

PROBLEMS IN THE IMPLEMENTATION OF THE CONVENTIONS
AND RECOMMENDATIONS OF THE INTERNATIONAL LABOUR
ORGANISATION: THE ZAMBIAN EXPERIENCE.

By

KABAZO CHALWE CHANDA

LL.M. (UNZA)

A dissertation submitted to the University of Zambia in partial
fulfilment of the requirements for the degree of Master of Laws.

FACULTY OF LAW
UNIVERSITY OF ZAMBIA

1988

DECLARATION

I Kabazo Chalwe Chanda do solemnly declare that this dissertation represents ~~my~~ own work and that it has not previously been submitted for a degree at this or another University.

Signature:.....

Date:.....20th April, 1988.

APPROVAL

This dissertation of Kabazo Chalwe Chanda is
approved as fulfilling part of the requirements for the
award of the degree of Master of Laws by the University
of Zambia.

Signed:..... Date:.....

Signed:..... Date:.....

Signed:..... Date:.....

TABLE OF CONTENTS

	<u>PAGE</u>
INTRODUCTION	1
<u>PART I</u>	
CHAPTER 1: Historical Background of I.L.O.	5
CHAPTER 2: Brief History of the Trade Union Movement and International Labour Legislation.....	10
CHAPTER 3: Short History of Trade Unionism in Zambia	23
<u>PART II</u>	
CHAPTER 4: Establishment, Membership, objectives, Structure and the Working of the I.L.O.	35
CHAPTER 5: The International Labour Code and the Enforcement Machinery	46
CHAPTER 6: The Conventions and Recommendations ratified and accepted by Zambia	52
<u>PART III</u>	
CHAPTER 7: The Problems Experienced by Zambia in Implementation of the I.L.O. Standards	56
CONCLUSION.....	110
APPENDICES.....	113

PROBLEMS IN THE IMPLEMENTATION OF THE CONVENTIONS
AND RECOMMENDATIONS OF THE INTERNATIONAL LABOUR
ORGANISATION: THE ZAMBIAN EXPERIENCE

ABSTRACT

This paper is a discussion of the problems encountered by Zambia in the task of implementing the international labour standards. The embodiment into the Zambian legal system of all ratified International Labour Organisation instruments is given, and the problems encountered in the implementation of each instrument are then discussed.

The study is divided into three parts and seven short Chapters. The first three Chapters, which form Part One of the paper, deal with introductory matters, mainly with the origins of the idea of universal minimum labour standards, and the resultant formation of the I.L.O.

In Part Two of the paper an outline of the operation of the I.L.O. is given, as well as the procedure which is followed in formulation of the standards. In Part Three of the paper the Conventions and Recommendations ratified by Zambia are discussed, bringing out the difficulties she is meeting with in the process.

INTRODUCTION

The International Labour Organisation is a non-governmental international body established for the promotion of social progress. Its major goals are the eradication of poverty and unemployment in the world, the satisfaction of basic needs of the poor and the creation of a new world of work. The Preamble to Part XIII of the Treaty of Versailles states the object of the International Labour Organisation as follows:

"to improve the lot of wage-earners by the amelioration of conditions of work, prevention of unemployment, protection against sickness, protection of children, young persons and women, freedom of association and other measures."

Since its founding at the Paris Peace Conference in 1919, the International Labour Organisation has endeavoured to live up to its objectives by generating action aimed at promoting social justice and reform.

Nobody can deny the fact that the technological and other changes that have taken place since the days of the Industrial Revolution have profoundly improved the living conditions of peoples all over the world. But these changes have not eradicated all causes of poverty. Up to this very day there are hundreds of millions of men and women, especially in the third world, who are caught in a poverty trap marked by wretched incomes and appalling living conditions.

Despite international development agencies such as W.H.O and F.A.O. and national programmes, the plight of the poor masses of the world is growing ever more serious.

The I.L.O. is striving for the attainment by every person in the world of the basic material needs (food, clothing and housing, as well as education, health care and protection from disease). In this regard the Organisation encourages every country to create opportunities for gainful and productive employment, and to improve the working environment and living conditions of its workers. In this way the International Labour Organisation provides the International framework for action at the national level and at the work place, for safer, better and more satisfying jobs.

Besides job-creation and the improving of the working conditions, the I.L.O. also persuades governments and employers to allow the workers to fully participate in the framing of social and economic policies in their countries.

Zambia has taken steps to implement this I.L.O. advice on workers full participation in decision-making and policy-formulation by creating a department in the Ministry of Labour and Social Services, called the Industrial Participatory Democracy¹, which encourages workers to regard the institutions in which they work as their property, and to look at management as their colleagues in the struggle for the achievement of same goals. This department advocates

a spirit of co-partnership between management and employees. The Industrial Relations Act, Cap. 517 of the Laws of Zambia also buttresses this policy by allowing workers to form Works Councils for the discussion of the problems affecting the development of their undertakings. These measures are aimed at ensuring the workers' share in the control of the undertakings.

The protection and promotion of labour-oriented human rights has also been one of the most important functions of the I.L.O. This activity takes the form of Conventions and Recommendations relating to basic workers human rights. The Underground Work (Women) 1935 Convention, the Discrimination (Employment and Occupation) 1958 Convention, the Forced Labour, 1957 (No. 105) Convention are some of the double -purpose instruments adopted for protection of the workers human rights as well as improvement of their working and living conditions.²

The International Labour Organisation has so far adopted 153 Conventions and has made 162 Recommendations to alleviate, or mitigate the hardship of the working people, and it, in addition, has made special arrangements to implement its Conventions and Recommendations.

Part I of this dissertation gives the reader a brief outline of the wretched working and living conditions in Europe created by the Industrial Revolution. It is these appalling conditions which gave rise to the workers' fight for a fair deal. This fight began as a demand by workers for the amelioration of their conditions in each country.

This movement, grew from strength to strength each succeeding year and became known as trade unionism. The movement, like the Industrial Revolution, started in Britain and spread to other European countries and America. The reader is then presented with a short account of the history of Labour Movement in Europe and a similarly short history of trade unionism in Zambia.

Part II of the paper discusses the origin, scope and functioning of the I.L.O. The Organisation, as will be seen in Chapter Two, was a culmination of demands by the workers all over Europe and America for international legislation on labour. The difficulties which Zambia is experiencing in the implementation of the labour standards which she has ratified, or accepted, are examined in Part II of the paper.

It may be pertinent to point out here that it is not only Zambia and other member-states of the I.L.O. that are experiencing problems in putting into effect the international labour standards. Many other countries are in the same position.

Unlike the Trusteeship Council of the United Nations, which has accomplished most of its decolonisation process, remaining with only a few colonial vestiges like Namibia and some Pacific Islands, the I.L.O. has still a long way to go in achieving its goals. The Organisation is experiencing many difficulties in its mission of improving the lot of the working masses of the world over, both in the advanced and developing countries.

These problems as already said, are discussed in Chapter Seven of the paper.

PART I

CHAPTER ONE

HISTORICAL BACKGROUND

It is a well-known fact that technological changes in the factories, mines and other places of work which took place in Europe during the Industrial Revolution in the eighteen and nineteenth centuries created much new wealth for many people, and improved their standard of living. As a result of the employment of machinery in all types of industry, replacing human labour, development in all areas of human activity was accelerated. Goods were produced more quickly, in large quantities, and their quality improved greatly.

The owners of capital made more profit than they did before the Industrial Revolution. The use of machinery in most industries relieved workers of some of the more strenuous aspects of their work.

Following industrial expansion, more and more people left the countryside for the cities. Some of them were small land-owners, but the large majority were peasants who had hitherto been subjected to the feudal system, under which they rendered free labour to their immediate landlords. They were now able to sell their labour for money. As a consequence their living conditions were substantially improved.

But this process of technical innovation was not a blessing to every one. The change, in fact, brought it its wake added wretchedness to the toiling masses.

The living and working conditions of the workers were getting worse each succeeding year. The wages were meagre and yet the working days were long. In some cases a working day was as long as eighteen hours. This exacting and energy-sapping toil reduced the workers life span.

Children, both boys and girls, were also engaged in the factories, where they did such jobs as filling the quills for the shuttles in the silk-weaving industries. Some of those children were of as tender an age as six years, but worked for more or less the same number of hours as the adults.³

The machines were not free from danger to the workers, who either got maimed or killed by them, partly because they were not as yet accustomed to operating them and partly because the employers did not take sufficient protective measures against the patent or latent danger arising from such machinery. The employers did very little and sometimes failed in their legal duty to fence off dangerous machines or place adequate cautions.

The workers also handled various kinds of chemicals, some of which made them vulnerable to skin, lung and other occupational diseases, such as silicosis, cancer of the skin, as well as diseases caused by noise and vibration. The business premises therefore were not safe and subjected the workers to unforeseeable risks.

Under these circumstances the worker was virtually regarded by the factory owner as mere "cannon fodder", a sort of tool for acquiring and accumulating personal wealth, and not as an ally against poverty.

The living conditions of most of the workers were also squalid. Their housing systems were poor, which sometimes consisted of sprawling compounds of shacks, crumbly hovels and shanties. These mean dwellings, which were generally filthy, were crowded together and without proper ventilation. Besides, any worker who fell ill was not given adequate medical care, and was often replaced if he stayed away from work on sick leave for as short a period as just a couple of weeks. Naturally the life expectancy of such exceedingly over-worked workers was quite short.

In order to ameliorate their hardships and improve their lot, the workers were eventually compelled to devise some effective legal means. They realised that the initiative in improving their conditions had to come from them alone. They grouped themselves into organisations in order to effectively agitate for better wages and better living and working conditions.

These workers' combinations later on came to be known as "trade unions". Through them the workers took united action against their exploitative employers. They realised that they could

achieve more by bargaining collectively than individually or in small groups. They fought for the recognition of the legitimacy of their grievances.

At first the management or employers of each country viewed the trade unions as illegal groupings of agitators, formed for the sole aim of injuring the economy of the country in question. For this reason they bitterly opposed unionization of their employees. Gradually, however, some employers began to publicly voice their support for the workers plight, and helped popularize the idea of collective bargaining as a method by which the workers' lot would be improved.⁴

Robert Owen, a philanthropist, was one of the leading British employers who supported the workers' struggle for a better life. He proposed the taking over of the chief industries by the trade unions to be run on co-operative basis.

The Industrial Revolution, as already referred to, began in Britain first, in about 1760. It was again in Britain where trade unionism started, and gradually spread to other industrial countries like Germany, France and Belgium, thereby becoming international in character and growing from strength to strength.

After the First World War, the movement was linked up with the search for global political peace, and culminated into the formation of the International Labour Organisation (I.L.O.) at the Paris Peace Conference in 1919. The link-up was due to the pacifist idea sweeping across the European continent during most of the eighteenth century, which was that permanent world peace could only be created by global social justice. Politicians, in Europe at this same time were also calling for the formation of a strong and permanent international organisation that would end all future wars. As a result both ideas were jointly considered and were incorporated into the 1919 Versailles Peace Treaty, which also created the League of Nations.

For the last sixty-eight years (since 1919) the I.L.O. has been rendering outstanding services to the working-class movement for social, justice. Despite grave difficulties, the organisation is carrying out a relentless struggle for the welfare of the workers. Governments, employers and workers have considerably benefited from its activities. Among other achievements the organisation has abolished forced labour all over the world, as well as discrimination in employment and wages.

CHAPTER TWO

BRIEF HISTORY OF THE TRADE UNION MOVEMENT AND INTERNATIONAL LABOUR LEGISLATION

(a) Short History of the Trade Union Movement⁵

Before the eighteenth century, most of the people in Britain, and the rest of Europe, earned their living by working on the land. The social strata at each village consisted of the lord (or squire), freeholders, copyholders, leaseholders and cottagers. Their subsistence depended on production of grain and livestock, a peasant economy. As time went on, a textile industry developed, which made cloth using the available silk, imported cotton and local wool. But the looms and other machinery belonged to owners of capital. The hardship of the workers was therefore only slightly mitigated.

Generally, however, the Industrial Revolution transformed the people's way of life in Europe. More and more peasants each year abandoned tilling the land and migrated to the towns, where they sold their labour for money. Spinning, weaving, knitting, coal and iron mining became their new means of livelihood, Productivity soared.

As a consequence of the economic development new towns sprang up where new industries were started, and the old industrial towns grew larger. As the main aim of the capital owners was the maximisation of their profits they did very little in providing good and sufficient houses to their workers. As a result residential areas were crowded and unhealthy, with frequent break-outs of epidemics. The dwellings were shanties, hovels and ramshackles.

By the beginning of the eighteenth century a number of countries in Europe also became industrial nations. From about 1700 A.D. technical innovations began to take place all over Europe, beginning with Britain. In the British spinning industry, for instance, a new machine was invented in 1733, called the flying-shuttle, which did the work that was previously done by two workers. In 1698 Thomas Savery developed the pumping engine which pumped more water and at a faster rate out of the British Coal mines. In the iron industry a coke-fed blast furnace was invented which increased iron production and enabled production of more munitions for warfare. In short, technical innovations took place in all industries, including agriculture.

These technological changes in industry were known as the 'Industrial Revolution', which in Britain is generally said to have taken place between 1760 and 1830.⁶ In those seventy years Britain was transformed from an agricultural into an industrial country.

But the changes in industry, as already seen, did not improve the plight of the workers. The toiling towns-people continued to be used as tools for the creation of wealth for the capital owners. Not much was done to ameliorate their condition until the development of trade unions.

The trade union movement was thus the workers awakening to class consciousness and of their determination to improve their conditions of work and standard of living. It did not spring up overnight, but took a long winding path, involving much perseverance and great courage before it became recognised as a legitimate workers' cause. It also took many years of effort before some of its demands ^{were} met in national legislation, collective agreements and employment contracts.

Initially trade unions were vehemently opposed by management. They regarded them as criminal conspiracies against the public interest.

The Napoleonic revolution in France which began in 1789 played a leading role in the creation of fear in the minds of the politicians and anti-revolution employers in Europe. This French socialist development prompted the British capitalists and politicians, who were also the great land-owners, to pass the infamous Combination Acts of 1799 and 1800, which outlawed trade unionism.⁷ With this measure the

growth of trade unionism was suppressed for over twenty years. Any worker who joined a trade union or took part in a strike was summarily tried and, if convicted, imprisoned for a long period.

These harsh measures, however, failed to eradicate trade unionism. The workers continued with the struggle for the betterment of their conditions, both overtly and covertly. They lobbied their Members of Parliament, who brought about the repeal of all the Combination Acts in 1824-25.

The repeal of these oppressive laws deprived the employers of an ally against the workers, but gave the workers full hope and confidence. The workers immediately set out to organise the formation of large-scale unions. In the following year, 1826, the first British trade union was formed in London, called the 'Tailors Union'. This was followed in 1827 by the 'General Union of Carpenters and Joiners'⁸. In 1829 the 'National Society of bricklayers was formed in Manchester.

These unions proved orderly and non-socialist in outlook, a factor which made the authorities loosen their grip on the workers. The fear of a French-style socialist revolution was abandoned. The workers' hand was then fully strengthened. They now contemplated the formation of national unions. Between 1830 and 1835 several

national unions were set up in each trade. During the 1840s and 1850s the British workers were now talking of forming a single national union which would accommodate all national unions by affiliation. This ambition was achieved, as will be noted later, in 1868 in Manchester, when the British Trade Union Congress was formed. This Congress is in existence up to this day.. The progressive ideas of Robert Owen, the most outstanding revolutionary employer at the time, predominated the outlook of this union. It suggested that capitalism be replaced by a system of co-operative socialism. But the combined action of the Government and conservative employers defeated this lofty idea.

At this stage, however, as already stated above, the politicians and employers no longer feared a French-style revolution taking place in Britain. What they feared now was the possibility of workers controlling the regulation of wages and conditions of work, which they believed had better be left to be controlled by economic laws.

