

The influence of international labour standards on Zambian legislation

E. KALULA *

It is now more than two decades since Zambia achieved independence and joined the International Labour Organisation.¹ This seems, therefore, an appropriate time to examine the impact of international labour standards on Zambian labour and social legislation. As space does not allow a comprehensive and detailed description and analysis of the effect given to Conventions and Recommendations in legislation and practice, this article will concentrate on a few cases that can be described as representative of current law and practice.

Zambia has been an enthusiastic supporter of the ILO and its ideals from the start.² This is evident not only from the number of Conventions ratified but also, and more importantly, from the measures taken to implement international labour standards in national law and practice. Zambia's record of ratifications compares favourably with those of other African countries. In 1983 the country had ratified 35 Conventions, against an average of just under 26 for the African region as a whole. Of the 35 Zambian ratifications, 14 were registered at the date of admission as a result of confirmation of obligations previously accepted by the United Kingdom in respect of the Protectorate of Northern Rhodesia. That was about the African average at independence. Between 1 January 1977 and 30 April 1983 Zambia ratified ten Conventions, a figure well above the African mean of 5.6 Conventions ratified during the same period.³

Some demographic, economic and historical factors

With about 45 per cent of a population of some 6.5 million located in urban areas,⁴ Zambia is one of the most urbanised countries in Africa. In spite of the high proportion of city-dwellers, however, only 391,000 of the total labour force of 1,880,400 – or roughly one-fifth – are wage earners.⁵ Although high by African standards, the low proportion of formal sector

* School of Law, University of Zambia; formerly human rights intern, ILO. The author gratefully acknowledges comments and guidance from K. T. Samson, ILO, but is solely responsible for the views expressed.

wage-earning employment means that legislation designed to implement international labour standards in such areas as wages, workmen's compensation and other conditions of employment affects only a limited part of the population. The general impact of international labour standards, however, is felt far more widely. It was said of Nigeria in 1960 that "certain basic international labour standards, such as those laid down in the Conventions on forced labour, are of application to the entire population, and may prove of special value precisely for communities where wage earning is a recent phenomenon";⁶ this probably holds true for Zambia as well.

One major factor must be appreciated from the outset. In the words of a recent survey conducted under the auspices of the European Economic Community, "Zambia, first of all, is . . . a metal".⁷ That metal is copper, which has always shaped the country's social and economic development. Zambia's national resources, including copper and other minerals, have enabled it to make remarkable economic progress, particularly during the first decade of independence. With falling mineral prices in recent years, however, the economy's lopsided dependence on mineral wealth led to an equally dramatic decline, which has adversely affected the country's ability to improve the social and economic conditions of its people and hence, it may be presumed, the implementation of international labour standards.⁸

An examination of the development of labour policy in Zambia through the colonial and post-colonial period reveals a measure of continuity in many respects.⁹ Before independence Zambia was, in terms of article 35 of the ILO Constitution, a non-metropolitan territory of the United Kingdom. The United Kingdom Government was responsible for its international relations, including the application of international labour Conventions. The United Kingdom declared 14 Conventions applicable to the territory without modification,¹⁰ and five others with modification.¹¹ On joining the ILO the Zambian Government declared that it continued to be bound by the obligations of the Conventions previously accepted without modification by the United Kingdom on its behalf.¹² Substantial progress was made after independence, through the ratification of 21 further Conventions and corresponding legislative amendments to meet the requirements of ratified Conventions. Some of the changes were particularly significant in highlighting the growing influence of international labour standards; an example is the repeal of the Employment of Natives Ordinance, 1929, and its replacement by the Employment Act, 1965. A new Apprenticeship Act was passed in 1964 which enhanced the provisions for vocational training in the country. Further amendments were made to the Factories Act, the Employment of Women, Young Persons and Children Act, and the Minimum Wages, Wage Councils and Conditions of Employment Act. Details of the progress thus achieved under the influence of international labour standards are given below.

