100,00
Employees	18,01	14,90	19,45	16,93
Employers	0,39	0,03	0,15	0,14
Self-employed (OAW)	57,39	50,73	55,39	52,95
Unpaid family worker (CFW)	23,72	32,75	25,01	28,30
Other workers not classified	0,49	1,59	0,01	1,69

	1998	2002/03	2004	2006
Proportion of own-account workers and contributing family workers in total employment, in %⁸	81,11	83,48	80,39	81,24
Male	73,34	75,21	71,91	74,14
Female	90,26	92,51	88,97	89,34
Rural areas	94,01	93,78	92,37	89,34
Urban areas	45,19	54,89	53,29	92,93

Notes:

LCMS 1998: In computing informal employment, public sector workers in both first and secondary activity are considered as formal. No data on social security and paid leave are available for public sector workers

LCMS 1998-2006: Informal employment estimation is based both on main and secondary activity. A worker is considered informally employed if he has at least one informal job.

LCMS 2002/2003: Based on the national definition, productive unpaid family workers are considered to be economically inactive. In this table they are considered as employed. This can explain the difference between the EPR estimates by the CSO (LCMS reports) and those in this report. In addition, the sample size of this LCMS is nearly half of that for the other LCMS reported in the table. This difference in sampling may have caused the overestimation/underestimation of the employed/unemployed in 2002/03.

Annex IV: LCMS data for Equal opportunity and treatment in employment – Gender differences

	LCMS			
	1998	2002/03	2004	2006
Female share of employment in high-status occupations (ISCO-88 groups 11 and 12), in %¹	12,93	14,03	21,48	18,71
Female share of employment				
Agriculture	51,06	52,93	54,33	51,90
Industry	18,46	14,72	22,36	20,56
Services	41,49	37,00	46,39	40,07
Others	16,29	15,58	21,43	20,24
Total	45,93	47,81	49,70	46,72
Urban areas				
Rural areas				
Share of women in wage employment in the non-agricultural sector, in %				
Share of women in wage employment, total	23,24	22,43	50,92	39,91

		LCMS							
		1998		2002/03		2004		2006	
		Male	Female	Male	Female	Male	Female	Male	Female
Occupational segregation by sex (distribution of employment within ISCO-88 major groups), in %									
Total employment		100,00	100,00	100,00	100,00	100,00	100,00	100,00	100,00
0	armed force	0,30	0,05	0,31	0,01	0,29	0,01	0,36	0,02
1	Legislators, administrators and managers	1,00	0,19	0,77	0,14	0,82	0,30	0,83	0,24
2	Professionals	3,98	2,80	2,75	1,26	4,13	2,90	4,33	2,96
3	Technicians and associate professionals	2,39	1,09	1,57	0,52	2,57	1,23	2,11	0,96
4	Clerks	1,59	1,90	1,02	0,81	1,38	1,26	1,06	1,31
5	Service workers and shop sales workers	8,76	8,48	7,22	4,27	9,57	9,62	9,37	8,73
6	Skilled agricultural and fishery workers	61,46	76,74	70,00	88,91	60,13	75,42	59,22	72,35
7	Craft and related workers	7,74	1,83	6,59	0,69	8,45	2,08	7,86	1,57
8	Plant and machine operators and assemblers	4,60	0,91	2,89	0,55	4,44	1,10	4,60	1,02
9	Elementary occupations	7,59	5,54	6,63	2,82	7,72	5,83	9,50	10,19
10	Others	0,58	0,48	0,25	0,03	0,51	0,24	0,76	0,67

Sources: CSO datasets.

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