In 1868, at Manchester, the well-known trade union Congress (TUC) was set up. It fought for legal protection vigorously and as a result the Trade Disputes Acts, 1875 were passed, which gave all trade unions the immunity from court action which they still enjoy today. This law also provided a common platform for the expression of trade union views. It gave the workers freedom for the first time to organise their unions without interference.

These 1875 Acts also legalised orderly strikes as a legitimate weapon of the labour unions.

By the 1890's trade unionism in Great Britain had become fully fledged. Teachers, shop-assistants, and other non-industrial workers also formed their own unions. Today Britain is one of the countries with the largest trade unions in the world. The giant Trade Union Congress (T.U.C.) is affiliated to the International Confederation of Free Trade Unions (ICFTU) which has its head office in Brussels, Belgium.

In Germany industrial development came much later than in Britain. During the early 1800's small trade clubs existed. Trade unions proper began to spring up in the 1860's, when the most ambitious union, the German General Workmen's Association under Lassalle was formed. In the 1870's Bismarck, as Chancellor, unsuccessfully tried to stamp out all working class organisations. Anti-socialist laws were passed which remained on the statute books until they were repealed in 1890.

It may safely be said therefore that large scale trade unionism in Germany began after 1890. Today both Socialist Germany and Capitalist Germany have trade unions.

Russia, before the October Socialist Revolution had never been an industrial country, but the labour movement emerged there also. In the sixteenth century there were sporadic revolts against serfdom. This situation continued throughout the seventeenth and eighteenth centuries, leading up to the well-known riot at St. Petersburg Foundry in 1809. The struggle continued even after the abolition of serfdom in 1861, resulting in the first labour organisation in 1905 called the 'Peasants' Union. It was this union which was largely responsible for the Revolution which took place in the country in that same year.

It is a well-known fact that the neglect of the toiling masses by the Russian ruling class played a leading role in bringing about the Russian Revolution of 1917.

In America the unionists also initially met with strong resistance from management before they won recognition and legal protection. The first labour body in that country was formed in 1869 at Philadelphia and it was called the 'Noble Knights of Labour', which changed its name to the 'American Federation of Labour' (A.F.L.) in 1886.

As can be seen from the foregoing, trade unionism is not a new phenomenon. It traces its origin to the Middle Ages in some countries.

In spite of repressions and suppressions in various countries the movement pulled through. It survived the trying periods of both the First and Second World Wars. Most countries, after the Second World War, realised that trade unionism was an essential national institution. That it was a legitimate cause of the working classes. Because of this global embrace of the movement, the World Federation of Trade Unions was set up in 1945 which united all workers of the world.

There are today trade unions in most countries in the world, both in socialist and capitalist ones. It has proved itself to be a movement determined to continue contributing to the creation of social justice the world over.

(b) Origin of the International Labour Legislation

The workers' struggle for better working and living conditions in each country finally gave birth to the idea of international labour legislation. This idea of creating international rules relating to labour and industry began in early nineteenth century. It was one of the decisions taken at the Congress of Aix-la Chapelle in 1818. That Congress declared that the prime task for the governments of Europe was the fixation of the legal limits of the normal working day for the industrial classes of Europe and the regulation of labour conditions. The congress resolved to appoint a commission to report on this important question.

The well-known leading pioneer of this international action to combat industrial exploitation was Robert Owen, who lived in the early part of the nineteenth century. The others were Charles Bindley, a cotton-spinning factory owner in Lancashire; Jerome Blanqui, a French economist, who wrote a treatise on industrial economics in 1838-39; and Daniel Lengrad, a Swiss, who managed a ribbon-making factory in Alsace.

These men were the precursors of the labour movement in Europe, which latter embraced all countries of the world. Lengrad's and Owen's contribution were outstanding. From 1838 until his death in 1859, Lengrad bombarded with memoranda not only his Government in France, but also the British, Russian and Swiss Governments, in the hope of inducing them to enact a law which he described as:⁸

"An international law to protect the working class against primary and principal cause of its physical deterioration, its moral degradation and its depredation of the blessing of family life".

Owen in addition to his literature on the need for international labour legislation, put his ideas into practice by improving the working conditions at his factory, and appealed to other employers to do the same.

These industrial reformers and their contemporaries based their agitation for international labour legislation on humanitarian and religious principles, rather than on social-political revolutionary ideas like those of Hegel, Marx and Engels. Their sole concern was the reformation of social and industrial conditions, and not the carrying out of a political revolution or expression of a class struggle. They desired the achievement of an international agreement on the establishment of certain minimum labour standards for the protection of health, strength and human dignity of the workers. They were not, therefore, politicians seeking the support of the working classes in a bid to directly change the existing political order.

However it may not be completely denied that the social-political revolution which was being put forth by Karl Marx and Frederick Engels, (and which was convulsing the whole of Europe at the same time) had some influence on these precursors of international industrial justice. But it could still be argued that the concern of these reformers was the improvement of the workers' lot and not direct political change.

Another point worth noting is that Owen, Lengrand and other social reformers were men who were not in the seats of power, but private employers and intellectuals. This handicap rendered them powerless to translate their vision into action, since practical results could only be achieved through governmental action, such as legislation.

The men in government were on the side of anti-revolution employers, and blocked all attempts to pass the relevant legislation relating to the reformist demands of the workers.

It was Switzerland which took the lead in spreading the idea of international labour legislation. A Swiss Government Minister, who later became President of the Swiss Confederation, proposed that Switzerland should make treaties with other industrial states for the uniform regulation of labour conditions. This wise proposal, however, was not immediately followed by other states. A number of other industrial states were approached by Switzerland, but they showed no interest in the idea. It has been argued that each state at that time harboured the idea that its political and economic power, which mostly depended upon cheap labour would be weakened if it introduced policies for the social well-being of its workers.

Another explanation for the fear by the politicians of satisfying the workers demands was that the governments of the time in Europe dreaded the socialist monster which had controlled France in the 1789 revolution. The rulers were also the rich capital owners, as such they could not succumb to socialist ideas which aimed at expropriating them. This fear had been confirmed by their total rejection of Robert Owen's radical suggestions that factories and other industries be handed over to trade unions who should run them as giant Co-operatives.

Switzerland and individual reformists, however, continued to disseminate the idea of creating social justice the world over by *improving the lot of the poor masses. They argued that besides the humanitarian reason, bettering the condition of the workers was a sound economic basis. That a well-fed, well-housed and healthy worker was a great asset to the employer. He would live longer and would therefore be more productive. It was not until many years later in 1885 that the Swiss idea began to receive some favourable response. In that year France supported the idea, followed shortly afterwards by Germany. A few years later most of the leading European countries favoured the idea, and this general support culminated into the Berlin Conference of 15th March, 1890, where fourteen European States (including France, England, Belgium and Switzerland) passed several resolutions towards international labour legislation.*

This desire by the industrial nations to form one organisation on labour laws continued to gain momentum year after year. The first marked result of this momentum was the formation in 1900 of the first international labour body at Paris, under the name of International Association for Labour Legislation (I.A.L.L.). This body which was the forerunner of the I.L.O. produced the first useful steps towards the improvement of labour conditions.

In 1913 the Association met at Bonn where it adopted two important draft conventions. The first draft provided for the general prohibition of the night work of young persons under sixteen years of age, and the absolute prohibition of the employment of all young persons under fourteen years.

The second draft concerned the determination of the length of the working day for workers under sixteen years and for women. In the following year, 1914, the First World War broke out which brought the Association to an end. Fortunately, however, the end of the war ushered in another international organisation on labour to replace the I.A.L.L. This new body was formed in 1919, at the Peace Conference in Paris, which as already referred to, was called the International Labour Organisation (I.L.O.).

The formation, objectives, general structure and the working of the I.L.O. will be briefly discussed in Chapter four, in Part II of this paper.

CHAPTER THREE

SHORT HISTORY OF TRADE UNIONISM IN ZAMBIA

(a) The Founding of the Zambian Nation:

The land that is to-day known as the Republic of Zambia was a vast virgin territory inhabited by various African tribal communities, without formally drawn boundaries between them. This was the position until the advent of the European explorers in the last twenty years of the nineteenth century.

British and Portuguese explorers and missionaries visited parts of Zambia between 1830 and 1860. A well known British explorer and missionary of that era who visited the region was Dr. David Livingstone. He first reached the Zambezi river in 1851 and was the first white man to see the famous Victoria Falls. He did not discover these falls because there were Zambian communities already living around them when he first got there.

The British finally won control of the area and was known as Rhodesia, including the territory south of the Zambezi and north of the Limpopo rivers. It was named after a rich English businessman called *Cecil John Rhodes*. *In 1889 Rhodes formed a company called British South Africa Company, and was granted a Royal Charter to administer Rhodesia on behalf of the British Monarch, Queen Victoria.*

The company ruled Southern and Northern Rhodesia up to 1923 and 1924 respectively. In 1923 Southern Rhodesia was granted limited self-government by Britain, a status which the white settlers in that country used as a basis for declaring unilateral declaration of independence in 1965 (U.D.I.). In respect of Northern Rhodesia, the British Government assumed direct control from London, until 1964 when they handed over the reins of power to the black government of the new nation of Zambia.

Copper is Zambia's life-blood. Its mines, in the northern part of the country, were started in the early 1920's. They form an area called the 'Copperbelt'. During the late 1920s population on the Copperbelt grew fast. After a few years of reluctance to work in the dangerous pits, the Africans got attracted to the money economy and migrated to the urban areas in large numbers. By the 1930's the number of Africans employed on the mines and elsewhere ran into thousands.

As urban population rapidly increased and more mines were opened, more finance was needed for expanding the existing infrastructure and for building more houses for the workers. Britain was unable to provide sufficient funds to all its dependencies for such development. As a result the colonies initiated their own ways of raising the requisite funds. In Northern Rhodesia the fund-raising measures included the imposition of tax on all able-bodied adult African males, whether they were in employment or not.

In order to raise money for tax, Africans were compelled to drift to the urban areas to seek employment on the mines, on the European farms and in other industries. They were all unskilled workers, working in such places as township sanitation works, road construction and underground general workers.

Although the African worker was able to find money for paying his tax and was economically better off than his brothers and sisters left at the village, his working and living conditions were generally appalling.

At the place of work they were frequently assaulted by their white supervisors, and could go nowhere for redress because the police of the time did not entertain complaints from Africans against white persons. Their wages were low but they worked for more than ten hours a day, usually without a break. Workers who got injured at work and required medical attention were instantly sacked and replaced.

Dwellings for African workers were small, crowded huts without proper ventilation. In some cases such quarters consisted of tin shanties, occupied by three or more workers. Until in the 1940's wives and children were not allowed to accompany the man to the urban area.

(b) Origins of the Trade Union Movement:

Before 1929 there was no labour policy in Zambia. When disputes arose between workers and their employer, the employer dealt with the situation as he saw fit. He would either dismiss the whole lot and engage new workers or merely sack the ring-leaders.

In fact the colonial office in London had not formulated a labour policy for all the British dependencies. One reason given for the lacuna is that the British authorities did not wish to create rigidity in solving labour problems in colonies whose levels of development were varied. They preferred to deal with each colonial problem according to its prevailing circumstances.

As a result there was not medium of negotiation between labour and management in the colonies. The workers could not bargain with management collectively as they do to-day.

Colonial policy on industrial relations in Zambia began in 1929 when the Labour Party in Britain came to power. At that time Britain had seven trade union Acts passed between 1871 and 1927 which could be applied to the colonies. To extend the jurisdiction of these laws the Imperial Acts Extension Ordinance, 1929, was passed which made the seven British Acts on labour matters applicable to Zambia.

The Labour Government was able to take these measures for the advancement of Africans because a good number of Labour Members of Parliament were trade unionists. These men were aware of the harsh conditions under which the workers lived and toiled during the Industrial Revolution, and did not want to see a repetition of that situation in the British colonies.

In passing the Imperial Acts Extension Ordinance in 1929, the British Government intended to lay a basis for the economic advancement of the African workers in Zambia. They expected the Northern Rhodesian Government to encourage Africans to form their own trade unions, through which they could negotiate with management for better conditions. But the territorial Government and the white workers feared the advancement of African workers. The employers feared that African trade unions would make labour expensive, thereby diminishing profits. The white workers, especially those on the mines, feared that African advancement would deprive them of their privileges, such as reserved jobs for whites only.

The Zambian territorial Government informed the colonial office in London that it was reluctant to implement the directive of encouraging Africans to form and organise their own unions because Africans were mainly illiterate and would therefore not differentiate in their demands between labour and nationalistic issues. That they were so uninformed that they would not comprehend the complexes in the running of a trade union, and that they were actually not ready for mass organisation.

Having implicitly rejected Her Majesty's Government's instruction to apply the Imperial Acts to Zambia, the territorial Government and the Mining Companies, as the major employers of African labour, started to formulate their own means of receiving African grievances and of finding solutions to them.

The two mining companies at that time were the Roan Selection trust (RST) and the Anglo-American Corporation (AAC), which were in 1975 amalgamated to form the present Zambia Consolidated Copper Mines (Z.C.C.M.).

In Luanshya the RST introduced a system of 'Tribal Elders' in 1931 for sounding the feelings of the African miners. By this system both the African miners and the Mine authorities used the 'Tribal Elders' of each tribal group as a medium of consultation. In 1936 the 'Elders System' was replaced by the urban Advisory Council, for the same purpose. Other mining towns employed similar methods of pacifying the African worker.

The Africans, however, were not contented with these half hearted measures; they wanted 'equal pay for equal work', better houses, human treatment at places of work, and so forth. This was because by 1930 racial discrimination on the Copperbelt and the effects of industrialism were poignant. They compelled the Africans to put up open protest against the inferior economic and social status in which the Government and Mining Companies had placed him.

When the authorities turned a deaf ear to their demands, the African miners, went on a violent strike in 1935.⁹ In that year, instead of increasing the African Miners' wages, the Government increased the poll tax paid by all able-bodied male adult Africans from 10 shillings to 15 shillings. The Native Tax (Amendment) Ordinance, 1935, was passed to that effect. This measure heightened anti-management and anti-Government feelings among the African workers.

The situation on the Copperbelt became volatile following the poll tax increase, and finally erupted into a spontaneous violent protest in all towns. The strike started at Mufulira on 20th May, 1935, and spread to other copperbelt towns in a matter of hours. At Luanshya the protest developed into a riot, where the protesters attacked the mine administration offices with stones. Mobile Police were ordered to open fire at the strikers, killing six of them and wounding twenty-two.

This was the first strike by African workers in Zambia. The white authorities were panic stricken and shaken by this unprecedented event. They never imagined that the hitherto timid, docile and submissive native workers would undertake such course of action in registering their displeasure. Some elements of the authorities regarded the violent strike as a rebellion against the Government, just as the British Government regarded the British workers' strikes before the repeal of the Combination Acts.

To avoid its recurrence, or worse incidents in the future the Government appointed a Commission of Inquiry to find out the causes of the strike. The Russell Commission was constituted, which reported that the primary cause of that unexpected breach of the peace was the abrupt increase of the poll tax. Yet, as already seen, the real causes were deep seated, namely the colour bar, the reservation of certain jobs for whites only, the ill-treatment of the workers at their places of work, and the squalid living conditions.

The white miners also continued to fight for the further improvement of their lot. In 1936 they formed a branch of the all-white South African Mineworkers Union. In 1938 they broke away from the South African mother body and became an independent union called the Northern Rhodesia Mine Workers Union with the approval and recognition of both the Government and the Mining Companies.

This was the first trade union formed in Zambia. In 1940 it presented a number of demands to the Mining Companies. When Management appeared to drag their feet, they went on strike. The mining companies yielded to most of their demands, an act which aroused the feelings of the African miners to demand the formation of their own union.

When the authorities refused to permit them to form their own trade union, the African miners once again went on strike, which, like the 1935 strike, assumed violent forms in some towns. Another Commission of Inquiry, the Forster Commission, was appointed to find the causes of this second strike. The report of this commission stated that the main cause of the 1940 general strike was lack of an adequate channel of communication between the African miners and the Mining Companies.