The application of international labour Conventions: Current law and practice

The influence of international labour standards has grown steadily as more Conventions have been ratified in recent years. The ILO's contacts with member countries in the form of technical assistance, advisory services and supervision have naturally encouraged the implementation of such standards in Zambia as in other countries. The discussion that follows focuses on a few key areas of basic human rights and of labour and social policy.

The importance of international labour Conventions relating to basic human rights in developing countries cannot be overemphasised. The human rights record of many countries (mainly, but not only, in the Third World) remains a source of deep concern in the international community. In the case of Zambia, the application of international labour Conventions embodying basic human rights has an added significance. Zambia, through President Kaunda's statesmanship, has projected an image of real concern for human rights both within and outside its borders. This concern for human rights, particularly in southern Africa, is well known in international forums. In the domestic sphere it is reflected in the national philosophy of Zambian humanism, aimed at developing a more egalitarian, "man-centred" society in which basic human rights would be paramount and a proper balance achieved between the claims of the community and the rights of the individual.¹³ This concern has been emphasised in ILO forums by President Kaunda himself on two occasions.¹⁴ Zambia's commitment to basic human rights is also illustrated by its ratification of a number of international labour Conventions on human rights and its accession to various United Nations instruments on human rights, including the International Covenant on Civil and Political Rights and its Optional Protocol, and the International Covenant on Economic, Social and Cultural Rights. It has also ratified the Charter on Human and Peoples' Rights adopted by the Organisation of African Unity. The impact of basic human rights Conventions on Zambian law and practice will be apparent from a brief examination of the situation regarding international labour Conventions on forced labour, freedom of association and discrimination.

Forced labour

The Forced Labour Convention, 1930 (No. 29), was one of the 14 international labour Conventions applied without modification to the non-metropolitan territory of Northern Rhodesia by the British Government. On its admission to the ILO Zambia declared that it continued to be bound by the Convention. The Abolition of Forced Labour Convention, 1957 (No. 105), which prior to independence had been declared applicable subject to modifications, was ratified in 1965. These Conventions are mainly applied through the Constitution and the Penal Code, both of which prohibit the use

of forced labour.¹⁵ A number of other laws also bear on the subject-matter of the two Conventions. These include the Prisons Act, the Public Security Regulations, the Societies Act, the National Service Act and the Industrial Relations Act.¹⁶

The influence of international labour standards is evident from the legislation and practice in this area. However, their implementation has not been without problems, as will be apparent from an examination of a few issues raised by ILO supervisory bodies. The major problem concerning the Forced Labour Convention, 1930 (No. 29), and the Special Youth Schemes Recommendation, 1970 (No. 136), appears to be the scope of the National Service Act, 1971. Section 3 of the Act established the Zambia National Service, whose functions are concerned with the training of citizens to serve the country and the employment of members of the Service in tasks of national importance, including the defence of the Republic. Under sections 5, 7, 11 and the second schedule of the Act every citizen aged 18 to 35 who either has completed a full secondary education and ceases to be a student or has enrolled for further education has to register with the Service and is liable to serve within its ranks for a period of up to two years.¹⁷

For several years now – and most recently in its 1984 direct requests – the ILO Committee of Experts on the Application of Conventions and Recommendations has raised the question of the scope of the Act on the basis of the reports submitted by the Zambian Government, under article 22 of the ILO Constitution, on action taken to apply ratified Conventions. In so doing, the Committee of Experts has constantly referred to its 1971 General Report, where it drew attention to the clarification which the International Labour Conference, in adopting the Special Youth Schemes Recommendation, 1970 (No. 136), provided concerning the relationship between the forced labour Conventions and certain programmes involving the compulsory participation of the young in work to promote economic and social development.¹⁸ In particular, Paragraph 7 (1) of the Recommendation provides that participation in special development schemes should be voluntary and that exceptions should be permitted only where there is full compliance with the terms of existing international labour Conventions on forced labour and employment policy. Paragraph 7 (2) (b) provides that compulsory participation in special programmes of national service may be permitted in the case of schemes for young people who have previously accepted an obligation to serve for a definite period as a condition of being enabled to acquire education or technical qualifications of special value to the community.