This second strike by the African miners made the Government to finally adopt a pro-African advancement stance in labour matters. It urged the Mining authorities to do the same. As a consequence the Labour Commissioner founded the Boss Boys Committee in 1942 (B.B.C.) which gathered the grievances of the miners and presented them to the Mines Management. This has been said to be the embryo of African trade unions in Zambia.

Five years later, in 1947, the Government passed the Trade Unions and Trade Disputes Ordinance to encourage the development of Trade Unionism in the country, both for black and white workers. Legislation at this juncture was seen as the only quicker and more effective means of achieving the goal.

In the same year of 1947 the first African trade union was formed, called the Northern Rhodesia African Shop Assistants' Union, which acted as a model. Today this is one of the largest

trade unions in the country, known as the National Union of Commercial and Industrial Workers (N.U.C.I.W.).

The second trade union was formed in 1948, called the Northern Rhodesia African Mine Workers Union (N.R.A.M.W.U.), under the leadership of Mr. Lawrence Chola Katilungu. This is today known simply as the Mineworkers Union of Zambia (M.U.Z.).

In 1949 another legislation was passed which consolidated and adopted all the seven British trade unions Acts applied to Zambia by the 1929 Imperial Acts Extension Ordinance. It also strengthened the 1947 T.U. and T.D. ordinance.

After these legal measures were taken a proliferation of trade unions ensued. The railway workers formed their African Railway Workers Union at Kabwe in 1950. This is now called the Railway Workers Union. Other unions formed soon after the 1949 Ordinance were the Northern Rhodesia Municipal and Management Workers Union and the Northern Rhodesia African Hotel and Catering Workers Union.

With the existence of several trade unions in the country industrial harmony prevailed. Disputes were resolved without resorting to violent methods. The strikes that occurred were of short duration and non-violent.

One important factor worth mentioning in the development of African trade unionism in Zambia is that African trade unionists collaborated closely with African nationalists. The activities of the latter greatly influenced those of the former. Their goals were largely the same: the creation of social and economic equality of all the people of Zambia and removal of the unjust minority rule.

Beginning with the founding of welfare associations in the early 1920s through the formation of the African National Congress in 1948, and ending with the establishment of a black government in 1964, the nationalists supported the workers all the way. Whenever workers went on strike the politicians helped in picketing and processions. Both movements saw the colonial state as a systematic process of oppression, repression and destruction by military, political and economic methods.

During the 1950s trade unionism had taken a definite shape. The first all-black federation of trade unions was formed in 1952 at Kitwe. It was called the Northern Rhodesia Trade Union Congress (NRTUC). All African trade unions were affiliated to this federation, under the leadership of Lawrence Chola Katilungu as its President, assisted by Jeremiah Zimba the General Secretary.

In 1958 the federation suffered a serious split. One faction strongly supported the politicians in their policies while the other led by Mr. Katilungu *preferred to form their own policies. The splinter group called itself the* Northern Rhodesia Reformed Trade Union Congress (NRRTUC). The remaining group maintained its name of NRTUC under Katilungu.

In 1961, however, the two factions regrouped at a joint conference at Mindolo in Kitwe, under a new name of United Trade Union Congress (UTUC) which once again worked closely with the United National Independence Party, a one-year old political party formed in 1960 after breaking away from the African National Congress.

In 1965, by legislation, the U.T.U.C. was transformed into the Zambia Congress of Trade Unions (ZCTU). All registered trade unions were by law required to affiliate to the Z.C.T.U. This is still the mother body of all Zambian Trade Unions, which is in turn affiliated to the Pan African Trade Union, and to the international Confederation of Free Trade Unions (ICFTU).

Today the Government communicates labour policy to the workers through ZCTU and its affiliates. Periodically the Government invites Congress leaders to participate in state-sponsored conventions and seminars relating to national development plans. In turn the Congress invites Government officials to address labour gatherings. This practice has difused a great deal of bitter conflict between state and labour.

CHAPTER FOUR

ESTABLISHMENT, MEMBERSHIP, OBJECTIVES, STRUCTURE AND WORKING OF I.L.O.

(a) Establishment

The attempts to create a permanent world-wide labour organisation which began with the I.A.L.L. in 1900 at Paris were, as we have seen, disrupted by the First World War. Fortunately, however, the War did not completely kill that international movement for social and economic progress which had gained special momentum at the turn of the century. Conferences continued to be convened throughout the War, with a view to establishing one world body for the improvement of the workers' working and living conditions, a global forum of labour.

In 1916 a grand successful meeting of the allied trade union representatives from all the major industrial European states was convened in Leeds, England, by Leon Jouhaux, a French trade union leader and secretary of the French General Confederation of Labour. The following year, in 1917, a conference of workers' representatives from the Central and Neutral Powers met in Berne. These and several other Pre-Peace gatherings paved the way for the adoption on 31st January, 1919 of the Commission on International Labour Legislation (C.I.L.L.). The terms of reference of this Commission

were stated as follows:¹⁰

"That a Commission, composed of two representatives a-piece from the five Great Powers and five representatives to be elected by the other Powers represented at the Peace Conference, be appointed to inquire into the conditions of employment from the international aspect and to secure action on matters affecting conditions of employment, and to recommend the form of a permanent agency to continue such inquiry and consideration in co-operation with and under the direction of the League of Nations."

This Commission commenced its work on February 1, 1919, and produced its report on February 24 of the same year. The report suggested that world peace could only last if it was based on social justice, and that any contempt for social justice would inevitably lead to disaster. It consisted of two parts, namely, the Constitution of the proposed International Labour Organisation and the Labour clauses.

The Constitution was adopted by the Peace Conference on the 28th April, 1919. The two texts were finally embodied in the Treaty of Versailles as Part XIII. The Second part of the Report was more revolutionary than the first part, because it consisted of the labour principles to which the workers attached immediate importance. The employers and governments on the other hand, supported Part One (the Constitution) more, because it contained provisions, which advocated long-term rather than immediate progress of the workers.

When drawing up the Peace Treaties and setting up the League of Nations in 1919 after World War I, the Allied and Associated Powers noted that it was unrealistic to allow to continue labour conditions which involved injustice, hardship and privation to large numbers of people. They did not want to lose sight of the fact that the establishment of a permanent organisation for the protection of the working masses throughout the world was of paramount importance, and of the fact that the continuance of social injustice towards the working masses was likely to produce unrest so great that the peace and harmony of the World being sought would be imperilled. These Powers did not also ignore the event which took place in Russia barely two years back, where in 1917 the struggling workers over-threw their bourgeois-supported monarch for the same reason of denying the workers and peasants social justice.

In the end the International Labour Organisation was formed, which is to-days highest world-wide labour forum, a body where representatives of the workers are on equal footing with those of employers and governments.

(b) Membership

Right from its inception the I.L.O. had been inspired by the will to become an all-embracing organisation. Like other universalist organisations the I.L.O. has always joyfully hailed the admission of a new member state as a further step towards the goal

of complete universality. The withdrawal of a member state from the organisation brings sorrow to the remaining states, who pray and hope that sooner or later the out-going members would return. For instance, the organisation rejoiced over the come-back of the United States in February, 1980 which quit the organisation in 1977 when she accused the I.L.O. of being principally a supporter of socialist principles instead of being an impartial international non-political labour forum.

As already stated, universality is the goal in I.L.O. membership. Indeed, it would be a contradiction in terms for such an organisation with a world-wide mission if it aimed at something short of universality, because the peace and prosperity of the world as a whole would be endangered by the emption of social justice in any country where large masses of the workers were subject to poverty and privation.

The universality which the I.L.O. desires to achieve does not mean uniformity, nor a system which imposes on member states a pattern of social structure to be uniformly applied. It strives for the laying down of minimum and generally recognised civilised standards of labour conditions.

The original members of the I.L.O. were forty-two countries which attended the 1919 Peace Conference at Versailles. But the

number quickly grew, achieving sustained growth by the 1960's as more and more newly independent African, Asian and Latin American countriss were admitted to the organisation. With the admission of Zimbabwe in 1980 the membership now stands at 145.

Membership, of the I.L.O. is open to all fully fledged states. The admission of a new member is made by the General Conference where a two-thirds vote in favour of the application of all the delegates attending the session is required. After voting takes place the aspiring member has to accept the obligations of the Constitution of the organisation. The new member communicates to the Director-General its acceptance of the obligations of the Constitution, and this act is the formal effecting of the admission. (See Article 4 of the I.L.O. Constitution).

Any member intending to withdraw from the organisation has to give two years' notice to the Governing Body, through the Labour Office, during which period the withdrawing state remains bound to discharge its obligations (see Article 5).

(c) Objectives

As already stated, the International Labour Organisation was formed for the promotion of social justice throughout the world, because it was realised that without this justice there can be no

harmonious economic or social development. Indeed the preamble to the United Nations Charter echoes this aim of promoting better standards of life in larger freedom. It strives to improve through international action, labour standards and living conditions of the workers. Poverty anywhere constitutes a danger to prosperity everywhere. The I.L.O. believes that all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, and that the worker should be regarded by the employer as his ally in the fight against poverty, hunger and disease, and not as his tool. The organisation aims at helping the member states work out their social and economic development policies and, in the process, strives to ensure the protection of the fundamental rights of the workers. It is desired that each individual nation should achieve employment of its people, raise their living standards, make them share the fruits of their progress fairly and protect their health.

The I.L.O. strives to turn the quest for social justice from a mere abstract concept into a reality everywhere. It also aims at stimulating a dialogue among governments, workers and employers' organisations, and to co-operate closely with other organisations of the international community.

Through its tripartite structure, the representatives of the workers and employers are able to take part in all discussions and decision making on an equal footing with those of governments.

(d) The Structure and Working of I.L.O.

The structure of the International Labour Organisation is quite a simple one. It consists, of three main bodies which enable it to accomplish its tasks. It has an International Labour Conference, a Governing Body and an International Labour Office, each body having its own specific role to play. Of the three organs, the Conference is the supreme policy-making and legislative organ, while the Governing Body is the Executive Council and the Labour Office is the Secretariat, the operational headquarters and the information centre.

The composition of the Conference and Governing Body are tripartite in character. Side by side, the government representatives sit with employers and workers representatives, equal in status. In this respect the I.L.O. is unique among international organisations, and this balanced collaboration, in its activities had given it vitality and is largely responsible for much of the success so far scored. Each of the three bodies is herebelow examined in some detail.

(i) The Labour Conference

All member states, once a year, in June send four representatives each to the International Labour Conference in Geneva to formulate policy for the I.L.O. It is a sort of general assembly of I.L.O.

Two of these delegates are from the government side, the third delegate represents the employers, while the fourth represents the workers. All delegates may be accompanied by advisers not exceeding two for each item on the agenda.

Each delegate has the same voting and other rights and does not act on the instructions of his government. He expresses himself freely and votes as he wishes. (See Page 45 of the I.L.O., in the search of Social Progress. A workers Educational Manual, 1969, ILO Office, Geneva). This is another unique feature of the ILO in comparison with other international organisations.

Because of its representative character, the Conference is often referred to as the "International Parliament of Labour". Indeed, it is more closely akin to a representative law-making organ than the assemblies of either the League of Nations or the United Nations. The Laws which this 'Parliament' makes are known as conventions, sometimes termed 'Labour Standards'.

A convention is an agreement designed for ratification by the member states and is binding on the states that have ratified it. When a state ratifies a convention it undertakes that its legislation and national practice will be brought into line with the standards laid down in the convention concerned.

A Recommendation is an agreement which is not binding on the adopting states. It merely gives guidance in some particular field, and expands or complements a convention related to it.

When delegates of a given government vote in favour of a particular Convention or Recommendation they are regarded by the Conference to have committed their country, to take steps to promote the necessary legislative or other action in their own country to give effect to the Convention or Recommendation.

The Conference is thus the forum where social and labour questions of importance to the entire world are discussed freely and sometimes passionately. It may freely express a collective opinion on any matter within the broad field of the I.L.O.'s competence, and can make recommendations it thinks fit to governments, to workers and employers organisations. Each year it presents a report to the Governing Body.

(ii) The Governing Body

The Governing Body is the executive Council of the I.L.O. and is elected every three years at the Conference. It is, so to speak, the hub of the wheel around which the I.L.O. activities revolve. It meets three times a year and it is the body which

prepares the agenda for the Labour Conference meetings. The Governing Body takes note of the consequent actions taken and directs the activities of the I.L.O. office. Like the Conference, the Governing Body is tripartite in composition, but here the members serve in a representative instead of a personal capacity.

It comprises 56 members, 28 of them representing governments, 14 representing workers and 14 speaking for employers. Of the 28 government seats ten are held by states of chief industrial importance (Canada, China, France, India, U.S.A., Japan, Italy, USSR, UK, and Federal Republic of Germany). The other 18 Government members are elected by the Government delegates at the International Labour Conference other than those of chief industrial importance.

(iii) The Labour Office

The International Labour Office, in Geneva, is the Permanent Secretariat of the I.L.O. It prepares the documents and reports which are the essential background material for the Conference. It also recruits I.L.O.'s technical co-operation experts throughout the world. In addition, it issues a broad range of specialised labour publications and periodicals and works closely with labour and social affairs ministers, employers' organisations and trade union bodies.

The Labour Office is therefore an administrative agency, a research and documentation centre, as well as an action centre. Through its regional officers the office is able to identify specific labour problems of each area and give special attention to them.

The main duties of the I.L.O. may be summarised thus: to organise and compile reports; to provide secretariat services for implementations of the international labour standards; to assemble and disseminate information; to undertake research and enquiries; and to publish results. To draft international labour standards and promote the effective application of such standards by member states; and, in collaboration with other bodies and with the national authorities concerned, to implement technical co-operation programmes.

CHAPTER FIVE

THE INTERNATIONAL LABOUR CODE AND THE
ENFORCEMENT MACHINERY

International Labour Legislation is one of the major tools available to the I.L.O. in the performance of its duties. It is used in the setting up of the minimum standards for all I.L.O. member states with regards to labour matters. These standards are of a wide variety and involve all aspects of the life of a worker. There are standards for instance, concerning freedom of association (both of workers and employers), and standards governing conditions of work. All these standards form up a body of rules which is known as the International Labour Code.

Specific examples of such minimum labour standards, are such pieces of legislation as those which provide that workers must be free to organise and associate with themselves without restriction or authorisation (see section 4 of the Zambia Industrial Relations Act, Cap. 517). Laws which prohibit forced labour, laws which provide that machinery potentially dangerous to workers must be equipped with necessary protective devices, laws which stipulate that female workers should be given six weeks^{leave} after childbirth, and laws which prohibit discrimination in employment based on grounds of race, colour, sex, social origin or political opinion.

The International Labour Code is an ever growing set of universal labour rules which are designed to improve the welfare of the working classes in the world. It consists of two texts which are adopted by the International Labour Conference, and are sometimes referred to as 'International Instruments'. These texts are the Conventions and Recommendations of the I.L.O.

Between 1919 and 1981 the Conference had adopted 153 Conventions and 162 Recommendations. The Conventions, like international treaties, are international agreements designed for ratification and which become binding on states that ratify them. Each state that ratifies a Convention undertakes that its legislation and national practice will be brought into line with the standards laid down in the Convention. This means that the state pledges to apply the terms and provisions of the instrument. The Recommendations, are already stated above, are not strictly of a binding effect, but merely give guidance in some particular field to member states on labour matters and do not therefore require ratification.

ENFORCEMENT MACHINERY¹¹

Before the enforcement machinery is discussed it is essential to find out how each Convention or Recommendation comes into being. The move to introduce a particular Convention or Recommendation may come from any of the three partners in the I.L.O., that is, the workers, employers or governments, although the initiative has more often been traced

to the trade unions, the workers. This is not surprising because it is the workers who benefit directly from the international labour standards. Of course, the employers and governments are also beneficiaries because the standards lay down the orderly procedures which the workers have to follow when presenting their demands to management. The standards create an orderly atmosphere for all concerned.

A Convention or Recommendation is proposed to be adopted when it is felt by the proposers that the particular rights of the workers could only be effectively guaranteed or safeguarded by a Convention or Recommendation which would define the rules in precise terms. The group proposing the instrument submits the proposal to the labour office which prepares enough copies for distribution to all member states. The member states' reply to the proposal, and the Governing Body includes the proposal on the agenda for the next Labour Confederation where the matter is discussed, voted upon and finally adopted or rejected. If adopted, the instrument is then sent to each member state for ratification or acceptance.

It is common knowledge that one of the major objectives in legislation is to implement the law enacted so that a particular mischief is stopped. Similarly, the object of adopting Conventions and Recommendations is to see that the particular minimum standard is put into effect by the member states. Each member state which ratifies the Convention is expected to apply its

provisions without fail. But where the instrument adopted is a Recommendation, it is expected to be only of persuasive influence to the member states. Willingness to apply the provisions of a Convention is signified by sending a written ratification to the I.L.O. in Geneva. Willingness to put into practice a Recommendation is signified by dispatching a written acceptance to the I.L.O. in Geneva.

In order to monitor the application of the Conventions and Recommendations the I.L.O. has set up several procedures. Firstly, there is a procedure governing the submission of the particular instrument to the national legislatures, or similar authorities for consideration as to whether the instrument should be applied or not. (Article 19 of I.L.O. Constitution). Secondly, there is a procedure for reporting by member states to the Labour Office on the measures they have taken to effectively apply the Convention or Recommendation concerned. (Article 22 of the I.L.O. Constitution). Thirdly, there is a procedure for the examination by the Governing body of the representations (i.e. complaints) by workers' or employers' organisations that a member state is failing to apply a ratified Convention or an accepted Recommendation (Article 24 and 25).

The fourth method of monitoring application of the I.L.O. instruments by the member states is that each state is required to report on the position of their law and practice as regards

the matters dealt with in the Convention which they have not accepted. Finally there is a procedure whereby the Governing Body examines a complaint filed by a member state (not workers or employers) that another member state in failing to apply a Convention which both have ratified. But this final procedure can only be followed if the Governing Body so decides by a Commission of Inquiry appointed by it, after receiving the complaints.

It may be said in conclusion therefore that there are sufficient means of finding out if a state has effectively applied the provisions of a particular instrument. As already seen, when a Convention or Recommendation has been adopted by the Conference, the text of the new instrument is sent out to all member states so that they may consider applying it. The Government of each member state is under an obligation to submit both the Conventions and Recommendations to their competent authorities within 12 or, in exceptional cases, 18 months for the enactment of legislation or other action. The states must report back to the I.L.O. office on the measures they have taken in that respect and on the action taken by the competent authority.

The most effect and most sure way of applying the labour standards is the enactment of a law to translate the international standards into the national legislation. If the

instrument is already fully applied in national law and practice of the member state, the government merely enacts a law to give full effect to the instrument, followed by a formal ratification.

It must be pointed out that the government of a member state must still submit the instrument to its competent authority even if it does not itself intend to follow the instrument. The decision must be made by the body within whose competence the matter lies, that is, the representatives of all the people in the country, and not to be unilaterally decided by those currently in power.

The report to the International Labour Office by each member state is one of the most important aspects of the enforcement procedure, because it is this report that enables the I.L.O. and its supervising bodies to ensure that the obligations laid on that state to submit new instruments in future to its competent authorities is respected. There is also an indirect enforcement machinery of the unratified Conventions and Recommendations. By this method, which was started in 1948, the Governing Body may call on all member states to report on the position of their law and practice with regard to unratified Conventions and Recommendations, and to state the difficulties which prevent or delay their ratification or acceptance. The main reason behind this method is that the conditions at that time when the competent authority rejected ratification of a Convention might have changed for the better at a later stage.

CHAPTER SIX

ZAMBIA'S CONVENTIONS AND RECOMMENDATIONS¹²

On 24th October, 1964, Zambia achieved her political independence and immediately became a member of the I.L.O. at that time she took over 14 Conventions which had been ratified by the United Kingdom on behalf of the Protectorate of Northern Rhodesia. Her Majesty's Government in Britain, which was responsible for international relations of Northern Rhodesia, had declared to the I.L.O. Office that these Conventions would be applied in this territory.

When Zambia attained Independence a change of sovereignty took place. The British Queen handed over sovereign powers to the President of the new Republic. Such a political change affects the legal status of the treaties in one way or another. The change is called a 'Succession of States', which means the replacement of one state by another in the responsibility for international relations of the territory. The successor state takes over the rights, benefits and obligations of the predecessor state.

The present law which regulates the handing over of treaties from the old to the new regimes is laid down in the Vienna Convention 1978. This Convention classifies succession to

treaties into two categories, namely, succession in fact and succession in law. Succession in fact occurs where an internal change of power takes place, such as from a King to a Queen in the same Monarchy or from a father to a son. Succession in law takes place where the change is done externally, such as from a colonial power to an indigenous ruler. Thus where a colonial power grants independence to its dependent territory a complete change of sovereignty takes place. This is what happened to Zambia in 1964.

There are also various theories regarding the manner in which a new state succeeds to the treaties it finds. Two well known theories are the 'right of option' theory and the 'clean state' theory. Zambia applied the right of option theory. She succeeded to all the treaties left behind by Britain but with the right to reject any of the treaties she no longer liked.

Conventions, as already said, are international treaties and are binding on the ratifying states. In 1964 Zambia took over all Conventions and Recommendations from the British Government, thus allowing herself to be bound by the Conventions.

Zambia has so far bound herself to 30 Conventions (see the full list at appendix (iii) of this paper). All these Conventions

have been fully incorporated in the national statutes. It can be deduced from the list of Zambia's thirty Conventions and Recommendations that Zambia has great respect for basic human rights, and resents any form of employment or labour condition which infringes these rights. Forced labour, employment of children of tender age, and employment of women underground are examples of practices which Zambia dislikes.

A closer look at the Conventions not ratified by Zambia shows that a substantial number of them are already adequately catered for by the provisions of her statutes. The Convention on hours of work (Commerce and Offices) 1930 Convention (No. 23), for instance, has not been ratified because this is already well covered by the Employment Act, Cap. 512 of the Laws, which also covers the Forty-Hour Week (1935) Convention, and the Employment Service (1948) Convention.

There are two methods which Zambia applies in implementing the instruments ratified. The first method is that where there is no related legislation in existence at the time of ratification, the state passes a new legislation to give effect to the instrument. The Medical Examination of Young Persons Act (Act No. 20 of 1973) is an example of this method. This 1973 Act was passed by the Zambian Parliament to implement the Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124), ratified by

Zambia in 1967.

On the other hand where provisions of a Convention are *already catered for at the time of ratification, only a bare* enactment is passed to signify formal implementation of the instrument. An example of this method is the Employment Act, Chapter 512 of the Laws of Zambia, which is a short Act, but which implements two instruments, namely the Minimum Age Convention and its Recommendation.

Each Convention is accompanied by a Recommendation. Thus the number of Recommendations adopted depends usually on the number of Conventions ratified.

As already stated above, Zambia has a total of 30 ratified Conventions. The names of the Conventions are given in the next Chapter where an explanation is given as to how each of them has been translated into practical terms.

CHAPTER SEVEN

HOW ZAMBIA HAS IMPLEMENTED THE I.L.O. STANDARDS

Zambia, like any other I.L.O. member state, ratifies a Convention and accepts a Recommendation either to signify that she already has laws on her statute books identical or similar to the provisions of the Convention or Recommendation concerned, or with a view to putting it into effect by passing the relevant law if there are no laws similar to the provisions of the standard in question. In this way the basic social, labour and human rights of workers are promoted and protected.

As already referred to, Conventions are international treaties, whose implementation has to be communicated back to the I.L.O.

Article 2 paragraph 7 of the United Nations Charter states that the United Nations shall not intervene in matters which are essentially within the domestic jurisdiction of any state and shall not compel a state to submit a domestic matter to the world community. This charter was adopted sixty-nine years ago in 1919. The position has now changed. The great majority of states today hold the view that in questions of human rights and labour matters the international community should not be precluded from discussing or condemning a state which maltreats its inhabitants, that the world community has a moral duty to appeal to the state concerned to correct the practice.

Mrs. Pandit, India's representative at the United Nations in 1956 said the following in referring to the racial discrimination against South Africans of Indian origin by the white racist Pretoria Government:

"It is too late now to argue that fundamental violations of the principles of the Charter are matters of domestic jurisdiction of member states. If this was the case the Charter would be a dead letter, and our professions about a free world, free from inequalities of race, free from want and free from fear, are empty mockery."

The significance of this statement is that matters relating to the welfare of workers all over the world are matters which long ceased to be solely the concern of each individual state to the exclusion of other states. In this regard states like the Boer Republic of South Africa should not be protected by Article 2(7) of the U.N. Charter.

As already discussed in the foregoing Chapter, the Conventions are ratified in two ways in Zambia. The first method is that where the provisions of a labour standard exist in the body of the national law and legal practice, the Government accordingly notifies the I.L.O. Office of that fact, and copies of such indication are given to the Zambia Congress of Trade Unions and its affiliate unions, as well as to the Zambia Federation of Employers. The second method is that, if the provisions of a Convention do not exist in Zambia's statute books, the Government enacts new legislation to meet its requirements. For instance, the Medical Examination of Young

Persons (Underground work) convention, 1965 (No. 124) was ratified by the enactment of an Act titled "An Act to provide for the implementation in Zambia of the International Labour Organisation's Convention No. 124." (See Act No. 20 of 1973)

Once the ratification of a Convention or acceptance of a Recommendation has been done, the state then assumes the duty of putting the instrument into effect, i.e. carrying out the implementation of the standard, in order to ensure the just and favourable conditions of work and remuneration for every worker. In the paragraphs that follow below, the implementation of each ratified Convention, or Recommendation, is discussed, noting the areas where problems are encountered.

MINIMUM AGE (INDUSTRY) CONVENTION, 1919 (NO. 5)

The first Convention appearing on the list of the instruments ratified by Zambia is the minimum Age (Industry) Convention (No. 5) adopted by the I.L.O. in 1919. This was the first Convention which prohibited the employment of children of tender years, and laid down 14 years as the minimum age for employing of children in industrial undertakings. It was followed by the Minimum Age (Non Industrial Employment) Convention, 1932 (No. 33) which also set the same age of 14 years as the minimum age in non-industrial undertakings. Other conventions were later adopted on this prohibition, such as Convention No. 10 of 1921 which dealt

with agricultural work, and Convention No.60 of 1937 which raised the minimum age to 15 years.¹³ Out of all these instruments on Minimum age, Zambia ratified only the No. 5 Convention, which was also later denounced in 1973, when she ratified a more general and flexible one. This new Convention was the Minimum Age Convention (No. 138), of 1973 together with its accompanying Recommendation (No. 146) of 1973.

Having denounced Convention No. 5, Zambia is therefore only bound by two Conventions on minimum age in employment, namely, Conventions Nos. 123 of 1965 and 138 of 1973. Convention 123 of 1965 provides that the minimum age for employment underground must be 16 years. But the 1973 Convention differs from the other Conventions on minimum age in many ways. For instance it provides that the minimum age is to be specified by each state when ratifying the Convention, and fixes 15 years as the minimum age instead of 14 years. It goes on to state that even the 15-year-age limitation may be waived in countries whose economy and educational facilities are not sufficiently developed. The Convention further lays down 18 years as the minimum age in all dangerous occupations.

Zambia has implemented the two Conventions on minimum age in employment as well as the Recommendation (No. 146 of 1973). Act No. 57 of 1965, titled 'Employment Act' Chapter 512 of the Laws covers the Provisions of both Conventions. Section 12(1) of this Act states that "no person shall employ or cause to be employed, any person under the age of 16 years". This prohibition

covers workers in both industrial and non-industrial undertakings, any employer who contravenes this provision in Zambia commits a punishable offence under the Act.

With regard to the protection of young persons employed in industry, Chapter 505 of the Laws, in Section 7(1), says that "No person shall employ a young person under the age of sixteen years in an industrial undertaking, other than an undertaking in which only members of the same family are employed." (See similar provisions in Chapters 193, 227 and 55-04 of the Laws of Uganda, Kenya and Malawi respectively). The employer is required to keep a register of all persons under the age of sixteen years employed by him, stating their ages, and must permit a labour officer to inspect the register. The Act further prohibits the employment of children underground. In this way the Act directly puts into practice the provisions of Convention No. 123, the Minimum Age (underground work), Convention, 1965. Thus all the three Conventions on minimum age (Conventions 5, 123 and 138) are all implemented in Zambia by Chapters 512 and 505 of the Laws.

A closer look at the list of Conventions ratified by Tanzania reveals that she (Tanzania) has ratified none of these three Conventions on minimum age in employment (Nos. 5, 123 and 138). This is rather strange because these Conventions are said to be favoured by socialist states, and Tanzania is ideologically more

socialist oriented than her three neighbours - Kenya, Uganda and Zambia, which have ratified one or the other of these instruments. Uganda has ratified Conventions 5 and 123 and not Convention 138. This means that Uganda has retained Convention No. 5 which both Zambia and Kenya have denounced. Kenya too has retained only Convention 138 after denouncing Conventions Nos. 5 and 123. Malawi has ratified none of them. In a tabular form the position of the five countries regarding Conventions 5, 123 and 138 is as follows:

<u>Country</u>	<u>Convention 5</u>	<u>Convention 123</u>	<u>Convention 138</u>
Zambia	denounced	retained	retained
Uganda	retained	retained	not ratified
Kenya	<i>denounced</i>	<i>denounced</i>	<i>retained</i>
Tanzania	<i>not ratified</i>	<i>not ratified</i>	<i>not ratified</i>
Malawi	Not ratified	not ratified	not ratified

In Kenya Convention 138 is implemented by Chapter 227 of the Laws - the Employment of Women, Young Persons and Children Act, which provides penalties in S.14 for employment of juveniles under the age of 16 years. Uganda and Tanzania have similar statutes of the same title for regulation of employment of young persons. (See Appendix (ii)) Malawi also has Chapter 55(4) - Employment of Women, Young Persons and Children Act, which forbids the employment of young persons below the age of 16 years.

The Ugandan law on restriction of employment of young persons and children goes further than merely fixing minimum age. Section 4 of the Employment of Children Act says that no child shall be employed in any industrial undertaking, and regulation 7 of the same statute stipulates that no child shall work for more than four hours without one hour rest in a factory or workshop. A 'child' is defined as any young person under the age of sixteen years.

It may be observed in conclusion that the minimum age Conventions have generally not been adequately implemented in these English-speaking East and Central Africa states. Being developing countries, all these states are experiencing many difficulties in implementing these Conventions effectively because most of their school leavers (the Grade Seven and Form-Three drop-outs) are below the age of 15 years. The law stops them from being employed, but they are at the same time unable to continue with their studies. As a result it is common to find children aged 13 and 14 employed in house-holds and other places, with the authorities turning a blind eye to the problem.

In the effort to solve this problem, the I.L.O. is advising its member states to introduce vocation-oriented education in their territories, which would enable drop-outs take up gainful self-employment. Zambia has implemented this advice by introducing the 9-year primary education course emphasising on vocations.

The main purpose of fixing a minimum age for admission to employment is to provide an opportunity to a child to acquire a good basic education and to allow him to achieve a full mental and physical development before he is thrust into the rigours of the working world.

THE RIGHT OF ASSOCIATION (AGRICULTURE)
CONVENTION, 1921 (NO. 11)

The I.L.O. has always regarded Freedom of Association as one of the basic human rights which collectively constitute an essential element in all actions designed to improve the conditions of workers. It has become the cornerstone of most civil liberties and the bulwark of many religious and political freedoms. It is also one of the foundations on which the free societies of the world are built.