In its direct requests and observations addressed to the Zambian Government the Committee of Experts has also referred to its 1979 General Survey on the abolition of forced labour, in which it expressed the view that such schemes should have an interim character to meet current and pressing economic and social needs, that participants should, to the greatest possible extent, be given a free choice among different available forms of activity and

different regions, and that their services should not be used for the benefit of private persons or undertakings.¹⁹

The Zambian Government has not fully responded to the Committee's requests for information on the practical application of the National Service Act, and therefore the Committee has not been able to assess how far the measures adopted respect the conditions set out in Recommendation No. 136. This is regrettable because there is much to be said for the basic aim of the National Service Act, which seeks not only to deal with youth unemployment and lack of technical skills but also to enhance national consciousness and a sense of responsibility. To this extent, the basic aim of the Act would seem to be within the scope of Paragraph 7 of the Recommendation. Although school and college graduates have been periodically drafted into the National Service, there has been no compulsory call-up for the armed forces. The Government has always sought to justify the Service mainly in terms of economic and social needs. Draftees serve for a fixed period and acquire further education and technical skills that would not be available to them otherwise. Besides, there is no evidence that any scheme within the National Service has been used for the benefit of private persons or undertakings.

A number of questions do need answering, however. How far can National Service programmes be said to be of an interim character in the face of continuing economic and social needs? How much choice do draftees exercise regarding type of activity or region of assignment? The Government would do well to clarify these and other issues raised by the Committee of Experts.

In contrast to the foregoing, the comments of ILO supervisory bodies have led to some progress in two other areas covered by Convention No. 29. In 1982, in response to requests and observations from the Committee of Experts, the Government replaced rule 154 of the Prisons Rules by a new rule 154 under which no prisoner may be hired out or placed at the disposal of a private person or organisation, while a prisoner may, with the consent of the Commissioner of Prisons, be hired out to a parastatal organisation or public corporation provided that such a prisoner is at all times under the control or supervision of a prison officer or other public officer.²⁰

Equally encouraging is the consideration being given by the Government to the possible repeal of regulations 40 and 41 of the Public Security Regulations, under which public officers and employees in certain services may be prohibited from leaving their employment. These regulations have been the subject of requests and observations by the Committee of Experts for a number of years. It is therefore to be hoped that the Government will soon make the required changes.

The Committee of Experts has also raised a number of issues relating to forced labour under Article 1 (a) and (d) of Convention No. 105. The first is concerned with article 4 of the Constitution which, read together with sections 8 and 9 of the Societies Act, prohibits the pursuit of political

objectives by any group or association outside the constitutionally recognised party, i.e. the United National Independence Party (UNIP).²¹

The practical application of these provisions entails the suppression of freedom of opinion. For instance, a political meeting or any other political activity by any group outside the UNIP is illegal, and to that extent expression of opinion is punishable by imprisonment under sections 24 and 25 of the Societies Act. Furthermore, under section 75 of the Prisons Act any person so convicted could be required to perform labour, contrary to Article 1 (a) of the Convention.²²

The question of political expression in any one-party State is a sensitive one, and compliance with international labour standards may well involve a consideration of fundamental issues relating to the one-party State system itself. It is therefore of interest to note that, following comments by the Committee of Experts, the Zambian Government, in its 1982 report under article 22 of the ILO Constitution, expressed its willingness to consider the issues with a view to complying with the requirements of the Convention.

Prohibitions under the Industrial Relations Act, 1971, also raise questions of compliance with Convention No. 105. The first problem in this respect arises under section 95 of the Act. This provides that any dispute not settled by conciliation shall be referred to the Industrial Relations Court. The Court then considers the issues and pronounces judgement. The Court's decision in such cases is final and binding upon the parties to the dispute for such a period as the Court may specify. The provision makes it possible in practice to outlaw any strike, under penalty of imprisonment in accordance with sections 116 and 122 of the Act and subsequent compulsory prison labour under section 75 of the Prisons Act.