The first international Convention specifically concerned with freedom of association was the Right of Association (Agriculture) Convention, 1921 (No. 11), which requires that all employers, be they governments or otherwise, must afford all workers engaged in agriculture the same rights of association and combination as those in industry. The object of the Convention was of course, to remove the inequality that existed prior to the adoption of this Convention between the two categories of workers. The 1921 Convention was

was followed by two others, viz: (i) the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), (ii) the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

All these three Conventions are designed to ensure that all workers and employers without distinction whatever, have the right to establish and joint organisations of their own choosing, without previous authorisation. They are meant to guarantee their right to carry on their activities without interference from the public authorities. This, in other words, is a right given to workers to freely organise themselves to their managements for redress. As is well known, there is today interdependence between states and there are large scale organisations, the voice of an individual worker can not be heard, unless he acts in co-operation with his fellow workers.

After the No. 11 Convention was adopted in 1921, it was discovered that some member states severely circumscribed the right of association. Hence, the adoption of conventions Nos. 87 and 98 referred to above, became imperative which stated that the right must not be interfered with by the authorities.¹⁴ Convention No. 87 is actually the basic text as regards the international safeguarding of the freedom of association. It expressly grants the employers and workers the right to form trade union organisations, as well as the the rights and guarantees which these organisations must enjoy.

Zambia is aware that the freedom of association is an essential prerequisite for progress towards social justice, as it enables the workers of all categories to give expression to their aspirations, and strengthen their position in collective bargaining. Out of the three Conventions referred to above, Zambia has ratified not only Convention No. 11, of 1921 which concerns agricultural workers, but also instruments concerning workers in industry. Perhaps it is opportune at this juncture to say something about agricultural workers. Although Part XIII of the Treaty of Versailles which laid the foundation for the I.L.O. omitted the word "agriculture" the omission does not mean that the I.L.O. is only concerned with the welfare of industrial workers. The omission was unintentional. The following case explains the position better.

Case 1:

'Competence of the I.L.O. to regulate conditions of work of persons employed in agriculture.'

Annual Digest of Public International Law Cases. Years 1919-1922 Volume 1, p. 359.

Williams and Lauterpacht

In 1921 a question was posed before the International Labour Organisation as to whether the organisation was competent to deal with conditions of agricultural workers since the term 'agriculture' does not appear in Part XIII of the

Treaty of Versailles. This was after arguments were put forward that the I.L.O. was formed for the improvement of conditions of industrial workers only, excluding conditions of work of persons employed in agriculture.

By a resolution of October 1921 the I.L.O., answered the question in the affirmative that it was competent to deal with conditions of Agricultural workers.

The Permanent Court of International Justice (P.C.I.J.) confirmed the 1921 I.L.O. resolution in its Advisory Opinion No.2 of 12th August, 1922. In this opinion the court remarked as follows:

"Agriculture is the most ancient and the greatest of all industries, employing over half of the world's wage-earners, as such it could not be considered as left outside the scope of the I.L.O. for the mere reason that it was not expressly mentioned by name. The Treaty referred to all forms of labour as industry."

The right of association is one of the rights contained in the 1948 Universal Declaration of Human Rights. Article 23(4) of the Declaration says that everyone has the right to freedom of peaceful assembly and freedom of association, including the right to form and join trade unions for the protection of his interests."

The arrest of trade unionists by any government anywhere is seen as a prima facie violation of this right of association, unless substantial evidence is adduced to show that the arrested unionists involved themselves in activities which threatened national security or public safety or which created dispondence in the country. (See exceptions to Freedom of Expression in Constitution of Zambia). In that event the state is permitted to put the unionists behind bars if that is the only way possible to prevent disorder or to protect health, morals and freedom of others. Illegal strikes cause disorder, and strikes by essential workers, such as refuse collectors, threaten people's health. (Two 1985 Statutory Instruments restrictive the right to strike).

Zambia has deep respect for human rights and has given her workers and employers unfettered right to form their own unions. There are today (1988) a total of 19 registered trade unions in the country.

since the achievement of independence in 1964 no Zambian trade unionist has been arrested on the ground of carrying out labour activities. In fact there has never in the past been any major conflict between the State and the labour movement in Zambia. The only notable quarrel between the State and the labour movement took place in late 1980, reaching a climax in January, 1981, when all miners in all the six Copperbelt mines went on strike, against the expulsion of their seventeen leaders from UNIP, which the miners interpreted as the expulsion of

their labour leaders as well from their union posts. When the party explained that the sacking of the union leaders from the party did not affect their union posts, the striking miners returned to work. The unionists sacked from the party included the chairman General of the Zambia Congress of Trade Unions, Mr. Fredrick Chiluba, and his Secretary-General Mr. Newstead Zimba, as well as Mr. David Mwila, Leader of MUZ, the biggest single union in the country. Mr. Chiluba and Mr. Zimba, together with their two deputies were detained by the Government towards the end of 1981, but the High Court set all of them free. The court found that the state had no reasonable grounds for locking them up. (1981 High Court Habeas Corpus Application - Fredrick Chiluba & others).

The miners and other workers went on strike in January, 1981 on their own without any of their leaders being involved, i.e. they acted spontaneously. It was therefore difficult to see why the government arrested and detained the unionists for allegedly breaking the law of the land. The workers were not incited by any of their leaders to go on this wildcat strike. The expelled unionists were merely opposing the introduction of the so-called Decentralisation system of running local authorities which came into force in the same month of January, 1981. The Government's explanation of the new system was that it was aimed at transferring more power from the capital city of Lusaka to the provinces and districts. But the trade unionists argued that

the true aim, was to finally destroy the little independence which the mayors and their town clerks enjoyed in the old system and place all local authorities under firm party control.

The miners had also gone on strike because of the withdraw of their privileges. To avoid more serious labour unrest in the country, the unionists decided to throw in the towel and gave the new system a chance to work. The state also reciprocated by stating that privileges which the miners enjoyed, such as having their own hospitals and free accommodation, would not be taken away from them in the new system. In April 1981 the Party went further in its reconciliatory measures by readmitting into membership all the three top unionists mentioned above, together with 14 others. The quarrel then came to an end.

In concluding the discussion of freedom of association here-below is a case to illustrate its importance, on which is based the Right of Association (Agriculture) Convention, 1921 (No. 11).

CASE 2:

ROBINSON V. SECRETARY-GENERAL OF THE UNITED
NATIONS, 1952

International Law Reports, Year 1952
Edited by Sir Hersch Lauterpacht, Q.C.L.L.D
F.B.A., Page 494, Volume 19.

This case was decided by the Administrative Tribunal of the United Nations on August 11, 1952. The facts of the case were

that the complainant, a Mr. Robinson, was an employee of the U.N. who worked for two successive one-year fixed term periods from January 1950 to January 1952. He expected to get a third one-year appointment from January 1952 to January 1953, but the Secretary-General decided not to extend his service, despite good reports of character at work.

The complainant then brought an action against the U.N. Secretary-General seeking a ruling that he was entitled to a renewal of his contract. He further contended that the decision by the Secretary-General not to renew his contract was based upon his activities in the Staff Association, the Staff Council and the Staff Committee where he expressed views that conflicted with those of the Administration. In his capacity as member of those bodies he at times took part in discussions in matters where the views of those organisations differed bitterly with those of the Administration (the U.N.). The complainant then argued that the decision was contrary to his Right of Association, which is stipulated in the Universal Declaration of Human Rights.

The tribunal held that the complainant's Right of Association was infringed and ruled that he was entitled to relief. The tribunal remarked that 'the Right of Association, recognised by Articles 20 and 23(4) of the Universal Declaration of Human Rights, and adopted by the Third General Assembly in 1949 is an indispensable element of the freedom to associate with others.

In Kenya the Right of Association Convention is implemented by the Trade Unions Act, Chapter 233 of the laws. This Act gives the right to workers to form and register trade unions, and protects the unions from being sued in court (see sections 23 and 24 of the Act). This right has not been tempered with so far by the authorities since the attainment of independence in 1963. In the colonial days however the right was almost non-existent, because the authorities at that time (especially during the Mau-Mau days in the 1950s) regarded workers' unions as gangs of agitators bent on disrupting law and order.

In Uganda the Right of Association was exercised to the full from the time of achievement of independence in 1962 up to 1971 when the 'unpredictable soldier' Idi Amin took over the reigns of power and ruled by terror. Dr. Milton Obote was back in power in 1979 but overthrown again in 1985. The political clouds have not as yet cleared in that sad country. As such it is difficult to see the actual extent of trade union freedom in Uganda now and in the future.

In Malawi the position is that trade unions are under firm control of the Malawi Congress Party, the only Party allowed to exist by law. They are not allowed to voice any criticism of the Government as those in Zambia do. Comparatively therefore there is more freedom of association and expression in Zambia than in Malawi, though Zambia is also a one-party state.

In Tanzania the position is more or less like that in Malawi. The party there, Chama-cha-Mapinduzi, has a firmer grip on the trade unions than UNIP has in Zambia on its labour institutions. Trade unions in Zambia therefore enjoy more freedom of Association than their counterparts in Tanzania and Malawi.

WORKMEN'S COMPENSATION CONVENTIONS

All the four I.L.O. Conventions on Workmen's compensation have been ratified by Zambia. These are the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12), the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) and the Equality of Treatment (Accident Compensation) convention, 1925 (No. 19).

The 1921 Convention (No. 12) was adopted for the extension to agricultural wage-earners of Laws and regulations providing for the compensation of workers for personal injury by accident arising out of or in the course of employment. The second convention, the Workmen's Compensation (Accidents) Convention, 1925 (No. 17) is the basic international instrument relating to workmen's compensation. It expressly states that an employer is wholly responsible for the personal or other injury to his worker, where the worker is injured in the course of his employment, and where the accident is caused to the worker through the negligence or breach of statutory duty by the employer.

However, the Convention makes it evidently clear that the worker may not be compensated if the accident is attributable to the serious and wilful misconduct of the workman himself, except where the injury sustained is of serious nature and results in permanent disablement or death. Recommendation No. 31 of 1929 which deals with the prevention of industrial accidents accompanies this second convention, and has been accepted by Zambia.

Third Convention on workmen's compensation is the Workmen's Compensation (Occupational Diseases) Convention 1925 (No. 18). The question of health of the workers has always been to the fore-front of the I.L.O.'s concern, and it is featured even in its constitution. A number of Recommendations dealing solely with the problem of health, safety and welfare of workers have been adopted. Three of the more general ones are Recommendation No. 97 of 1953 (on the protection of health of workers in their workplace), Recommendation No. 112 of 1959 (on occupational health services in or near places of employment), and Recommendation No. 156 of 1977 (on protection of workers in all branches of activity against occupational hazards in the working environment due to air pollution, noise and vibration). The Workmen's Compensation (Occupational Diseases) Convention, 1925, itself provides for the payment of compensation in respect of occupational diseases in accordance with the general principles of the national legislation relating to compensation for industrial accidents. Examples of occupational diseases are silicosis, cancer of the skin, anthrax infection, and lead and mercury poisoning.

The fourth convention (on workmen's convention) is the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), which provides that a member state should grant to the nationals of another member state (which has also ratified the Convention) the same treatment in respect of workmen's compensation as it grants to its own nationals, without any condition as to residence, in all cases of personal injury due to industrial accidents.

In Zambia all the Conventions on Workmen's Compensation are implemented by the Workmen's Compensation Act, Chapter 509 of the Laws of the Land. Sections 6, 7 and 8 of the Act stipulate that if a worker is injured during the course of his employment, through the negligence of or breach of statutory duty by the employer, the employer is liable. But the employer is exonerated from civil liability if the injury caused to the worker is due to his own negligence or due to diseases not contracted at the workplace. It appears, however, that the liability placed upon the employer in this case is a strict one. Section 41 of the act states that the employer is still liable even if the injury to the worker occurs as a result of his own disobedience of the safety rules, where the injury results in permanent disablement or death, so long it is proved that the accident took place in the course of the worker's employment. Section 4 and 5 of Cap. 509 are very wide in their application and state that the employer is still liable even when the injured worker

dies as a result of the doctor's negligence, and also when the worker is injured on his way back home from work.¹⁵

It is worth noting that the Zambian law on workmen's compensation does not discriminate on grounds of citizenship or sex. Zambian nationals and aliens are treated alike when being compensated. This means that the equality of treatment (Accidents Compensation) Convention, 1925, (No. 19) is adequately implemented. The following case illustrates how the Equality of Treatment operates in real life.

CASE 3

DIAZ V. CIES D' ASSURANCES L' URBAINE
ET LA SEINE

Annual Digest of Public International Law Cases.
Lantorpacht Vol. 6 Case No. 206. Year 1956

Article 1 of the International Labour Convention of June 10, 1925 provides that "Each member of the I.L.O. which ratifies this Convention undertakes to grant to the nationals of any other member which shall have ratified the Convention, who suffer personal injury due to industrial accidents happening in its territory to their dependants, the same treatment in respect of workmen's compensation as it grants to its own nationals."

This equality of treatment shall be guaranteed to foreign workers and their dependants without any condition as to residence.

Díaz was a Spanish workman who died in France as a result of an industrial accident. His widow and children, who did not live in France, claimed compensation under the French Law of 9 April, 1898 on Compensation for industrial accidents. Both France and Spain had ratified the Convention of June 10, 1925, and their ratification had been notified to the secretariat of the League of Nations on August 4, 1928 in the Case of France, and February 22, 1929 in the Case of Spain.

The Permanent Court of International Justice held that the claim must be upheld. The applicant (widow) and her children were therefore entitled to the Compensation provided by the French Law of 1898 even though they were not living in France at the time of the accident.

This decision meant that the Spanish workers and workers of other nationalities in France were entitled to the same benefits as French workers provided their respective States ratified the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19).

In Kenya the Workmen's Compensation Convention are implemented by Chapter 236 of the Law where the victim either dies or is only injured. Under this Act Compensation is paid to both wife and dependants if the worker dies.

This is one of the few Conventions which are well implemented in all the six countries under discussion in this

paper - Zambia, Malawi, Uganda, Kenya, Tanzania and Zimbabwe. All the Statutes in these states on Workmen's Compensation were enacted by Britain before independence was granted to each one of them. The wording is similar in the statutes and they fully cover the provisions of the various Conventions on Workmen's Compensation.

The worker is still entitled to Compensation even if he is injured at lunch time or when returning home from work.

Here below is an East Africa Case on Compensation, to illustrate the duty of employer to see that the working place is safe for his employee.

CASE 4:

Akwiri V. Kilembe Mines Ltd.
The East African Law Report, 1970.
Page 498. East African Court of Appeal.

The plaintiff was an electrician employed by the defendant Company. He was instructed by his foremen to repair a lighting failure in a stove. He was left to do the job himself. He found that the failure was in bracket above the roof which was of corrugated iron and asbestos sheets and which was ten feet above the ground. He was given no warning about the state of the roof. He took a ladder onto the roof, repaired the fault and, on returning, fell through the asbestos

part of the roof sustaining injuries. The injuries consisted of deafness in the left ear, paralysis of the left side of the face preventing blinking and a comminuted fracture of the left knee cap.

The plaintiff alleged that the defendant company was negligent and that it was a breach of statutory duty. Defendant said plaintiff was contributorily negligent and that he was not on building operation, as the law stated.

Held: Repair of part of roof was building operation, and judgement for plaintiff was given. (Price V. Glande Ltd 1969) 1 All. E.R. 695 was distinguished, which found for Defendant on similar facts. In the East African Case the defendant was held to be in breach of regulation to provide aids to operations. Plaintiff did not know roof was unsafe, so was not negligent. Plaintiff was awarded Shs. 50,000 damages.

As said above, this case shows how seriously the members states take the Conventions on compensation of workers injured at places of work.

MINIMUM WAGE-FIXING MACHINERY AND WAGES- PROTECTION

The obligation to provide machinery to lay down minimum wages was first established in Convention No. 26, titled the Minimum

Wage-fixing Machinery Convention (1928), and in its accompanying Recommendation, (No. 30). These two instruments lay down the guidelines in the task of fixing minimum wages in manufacturing and commercial concerns. In 1951 it was felt that the need had come for creating similar measures in the field of agriculture. In that year the Minimum Wage-Fixing Machinery (Agriculture), 1951 (No. 99) and Recommendation No. 89 were adopted to apply to agriculture. These two texts provide for an obligation to create or maintain machinery for the establishment of minimum wage rates. They also prescribe a system of supervision and penalties.

The latest standards on the question of minimum wages are set out in convention 131 and Recommendation 135, both of 1970, which pay special regard to the needs of developing countries, like Zambia. They provide for an obligation to establish a system of minimum wages covering all workers. In addition, they indicate, for example, the factors to be taken into consideration in determining the wage-levels, and provide for the periodic adjustment of those levels.

With regard to the protection of wages, requirements for this exercise are to be found in a number of Conventions and Recommendations, the main one being the Protection of Wages Convention, 1949 (No. 95) and the supplementary Recommendation No. 85. This Convention is of general application, and is designed

to protect workers against practices that might make them unduly dependent on the employer, and also to ensure that wages are paid in full and without delay. This Convention is implemented in Zambia by the Employment Act, Cap 512 of the Laws.

The Protection of wages Convention may therefore be summarised as the obligation to pay wages in legal tender, direct to the worker, at regular intervals and without unauthorised deductions, and without restrictions on advances on wages (see Articles 11-12 of the Convention and Sections 44, 46, 47 and 49 of Cap. 512 of the Laws of Zambia).

A number of wildcat strikes in several small enterprises that took place in Zambia in 1980 and 1981 for instance, were due to mere delays in paying the workers their due wages or agreed increases, as accepted in the agreed formula.

It is common knowledge that remuneration of a worker is the first condition of work, whether by collective agreement, contract or legislation. One of the requirements stated in the preamble to the I.L.O. Constitution is "the provision of an adequate living wage." By a "living wage" is meant not a wage which would only enable a worker to simply scrap a living, but a minimum wage which would satisfy his basic needs. In fact a minimum wage is

itself a basic human right. The worker is entitled to a fair share of the national income, and not only to a wage which merely keeps his soul and body together. Exploitation of the worker by industrial competition has to be vigorously fought against.

Zambia has ratified all the three Conventions on minimum wages, referred to above. They are implemented by the Minimum Wages, Wages Councils and Conditions of Employment Act, Chapter 506 of the Laws, the Industrial Relations Act, Chapter 517 of the Laws, and the Employment Act, Chapter 512 of the Laws. The Minimum Wages Act, Cap. 506, fixes minimum wages and determines other conditions of employment in respect of employees of any category. This function is exercised by a Board, established under Section 3 of the Act. The Board is charged with task of regulation of the remuneration and conditions of work as well as conditions of employment of any worker or group of workers.

The minimum wage so laid down by the Wages and Conditions of Employment Board is regularly reviewed (see Section 10). Any employer who fails to pay his workers the prescribed minimum wage commits an offence under Section 14 of the Act. The Act also provides for the appointment of Industrial officers whose duty it is to ensure the effective application of this law. The officers are empowered to order an employer to produce any document for their inspection. Refusal to allow such inspection or the production of false records is an offence under the Act.

The Industrial Relations Act, Cap. 517 of the Laws also implements the I.L.O. minimum wage conventions by requiring the workers of a particular undertaking to conclude a Collective Agreement with their employers as to what would be the minimum wage for a particular period. The Agreement so concluded has to be approved by the Ministry of Labour and Social Services, who cause it to be gazetted in the Government Gazette, as stipulated in Section 85 of the Act. At the moment, for instance, the minimum wage for miners in Zambia is K78.50, according to Gazette Notice No. 1088 of 1979. This wage was put into effect on the 1st of August, 1979, which rose to K90.50 on 1st August, 1980, further rose to K102.50 by 1st August, 1981. This is a general minimum wage for all miners, but varies from one category of miners to another. This current minimum wage for miners in Zambia was originated by Gazette Notice No. 228 of 1974, which stipulated that every miner must be paid not less than 16 ngwee per hour.

In the Public Service the lowest grade of workers is the Classified Daily Employees Grade Three (CDE III), whose minimum wage is K840.00 per annum (K70.00 per month). The lowest Civil Servant (the Junior Clerical Officer) receives a minimum wage of K984.00 p.a. (K82.00 per month). The 1985 Government White Paper on revision of Public Service salaries the figure is raised to K200 per month i.e. K2400 p.a.¹⁶

The three Zambian Acts of Parliament referred to above may therefore be said to have jointly established the machinery for fixing minimum wages for a given undertaking at a given time. Due to the deteriorating economic situation in the country during the last six years, mainly as a result of the falling copper price, the Government has found it difficult to establish a permanent minimum wage-fixing machinery. The Prices and Incomes Commission has just been established, in spite of a proposal for setting it up twelve years ago.

The people of Zambia have undoubtedly suffered from the sting^{of} price increases for too long. Several reasons have been given for this hardship, such as bad planning, falling copper prices, world-wide recession, etc. The smile on the faces of the working population brought about by a temporary salary increase quickly fades into a frown when the wage increase is obliterated by the sharp rises in prices of the few goods available in the shops. It is thus believed that the establishment of a Wages, Prices and Incomes Policy will provide a watch-dog on the unreasonable raising of prices.

As already said, a Prices and Incomes Commission has now been established by a Parliament Act, to supervise the execution of the much needed prices and incomes policy, as well as the minimum and maximum wage levels and conditions of service. The Commission has been charged with the duty of establishing a central and common machinery to deal with all the questions

relating to wages, prices and incomes. It deals with the minimum wages problem in a supplementary role to the I.L.O. Conventions. It will periodically lay down the lowest wage levels.

It is of interest to note that the Prices and Incomes Commission just established in Zambia is the brain-child of a senior I.L.O. consultant, Professor Hubert Turner, who came to Zambia in 1969 at the invitation of the Zambian Government to study and review wages, incomes and prices policy in the country. At that time Zambia was a relatively rich country as compared with other African states. The gap between the lowly and highly paid workers in Zambia is still wide today. This is one of the evils Professor Turner was trying to fight. For instance, the highest Civil Servant - the Permanent Secretary - now receives K20,000 p.a. while the Messenger in the same office gets K2,400 p.a.¹⁷ When both these officers go to the shops they buy the goods at the same prices.

Professor Turner returned to the country in 1978 to compile a second report on the wages, prices and incomes policy in the country. This time this distinguished I.L.O. official advised the Zambian Government that the situation has become explosive and had deteriorated seriously. The Professor spared no words in his castigation of the Government for going about with important bread and butter issues in a tardy manner.¹⁸ He was particularly displeased

with the Government's failure to establish a wages, prices and incomes policy as recommended by him in his 1969 report.

There is no doubt that the impasse which has existed between the Government and the labour movement for the last ~~ten~~ years since 1978, is mainly due to a somewhat lax manner in which the Government has handled matters which deal with the very existence of the masses. Instead of grappling with the problems of inflation, unemployment, high prices, shortages of essential commodities, shortage of school places, shortage of drugs in the hospitals and the like, the leaders appeared to have laid emphasis on international issues like trying to stop a Third World War. While crying that there was not enough foreign exchange to enable them deliver the goods to the people, the Government went ahead (and still does so) hosting one international conference after another, just to please the outsiders. This ~~an~~ attitude which is analogous to a bread winner who leaves his family starving but goes out to fete others with his limited cash.

In Uganda, Kenya and Malawi, the 1928 Convention on minimum wages fixing machinery is covered by Chapter 196, 229 and 55 - 01 respectively. In all these countries Wages Advisory Boards have been set up to regulate the minimum wages and conditions of employment of each category of workers at a particular time. Like the laws on Compensation, these laws were also handed down by Britain to the Governments of the ~~se~~ territories.

FORCED LABOUR CONVENTIONS

In the 19th century slavery was abolished. The Universal Declaration of Human Rights adopted and proclaimed on the 10th December, 1948 by the U.N. General Assembly provides, in Article 4, that "no one shall be held in slavery or servitude and that slavery and the slave trade shall be prohibited in all its forms." Article 5 of this same document states that every one has the right to free choice of employment.

In the 19th century a number of international treaties and conventions were concluded for the abolition of slavery in all its forms. Such treaties as the Peace Treaties of Paris of 1814-1815, the Declaration of Verona of 1822 all embodied the general principle that the slave trade is repugnant to the principles of justice and humanity.

The crusade against slavery and all practices similar to slavery continued until the the adoption of the International Slavery Convention in 1923, which was amended by the Protocol of 1926. In this instrument it was expressly stated that forced or compulsory labour should be prohibited. The International Covenant on Civil and Political Rights, 1966 also states that "No one shall be forced to perform forced or compulsory labour." Article 8 of Part III of the Covenant protects freedoms from slavery and forced labour.

Exceptions to this prohibition are hard labour imposed as a punishment for a criminal offence or service of a military character, such as national service schemes. Forced labour exacted in cases of emergency or calamity threatening the life of well-being of the community is also excluded from the prohibition.

In 1980 the General Conference of the I.L.O. adopted the Forced Labour Convention (No. 29), providing for the suppression of forced labour or compulsory labour in all its forms within the shortest possible period, subject to five exceptions.

- (i) compulsory military service
- (ii) certain civil obligations
- (iii) certain forms of penal labour
- (iv) work exacted in emergencies and
- (v) minor communal services.

This 1930 Convention forbids forced or compulsory labour for the benefit of private individuals, companies or associations. Each member of I.L.O. who ratifies the Convention is required to suppress the practice within twelve months after ratification. The phrase "forced labour" includes the compulsory work which certain chiefs in African societies exact from their subjects for private benefit. It also includes special types of forced labour, such as portage, which District Commissioners and similar colonial officials exacted from their subject natives. The Witwatersland Native Labour Association (WNLA) scheme in South Africa which recruited Africans

by force (chibalo) from neighbouring black states to go and work on the gold and other South African mines as cheap labour is also included in the phrase "forced labour".

Compulsory or forced labour is today regarded by civilised community as a violation of a basic human right of liberty to choose where and when to work. This is besides the physical suffering and hardship involved.

The second Convention on Forced Labour was the Abolition of Forced Labour Convention, 1957 (No. 105), which requires the abolition of forced or compulsory labour in five specified cases, namely:

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

The 1957 Convention does not replace the 1930 one, but supplements it and makes it brief. Zambia has ratified both texts and both are implemented by the basic law of the land itself, the Constitution of Zambia. Article 16 of the Constitution of the Republic of Zambia states:

- (i) No person shall be held in slavery or servitude.
- (ii) No person shall be required to perform forced labour.

There are, however, a few problems encountered by Zambia and other developing nations in implementing these conventions. In several such states national legislation creates a legal scheme for mobilising nationals for labour in the interest of economic development yet this is contrary to both the 1930 and 1957 Conventions.¹⁹

In Zambia there is the National Service where all senior secondary school leavers are legally compelled to do a twenty-month stint in the national military and economic fields. In November, 1981 this service was suspended temporarily due to lack of food in the camps. It is expected to resume as soon as the food situation has been put right. There is also the rural reconstruction centre scheme where primary school leavers do agricultural work for national economic development. Both these programmes have been

criticised by many people in the two national papers as a kind of compulsory labour. The truth is that all workers in Zambia are freely engaged and are at liberty to leave their employment at any time in accordance with the rules of the contract concerned. There is today no form of forced labour in this country.

The I.L.O. Conventions as referred to above, have been implemented in Zambia by the basic law itself, the constitution. As already stated, Article 16(1) and (2) of the Constitution of Zambia states that no person shall be held in slavery or servitude and no person shall be required to perform forced labour.

The exceptions to these prohibitions are sentences or orders of courts of law, labour of a military nature or other disciplinary forced labour for purposes of hygiene at place of residence and any other justifiable labour in emergent times. Kenya, Tanzania, Uganda and Zimbabwe have, like Zambia, ratified both Conventions 29 and 105 on forced labour. Malawi has ratified neither of them. Generally therefore, the Conventions are well implemented in East and Central Africa.

I.L.O. CONVENTIONS ON FEMALE WORKERS

Zambia has ratified three conventions concerning female workers. These are the Underground Work (Women) Convention, 1935 (No. 45), the Night Work (Women) (Revised) Convention, 1949 (No. 89), and the Maternity Protection (Revised) Convention, 1952, (No. 103).

The I.L.O. has always been concerned with the employment of women in certain categories of employment. The aim has been to protect the female sex against abuses in their conditions of work, particularly in the case of maternity leave (see Conventions 3 of 1919 and 103 of 1952 respectively).

The underground Work (Women) Convention No. 45 prohibits the employment of women on underground work in mines of all kinds, including open pits and quarries. Women are not required to be engaged in dangerous and unhealthy jobs, such as where heavy fumes occur. It has been scientifically established that female workers are easily overcome by nervous and physical exhaustion when in such unhealthy environment. They do not resist well certain types of hardship like loud noise, vibration, and heavy dust which are commonly found underground.

I.L.O. Conventions No. 45 and 89 in Zambia have been implemented by the Employment of Women, young persons and children Act Chapter 505 of the laws. Section 14 of this Act says: "No woman shall be employed on underground work in any time." Exceptions to this prohibition are those in management who do not perform manual work, and women employed in health and welfare services, or where the period underground is temporary and is part of their training.

The other Convention, No. 89 of 1948 is implemented by Section 13 of the Act, which says that "no woman shall be employed during the night in any public or private industrial undertaking or in any branch thereof other than an undertaking in which only members of the same family are employed". The Act defines "Night"^{to mean 10pm to 6am} as opposed to the usual 7 p.m. to 6 a.m. A "woman" is any female person of any age. (See Case in point at end of this chapter).

Both conventions have been strictly adhered to by Zambia. There are no women employed anywhere underground. For instance, no employer has ever engaged a female night watchman or security guard in this country. The only female night workers in the country at present are police-women, nurses, and those working in institutions which provide foodstuffs, such as hotels, but they too usually report off duty by 10 p.m., and their working environment is comfortable.

The Maternity Protective (Revised) Convention, 1952 is a general Convention covering expectant women employed in all categories of work industrial, commercial, and agricultural workers. The earlier Convention on Maternity Protection, No. 3 of 1919 (which has not been ratified by Zambia) only covered women employed in industry and commerce. Both Conventions provide for social security benefits and medical care. They grant to every worker the right to maternity leave of not less than 12 weeks,

and stipulate that post-confinement leave is obligatory. The two conventions even go further to state that an employer may not dismiss a woman while she is on maternity leave.

The Maternity Protection Convention ratified by Zambia has been implemented by Zambian employers as stipulated in the Employment Act, Cap 512 of the laws, but in differing degrees. The Government and a few other employers grant paid maternity leave to all their female employees, but other employers do so only to married women employees. It is hoped that the day is not far when all female workers will be entitled to paid maternity leave without discrimination.

CASE 5:

ADVISORY OPINION No. 15 of 1952

PERMANENT COURT OF INTERNATIONAL

JUSTICE ANNUAL DIGEST OF PUBLIC

INTERNATIONAL LAW CASES Years 1931-32.

Edited by Ladderpacht Volume 6, Butterworths Ltd.,
London.

The question put to the Permanent Court of International Justice was whether the convention concerning the employment of women during the night adopted in 1919 by the International Labour Conference applied (in the industrial undertakings covered by the said Convention) to women who hold positions of supervision or

management but are not ordinarily engaged in manual work. The Court held that the Convention applied to all women of all categories, including those who held positions of supervision or management but are not ordinarily engaged in manual work.

This question was asked because it was argued in some quarters that the Convention was aimed at protecting only women engaged in manual work.

It all started with the interpretation of Article 3 of the 1919 Convention (No. 4) concerning employment of women during the night, which provides as follows:

"No women without distinction of age shall be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed."

INDIGENOUS WORKERS: THEIR PROTECTION AGAINST ABUSES

When the League of Nations was established in 1919 after the First World War, the world community through the I.L.O. realised the need to take collective measures to ease the suffering of the inhabitants in the dependent territories and colonies all over the world. One such measure was the regulation of methods of recruiting natives of the colonies and other dependent territories for the protection of indigenous workers against exploitation and coercion.

The WNLA labour scheme of South Africa which forced Africans in the surrounding territories to work on South African farms and mines was one such evil which the I.L.O. measure intended to get rid of.

Since 1936 the I.L.O. has adopted a number of standards to protect indigenous workers against certain abuses, which are of semi-slavery nature. The first of these is the Recruiting of Indigenous Workers, Convention, 1936 (No. 50) which condemns coercive methods of recruiting native workers, and stipulates the recruiting systems which are in accordance with freedom of each person to choose when and where to work and who to work for. The other Conventions are the Contracts of Employment Conventions No. 64 of 1939 and No. 86 of 1947, both of which aim at eliminating abuses in the conclusion of contracts of employment with indigenous workers.

A look at Zambia's colonial history (as well as that of her neighbours) reveals that the British rulers practised certain kinds of forced labour and forcible recruitment of workers. Villagers were forced to be engaged as unpaid porters of the district officials who toured their areas. They were also compelled to construct some rural roads and bridges without or with very little pay. The administrators also assisted or connived with the notorious South African WNLA forced labour system. But in comparison with what was done in Belgian Congo under

King Leopold II, it may be said that Zambian indigenous workers were generally freely engaged.

Immediately after attainment of independence in 1964, Wenela (WNLA) was banned in Zambia and there is today no forced labour system in the country.

With regard to the treatment of the workers, the Employment Act, Cap. 512 and the Industrial Relations Act, Cap. 517, have adequate provisions to safeguard that. The several trade unions existing in the country would of course not tolerate any ill-treatment of their members by the employers.

MIGRATION FOR EMPLOYMENT (REVISED) CONVENTION, 1949

There are millions of workers in the world today, skilled and unskilled, who earn their living by working outside their home countries. For third world countries the skilled immigrant worker is a valuable source of manpower, because without him, economic and technical progress would be slowed down.

Every day thousands of men and women leave their countries by train, sea, bus, trucks and air for other countries where they hope to find work and good wages. Some emigrate legally, possessing all the necessary documents and authorisation, while others cross the frontiers clandestinely, with a precarious fate. Having reached their destination, these foreign workers meet with considerable difficulties in finding housing, bringing their families

to these new countries and even in finding the right kind of work. Their professional qualifications may fail to meet the requirements of their chosen jobs or the certificates they have obtained in their homelands may not be recognised. Linguistic problems or xenophobia may aggravate their isolation. In fact, difficulty in reading the local language has resulted in a higher rate of accidents among immigrant workers, both at places of work and residence, than among native workers. It is for these reasons that the international community devised labour standards to protect immigrant workers.

In 1949 a Convention was finally adopted to deal with this question of welfare of foreign workers. It sets out policies to abolish the employment of immigrants in improper conditions and to extend to them equality of treatment with national workers. ~~The~~ This Convention is the Migration for Employment (Revised) Convention, 1949, which, as already noted above, aims at protecting immigrant workers in the various difficulties which they encounter in the foreign lands, and securing of equality of treatment with the native workers.

Zambia implements the Convention through the Employment Act, Cap. 512 which deals with all workers equally, without any discrimination. Foreign workers are compensated in the same way as national workers and are given equal treatment in every way. In respect of protection against accidents in dangerous places, Zambian employers have always made special efforts (like conducting English classes) to assist the foreign workers where language or other

handicaps occur. The Act also stipulates that the employers must provide houses, water and all other basic social facilities to their employees. This^{is} to ensure that all workers, foreign or national, must be reasonably comfortable and safe. But any foreign worker in any country who is proved to have criminal tendencies deserves repatriation.

THE EQUAL REMUNERATION CONVENTION 1951 (No. 100) AND
DISCRIMINATION (EMPLOYMENT AND OCCUPATION) CONVENTION
1958 (No. 111)

The Universal Declaration of Human Rights in Article 23 (2) provides that "everyone without any discrimination has the right to equal pay for equal work." The I.L.O. Constitution also, as amended in 1946, recognises the principle of equal remuneration for work of equal value. In 1951 the I.L.O. adopted the Equal Remuneration Convention, No. 100 which states (in its Article 2(1)) that each ratifying member shall promote and ensure the application to all workers of the principle of equal remuneration for workers doing equal work, thereby removing discrimination based on sex.

The term "remuneration" in the Convention is used to denote the basic ordinary or minimum wage or salary, without regard to certain additional emoluments which some workers may be given for over-time or performing some special duties.

Like the other Conventions, the Equal Remuneration Convention, 1951, is also supplemented by its own Recommendation. This is the Equal Remuneration Recommendation, of 1951, which lays down the procedures for the progressive application of the principles stated in the Convention. These measures mean that workers' and employers' organisations have to agree to establish or encourage the establishment of methods for objective appraisal of the work to be performed, whether by job analysis or by other procedures, with a view to providing a classification of jobs without regard to sex. The aim has to be the placing of women on a basis of equality with their male counterparts in the employment market. Job content and sex has to be the criterion when fixing the wages.

Zambia has implemented provisions of the 1951 Convention and its Recommendation to the hilt. Other African states have done the same. Zambian female mine workers, female politicians, Civil Servants etc. receive the same wages as the male workers doing the same type of work. There is no category of works in Zambia where discrimination in wages based on sex is practised. This principle of equal remuneration for equal work is embodied in the employment Act Cap. 512, which does not provide special wages for each sex of workers. Government Policy also accords official recognition to the principle. The only difference in wages is that based on skill, where those possessing professional certificates receive higher wages than those without certificates but doing the same work. It is hoped that this anomaly will also be rectified, because there is no logic in paying a worker less if he knows the job well but only lacks the paper qualification.

Besides discrimination in wages based on sex, there is also discrimination in employment practised in many countries based on grounds as diverse as race, religion, or political opinion. The I.L.O. sought to remove such discrimination by adopting the Discrimination (Employment and Occupation) Convention 1958 (No. 111), and Recommendation No. 111, whose basic objective is to ensure the existence and application in every member state a policy to promote equality of opportunity and remuneration in employment and occupation. These texts seek to eliminate discrimination based on race, colour, sex, religion, political opinion, national extraction or social origin.

Discrimination is a difficult practise to get rid of. To prove this fact one need\$only look at Northern Ireland in the U.K. where the Irish who are mostly catholic are discriminated against by protestants in various fields, or to South Africa where the discrimination is based on race. In both these examples the discrimination has been entrenched by legislation which favours one religious group or race respectively. The two I.L.O. instruments referred to above therefore have also to be applied by means of legislation to be effective in countries like South Africa. In Zambia, both instruments are applied by the Constitution itself, which provides, in Article 25, that there shall be no law in Zambia which shall have discriminatory provisions. Further
It is a criminal offence in Zambia for anyone to utter any word or do anything which may amount to hatred, ridicule or contempt on the ground of race, tribe or colour.²⁰

Zambia has declared and pursued a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation with a view to eliminating any discrimination which might occur in future. It may be said with some degree of certainty that there is no discrimination in Zambia based on sex, race, colour or religion. But there are visible signs of segregation based on political allegiance. Senior and junior UNIP leaders have time and again stated that they would like to see only party members hold senior positions in the civil service and parastatals. This implies that in future all professional men and women in top positions may have to be removed if they do not join the party. The proposal is contrary to the two instruments on discrimination, and it is being resisted by the majority of the citizens. Fortunately no serious efforts have yet been made to translate it into law. Only sporadic public statements have been made by a number of party leaders.

SOCIAL POLICY (BASIC AIMS AND STANDARDS) CONVENTION, 1962

International Conventions on social policy lay down the principle that all governments of member countries and other employers in those states should formulate policies which are primarily directed towards the well-being and development of the population, and should contain a number of basic standards relating to, for instance, wage rates, education, freedom from discrimination and the minimum age of admission to employment.

Zambia's philosophy of humanism clearly states that it is based on the "welfare state" type, where the needy are assisted to look after themselves in one way or another. The social policy of the Zambian Government is to improve the quality of life of every citizen in all fields - education, wages, freedom from oppression, and freedom from discrimination. With immense difficulties on its way, being a developing nation, it may be said that Zambia is fairing well in this area.

EMPLOYMENT POLICY, 1964 (CONVENTION)

Article 23(1) of the Universal Declaration of Human Rights proclaims that "everyone has the right to work". This right to work is not in the nature of civil liberties, like the right of association or freedom from forced labour, because it is not susceptible of legal definition and enforcement. This explains the absence of an international labour convention which would have guaranteed it. The right to work is merely a challenge to the economic system of the country in question. Its effectiveness therefore depends on economic policy of a particular country.

When a person has left school or college or stops depending on the land for his livelihood, the first thing that concerns him is to find a job. The fight for better wages and working conditions is undertaken subsequently. There are today millions of unemployed people all over the world. Some of them do not know where their

next meal would come from. For decades the international community expressed concern over lack of efforts in certain countries to create employment opportunities to solve the problem.

In 1964 the International Labour Conference adopted the Employment Policy Convention (No. 122) and Recommendation No. 122 aimed at fighting unemployment. The Convention and its supplementary Recommendation provide that each ratifying state must pursue an active policy designed to promote full and productive employment. This to be done in consultation with the representatives of workers and employers, by methods appropriate to national conditions. These local conditions, of course, include the level of economic development reached by a particular member state.

The policy of promoting full, productive and freely chosen employment, must aim at ensuring that there is work for all who are available for and seeking work. The work provided should be productive and there should be freedom of choice of employment and absence of discrimination based on sex, race, colour, religion, political opinion, national extraction or social origin.

Zambia has ratified this Convention No. 122 together with its accompanying Recommendation, not with the intentions of providing full employment to all now or in the near future, but merely to declare and pursue a policy of seeing that all able-bodied persons are

in full employment. The task of employing everyone is a continuous and continuing process, which cannot be achieved overnight, but set as a long-term objective.

The International Labour Conference itself is aware that providing full employment to all cannot be achieved within a given time limit but as one which requires a continuing programme, constantly adapted to the changing needs and fresh developments in the country concerned. Even developed states like the U.K. and U.S.A. are still grappling with the problem of unemployment. The U.K., for instance, has today more than 3,000,000 unemployed people.

Zambia has implemented the Convention by declaring to pursue the policy and not by specific legislation. She intends to pursue the matter through her economic development planning machinery and social policy. In this regard the Zambian Government would do well to see that the National Commission for Development Planning, which formulates all development measures in the country, consults the labour movement and the federation of employers when creating employment in the various state departments.

Attempts by socialist states to solve the unemployment problem has also not achieved much. As a result there are some institutions which are over-employed, engaging too many people to do a small piece of work, all in the name of keeping people employed.

In Zambia and other developing countries the problem of unemployment has been aggravated by lack of rural development. Such development minimises migration of people to the towns.

MEDICAL EXAMINATION OF YOUNG PERSONS (UNDERGROUND WORK) 1965, (NO. 124)

The I.L.O. is always concerned with the employment of children, because early employment jeopardises their life, by retarding their normal physical and mental development, due to dehumanising conditions under which some of them are compelled to work.

Children aged between 16 and 18 years are referred to as "young persons", some kind of "young adults". Persons in that age group are not regarded to be fully developed mentally and physically, perhaps that is why no country in the world gives the franchise to any person below the age of 18 years.

In 1945 the International Labour Conference adopted two Conventions which provide that children and young persons under 18 years of age are not to be admitted to employment unless they have been found fit for the work in question by a thorough medical examination.²¹ These two texts also provide for the continuing medical examinations up to specified ages. In 1965 the Conference adopted a third convention which contains provisions similar to those found in the two 1946 Conventions earlier mentioned. This^{is} the Medical Examination

of Young Persons (Underground Work) Convention, 1965 (No. 124), which mostly deals with the employment of young persons underground. Of the three Conventions, Zambia has ratified only the 1965 convention, which has been implemented by the enactment of Act No. 20 of 1973.

The Act provides in Section 8 that any employer who fails to comply with the provisions of this Convention shall be guilty of a criminal offence.

THE WORKERS REPRESENTATIVES (1971) CONVENTION (NO. 135) AND
RURAL WORKERS ORGANISATION (1975) CONVENTION (NO. 141)

Under the Freedom of Association Convention, the civil liberty (known as the right to peaceful assembly and association) to form and join trade unions for the protection of one's interests was discussed. This right is stipulated in Articles 20 and 23 of the Universal Declaration of Human Rights (1948), as a right given to every person to assemble and freely associate with other persons, to form trade unions and to join trade unions of his ^{own} choice for the promotion of the economic and social interests.

On 9th July, 1948 the General Conference of the International Labour Organisation adopted the Freedom of Association and Protection of the Right to organise Convention, under which every ratifying state guarantees the right that every worker shall be at liberty to establish and to join organisations of their own choosing without previous authorisation. This means that the state must

refrain from any interference which may restrict the right or impede its lawful exercise. The only lawful restriction on this right is that the person exercising this right must respect the law of the land, but that such restriction must be necessary in a democratic society, in the interests of national security or public safety, or for protection of rights and freedoms of others.

The workers Representatives Convention adopted by the I.L.O. General Conference on 23rd June, 1971 guarantees the above mentioned right. It protects the workers representatives against any act prejudicial to them, including demotion or dismissal on the ground that they are workers representatives or union members, or for participating in trade union activities.

The Convention defines the term "workers representatives" as to mean persons freely elected by a trade union or similar organisation to represent them in consultation with management. Such persons are entitled to be afforded such facilities in the undertaking as to enable them to carry out their functions promptly, freely and efficiently. In Zambia the term includes works councils formed under Part 7 of the Industrial Relations Act, Cap. 517.

The workers representatives convention has been well put into practice in Zambia by the Industrial Relations Act, Cap. 517, which states in section 4 that every worker has unfettered right to form, belong to or take part in the activities of a trade union. Any interference with this right by the state or management would be

declared illegal by the Industrial Relations Act.²² Any workers' representative who is victimised by his employer is free to petition the Industrial Relations Court for a redress under Section 98(g) of the Act.

In 1975 the International Labour Conference adopted the Rural Workers' Organisations Convention (No. 141) and Recommendation (No. 149) to further underline the importance of the human right of freely associating with others without interference from any quarter. These two texts relate to the right of rural workers to establish and join organisations of their own choosing. They commit ratifying states to facilitating the establishment and growth, on a voluntary basis, of strong and independent organisations of workers as effective means of ensuring the participation of rural workers in economic and social development.

Like the Workers Representatives Convention (1971) the Rural Workers Organisations Convention (1975) has been implemented in Zambia by the Industrial Relations Act Cap. 517 of the Laws. Any person who interferes with the workers' right enshrined in the Convention commits an offence under the Act.

TRIPARTITE CONSULTATION (INTERNATIONAL LABOUR STANDARDS)
CONVENTION, 1976 (NO. 144)

The unique strength of the International Labour Organisation derives from the manner in which the tripartite system places the

representatives of workers and employers, on an equal footing with those of governments and enables them to take part in all discussions and decision-making. The Conference, the Governing body and the regional conferences are tripartite in their compositions and functioning, and it is this tripartism which ensures the continuing of I.L.O. Countries which have put tripartism into effective practice have generally achieved a marked degree of industrial peace.

The Tripartite Consultation (International Labour Standards) Convention 1976 (No. 144) and its Recommendation (No. 152) state that there should be Consultation between employers, workers and governments to reduce or eliminate conflicts between workers and management, Governments, according to tripartism, are required to consult the labour movement when ratifying and when implementing all I.L.O. instruments.

Zambia has ratified the Convention on Tripartite Consultation because, as a state which is trying hard to follow a socialist path, she has always believed in consulting the workers on all matters affecting them. The 1967 Livingstone Labour Conference is one gathering which goes to prove this fact.²³ This consultation was ignored between 1978 and 1980 hence the resultant labour unrest during the whole of 1981 when hundreds of wildcat strikes took place. For political peace and economic development the labour movement should be regarded as an ally by the Government in its fight against poverty and hunger. The two sides have to co-operate for the good of the nation.

CONCLUSION

As already stated in the introductory remarks, the main objective of this paper is to state how Zambia has implemented the Conventions and Recommendations of the International Labour Organisation, which are legal rules made by the international community for the guidance of its member states in their daily search for universal and lasting industrial peace and social justice.

The international family has a duty to help improve the condition of humanity. The I.L.O., of which Zambia is a member, is engaged in the on-going struggle against the workers hardship, privation and general labour injustice which is existing in many parts of the world today, especially in the third world. It aims at minimising the severity of these vices and their eventual eradication.

All member states of the I.L.O. are bound by the terms and provisions of each text ratified by its government, and have a duty to put those provisions into effect. Failure by a state to comply with the provisions of any given text is a sort of violation of international law, whose penalty is exposure to the other states. This sanction, though not as deeply felt as payment of reparations, is more damaging to the image and dignity of the state concerned. The state so exposed is compelled to take corrective measures.

The Philosophy of Humanism which has its origins in the 19th century, stresses on the paramountcy of man among all nature's creatures. Zambia has adopted this philosophy as its guiding principle, and has geared all her political, economic and social policies towards the protection of freedom and dignity of all men.

Dr. Kenneth Kaunda, Zambia's President underlined the importance of this philosophy when he stated at page eight of his 'Humanism Part II' that 'Man is the centre of all creation and nothing is more important'. This means that a human being is the pivot upon which all economic, social and political processes revolve.

To economically apply this philosophy, Zambia has created a department in her Ministry of Labour and Social Services known as the Industrial Participatory Democracy, which is charged with the task of involving the workers in the policy-formulation machinery of the undertakings where they work. The workers are advised and encouraged to regard themselves as Co-owners of the undertakings, and not as mere tools for the maximisation of profits for the capital-owners. This policy does not exclude companies owned by proprietors living outside Zambia.

The thirty-one Conventions ratified by Zambia may be divided into two main categories. These are the human rights category and the equality category. In the human rights category are Conventions like the Right of Association (Agriculture) Convention 1924 (No. 11, and the Abolition of Forced Labour Convention, 1957 (No. 105). The right to associate freely with fellow workers and organise into unions, and the freedom to choose where and when to work are inalienable. Zambia has implemented both these conventions through Section 4 of the Industrial Relations Act, Cap. 517 of the Laws.

In the Equality category of Conventions we have the Discrimination Convention (No. 111) of 1958 and the Equality of Treatment Convention (No. 19) of 1925. Implementation of these Conventions is still going on. There are problems here and there being encountered in the process. For instance, the employers find it difficult to pay same wages to their general manager and their office-cleaner. The reason for the disparity in the wages of these two workers is that one is skilled while the other is not. This inability to achieve complete equality between the workers maintains the social and economic gap between them. Zambia is not alone with this problem. As a matter of fact no single country in the world has yet achieved such kind of equality.

It may be inferred from the fore-going analysis of Zambia's position with regard to the translation of the ratified I.L.O. Conventions into practical reality that she has not been a reluctant member. Genuine efforts have been made to apply the standards. The general outlook of labour provisions in the national legislation body is not disappointing.

The problems being encountered by Zambia in the application of the international labour standards are the difficulties being faced by other states, in Africa and elsewhere. Her low economic and social conditions impair the giving of full effect to the various Conventions, such as those requiring poverty datum line.

APPENDICES

APPENDIX (i)

BIBLIOGRAPHY OF BOOKS

1. C. Wilfred Jenks, Human Rights and International Labour Standards, Stevens and Sons Limited, LONDON, 1960.
2. G. A. Johnston, The International Labour Organisation - its work for Social and Economic Progress, EUROPA Publications Limited, London, 1970.
3. K. W. Wedderburn, The Worker and the Law, Hazel Watson and Viney Limited, (Penguin Books) London, 1971.
4. Otto Kahn - Freund, Labour Relations and the Law - a Comparative Study, Steven and Sons Limited, London.
5. The I.L.O. (International Labour Office) - In The Service of Social Progress, ATAR, Geneva, 1969. (This is an I.L.O. Publication).
6. J. E. King, Labour Economics, Macmillan, London, 1968.
7. K. Heldenson, Labour's Share in National Income, Manchester School, 1969, December.
8. Michael H. Whincup, 'Industrial Law' (Rights and Duties in Employment) Heinemann, London, 1968.
9. D. W. Bowett, The Law of International Institutions, Third Edition, Stevens and Sons Limited, London 1975.
10. I.L. Office, 'International Labour Standards' A Workers' Educational Manual, (GENEVA), 1978.
11. I.L. Office, "Report of the Director-General" - Ratification and Implementation of International Labour Convention in Africa. (GENEVA) 1973.
12. I.L. Office, "Report of the Director-General" - Position of African Countries Regarding the Ratification and Implementation of International Labour Standards. (GENEVA) 1977.
- I.L. Office "The I.L.O. and the World of Work" (GENEVA) 1978.
13. Gerzel, C. "Labour and the State: The Case of Zambia's Mineworkers Union", Journal of Commonwealth and Comparative Politics.
14. Gupta, A. "Trade Unionism and Politics on the Copperbelt", in Tordoff, W. (Ed), Politics in Zambia, Manchester. Manchester University Press for the Institute for African Studies, University of Zambia, 1974.

15. Henderson I. "Early African Leadership. The Copperbelt Disturbances of 1935 and 1940", Journal of Southern African Studies, 1975.
16. Mwendapole M. R., A History of the Trade Union Movement in Zambia up to 1968, 1977. Lusaka.
17. Gertzel Cherry, "Government and Politics in Kenya (E.A.P.H.), Nairobi, 1969.
18. Ben Turok, Development in Zambia Zed Press, (London) 1979.
19. Makhan Singh, "History of Kenya's Trade Union Movement to 1952" (E.A.P.H.) Kenya Litho Limited, Nairobi, 1969.
20. Bastiaan de Gaay Fortman "After Mulungushi", the Economics of Zambian Humanism, Printing and Packing Corporation Limited Nairobi, Kenya, 1969.
- 21.
21. Thomas Mulusa 'Our Government' East Africa Literature Bureau, 1970.
22. The United Nations and Human Rights 30th Anniversary of Declaration, New York, 1973 U.N. Office of Public Information.
23. Livingstone Labour Conference: "A Survey of Industrial Relations in Zambia" - A Ministry of Labour Publication, 1967. (Government Printer).
24. Report of the Second National Convention on Rural Development, Income, Wages and Prices in Zambia, held 12th - 16th December, 1969. - Policy and Machinery. A Ministry of Labour Publication.
25. T. S. Ashton, The Industrial Revolution 1760-1830, Oxford Paperbacks, University Series. O.U. Press, London, 1947.
26. Allen Hutt and John Gollan, British Trade Unionism, 1975, London.
27. John Lovell 'British Trade Unions, 1875-1933', Economic History Society, University of Kent, (1952).
28. Peter Harries-Jones, Freedom and Labour. Mobilization and Political Control on the Zambian Copperbelt, 1975 Richard Clay (The Chaucer Press) Ltd. England.
29. Henry S. Meebelo - African Proletarians and Colonial Capitalism. The Origins, Growth and Struggles of the Zambian Labour Movement to 1964, 1986, Kenneth Kaunda Foundation, Lusaka.

APPENDIX (II)

BIBLIOGRAPHY OF STATUTES

(a) ZAMBIAN LABOUR STATUTES

1. The Employment Act, Cap. 512.
2. Industrial Relations Act, Cap. 517.
3. Employment of Women, Young Persons and Children Act, Cap. 505.
4. Workmen's Compensation Act, Cap. 509.
5. Zambia National Provident Fund Act, Cap. 513.
6. Apprenticeship Act, Cap. 511.
7. Zambia (Retiring Benefits) Order, 1964 Appendix 13 Volume XVI of the Laws.
8. Minimum Wages, Wages Council and Conditions of Employment Act, Cap. 506.
9. Medical Examination of Young Persons (Underground Work) Act 20 of 1973.
10. Mines and Minerals Act. Cap. 329.
11. Factories Act, Cap. 514.
12. The Constitution of Zambia, Act No. 27 of 1973.

(b) KENYAN LABOUR STATUTES

1. Employment Act, Chapter 226.
2. Trade Unions Act, Chapter 233.
3. Trade Disputes Act Chapter 234.
4. Workmen's Compensation Act Chapter 236.
5. Regulation of Wages and Conditions of Employment Chapter 229.
6. Employment of Women, Young Persons and Children Act, Chapter 227.
7. Shop Hours Act, Chapter 231.

(c) UGANDA'S LABOUR STATUTES

1. Uganda Employment Act, Chap 192.
2. Employment of Children Act, Cap. 193.
3. Employment of Women Act, Cap. 144.
4. Minimum Wages Act, Cap. 196.
5. Factories Act, Cap. 198.
6. Workmen's Compensation Act, Cap. 197.
7. Trade Unions Act, Cap. 199.
8. Trade Disputes Act, Cap. 200.

(d) MALAWI LABOUR STATUTES

1. Trade Unions Act, Cap. 54-01.
2. Trade Disputes Act, Cap. 54-02.
3. *Employment Act, Cap. 55-02.*
4. Workmen's Compensation Cap. 55-03.
5. Factories Act, Cap. 55-07.
6. Regulation of Minimum Wages and Conditions of Employment Act - Cap. 55-01.
7. Employment of Women, Young Persons and Children Act, Cap. 55-04.

APPENDIX (iii)

LIST OF CONVENTION RATIFIED BY ZAMBIA UP TO
JANUARY, 1984

<u>NUMBER OF CONVENTION</u>	<u>NAME OF CONVENTIONS</u>
5	Minimum Age (Industrial) 1919
11	Right of Association (Agriculture) 1921.
12	Workmen's Compensation (Agriculture), 1921.
17	Workmen's Compensation (Accidents), 1925.
18	Workmen's Compensation (Occupational Diseases) 1925.
19	Equality of Treatment (Accident Compensation) 1925.
26	Minimum Wage - fitting Machinery 1923.
29	Forced Labour, 1930.
45	Underground Work (Women) 1935.
50	Recruiting of Indegenous Workers, 1936.
64	Contracts of Employment (Indigenous Workers) 1939.
65	Penal Sanctions (Indigenous Workers) 1939.
36	Contracts of Employment (Indigenous Workers) 1939.
89	Night Work (Women) (Revised), 1943.
95	Protection of Wages, 1949
97	Migration for Employment (Revised) 1949.
99	Minimum Wage-fitting Machinery (Agriculture) 1951.
100	Equal Remuneration, 1951.
103	Maternity Protection (Revised), 1952.

- 105 Abolition of Forced Labour, 1957.
- 111 Discrimination (Employment and Occupation) 1958.
- 117 Social Policy (Basic Aims and Standards), 1962.
- 122 Employment Policy, 1964.
- 124 Medical Examination of Young Persons
(Underground Work) 1965.
- 131 Minimum Wage Fixing, 1970.
- 135 Workers Representatives, 1971.
- 136 Benzene, 1971.
- 138 Minimum Age, 1973.
- 141 Rural Workers Organisations, 1975.
- 144 Tripartite Consultations (I.L. Standards), 1976.

APPENDIX (iv)

LIST OF TRADE UNIONS IN ZAMBIA

NAME AND POSTAL ADDRESS

1. Zambia Congress of Trade Unions,
P. O. Box 652,
KITWE.
2. Mineworkers Union of Zambia,
P. O. Box 448,
KITWE
3. National Union of Building, Engineering,
and General Workers,
P. O. Box 21515
KITWE
4. National Union of Commercial and Industrial Workers
P. O. Box 1735
KITWE
5. Hotel Catering Workers Union,
P. O. Box 1627
KITWE
6. Guards Union of Zambia,
P. O. Box 6063
KITWE
7. Zambia United Local Authorities Workers Union,
P. O. Box 575
NDOLA
8. Zambia Typographical Union,
P. O. Box 1439,
NDOLA.
9. National Union of Postal and Telecommunications,
P. O. Box 751,
NDOLA
10. Zambia Electricity Workers Union,
P. O. Box 859,
NDOLA.
11. Railways Workers Union of Zambia,
P. O. Box 302
KABWE.
12. National Union of Plantation and Agricultural Workers
P. O. Box 529
KABWE

13. Civil Servants' Union of Zambia,
P. O. Box RW. 160,
LUSAKA.
14. National Union of Public Service Workers,
P. O. Box 2523,
LUSAKA.
15. Zambia National Union of Teachers,
P. O. Box 1941,
LUSAKA.
16. National Union of Transport and Allied Workers,
P. O. Box 2431,
LUSAKA
17. Airways and Allied Workers Union,
P. O. Box 272,
LUSAKA
18. University of Zambia and Allied Workers Union
P. O. Box 32379
LUSAKA.
19. Zambia Union of Financial Institutions,
P. O. Box 1174
LUSAKA.

FOOT NOTES

1. C. WILFRED JENKS, Human Rights and International Standards, Stevens and Sons Limited, 1960, p.25.
2. T.S. Ashton "The Industrial Revolution 1760-1830" Oxford Paperbacks, University Series. O.U. Press, London (1947) p. 81.
3. The International Labour Office 'International Labour Standards' Atdar, Geneva, 1969 (an I.L.O. Publication) pp. 8-9.
4. The International Labour Office 'International Labour Standards' Geneva, 196 Switzerland, 1978 Icobulle, S.A., p.3.
5. 'British Trade Unionism' 1975 by A. Hutt & J. Gollan.
6. Allen Hutt and John Gollan, British Trade Unionism, London, p. 15.
7. Political and Economic Planning (PEP), British Trade Unionism March 1955, London. pp. 137, 140 & 145 respectively.
8. Reuben S. Muchimba 'Trade Unionism in Zambia' 1966. pp.3, 4 and 5.
9. A History of the Trade Union Movement in Zambia up to 1963, M. R. Mwendapole.
10. G.A. Johnstone 'The International Labour Organisation - its work for Social and Economic Progress, Eurapa Publications, Limited, London 1971, P. 12.
11. The International Labour Office 'The International Labour Standards' Geneva, 1978 Icobulle, A S.A. p.45.
12. These are taken from the I.L.O. annual list of 1983.
13. These are:
 - (i) Minimum Age (Agricultural) Convention 1921 (No. 10).
 - (ii) Minimum Age (Non Industrial Employment) Convention (revised) 1937 (B (No. 60).
 - (iii) Minimum Age (Industry) Convention (Revised) 1935 No. 5.

Zambia has not ratified all these three conventions because their provisions are fully covered in conventions Nos. 123 of 1965 and 138 of 1973 which are in turn implemented by Chapter 512 of the Laws.

 - (i) Minimum Age underground work convention, 1965 (No. 123) and
 - (ii) Minimum Age Convention, 1973 (No. 138).
14. Convention No. 98 Supplements Convention No. 87.
15. This provision is laid down in section 5 of Workmen's compensation (Amendment) Act, 1976 (No. 19)

16. Personnel Circular No. B9 of 1980 titled "REVISION OF SALARIES and CONDITIONS OF SERVICE". and 1985 Government White Paper on Revision of Salaries.
17. Government No. 3 of 1980, on Salaries.
17. Government White Paper No.3. of 1980 on Salaries.
18. Sunday Times of Zambia of March 29, page 7. (1985)
19. The ratification and implementation of international Labour Conventions in Africa - Report of the I.L.O. Director-General, November-December, 1973, p. 23.
20. This is in Section 70 of the Penal Code Cap. 146 of the Laws of Zambia.
21. (a) Medical Examinations of Young Persons (Industry) Convention 1946 (No.77).
(b) Medical Examination of Young Persons (Non Industrial Occupation) Convention, 1946, No. 78.
22. This is established by Part 10 of the Industrial Relations Act, Cap. 517 of the Laws.
23. 'Livingstone Labour Conference': A Survey of Industrial Relations in Zambia. A Ministry of Labour Publication (Government Printer) 1967.