The provisions relating to strikes have been a source of concern in Zambian labour relations circles since the passing of the Industrial Relations Act. In reply to comments of the Committee of Experts, the Government has sought to underline the distinction between employees who strike lawfully and are therefore protected by law, as required by the Convention, and those who strike illegally and therefore, in the Government's view, are not entitled to such protection. Ministers have further sought to justify this provision as necessary to forestall wildcat strikes such as were prevalent in the 1960s.

On the last-mentioned point, the Committee of Experts has in fact taken the view that Convention No. 105 does not preclude the imposition of penalties where industrial action is taken without regard to certain procedural requirements, such as prior notice.²³ On the other hand, the Committee stated in its 1979 General Survey on forced labour that laws providing for compulsory arbitration systems which result in binding awards practically allowing all strikes to be prohibited or rapidly stopped should, when providing for sanctions involving compulsory labour, limit such sanctions to the performance of essential services strictly defined, that is to say services whose interruption would endanger the existence or well-being of the whole or part of the population.²⁴

A related problem arises under section 117 of the Act, which prohibits under penalty of imprisonment participation in, or encouragement of, strikes in "essential services". There is little doubt that the definition of essential services under the Act goes beyond what is acceptable under the Convention.²⁵ In 1982 the Government reported to the Committee that it was revising the definition with a view to confining it to a narrower range of services. However, no further action appears to have been taken in that respect.

Freedom of association

Freedom of association in general terms is one of the fundamental rights guaranteed under article 13 of the *Zambian Constitution*. In specific terms, the right to form and join trade unions is guaranteed to all persons in most occupations by section 4 of the *Industrial Relations Act, 1971*. An identical right is extended to employers by section 31 of the same Act. Notable exceptions are the armed forces, the police and the prison service. These exceptions appear to be compatible with *Conventions Nos. 87 and 98*, which leave it to each State to determine the extent of their application to members of the armed forces and the police.

In practice, freedom of association is to a large extent ensured by the attitude of private employers and of the administration and by the activities of the trade union movement, traditionally one of the strongest in Africa.²⁶ Yet in spite of this generally satisfactory position, much more could be done to enhance conformity with international labour standards.

Zambia has ratified a number of *Conventions* relating to freedom of association. These are the *Workers' Representatives Convention, 1971 (No. 135)*, the *Rural Workers' Organisations Convention, 1975 (No. 141)*, and the *Labour Relations (Public Service) Convention, 1978 (No. 151)*. While supervisory bodies have raised a number of issues under these *Conventions*, space unfortunately does not permit discussing them here.²⁷ Instead, we shall examine Zambia's record concerning the two fundamental *Conventions* on freedom of association, namely the *Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)*, and the *Right to Organise and Collective Bargaining Convention, 1949 (No. 98)*.

What is most notable here is that Zambia has ratified neither of these instruments – even though *Convention No. 98* in particular was one of those applied to Zambia prior to independence, subject to modification in respect of *Article 2* concerning protection of organisations against interference.

One episode is probably indicative of the problems arising and partially explains the Government's reluctance to ratify *Conventions Nos. 87 and 98*. In 1981 the *International Confederation of Free Trade Unions (ICFTU)* submitted a complaint against the *Zambian Government* to the *ILO Committee on Freedom of Association*.²⁸ This alleged that the detention in

July 1981 of four trade union leaders, including the Chairman and General Secretary of the *Zambian Congress of Trade Unions (ZCTU)*, was a violation of trade union freedom. It cited reports that the trade unionists had been detained for allegedly inciting strikes and causing chaos – an allegation which the ZCTU categorically rejected. In reply the Government denied that trade union rights had been violated, while pointing out that its policies, including the guarantees provided under the *Industrial Relations Act*, had always encouraged tripartism and freedom of association. The Government maintained that the detentions were motivated by considerations of public and national security; moreover, the detainees had exercised their right to challenge the Government's action in the courts.

In the event, the *Zambian High Court* ordered the detained unionists to be freed and the *ICFTU* withdrew its complaint. The Committee accepted the withdrawal on the understanding that the persons concerned should suffer no consequences in their professional and trade union functions. ILO intervention in this case probably has had a positive impact on the Government's handling of subsequent crises relating to freedom of association, and it is no doubt a measure of the ILO's influence that none of the detainees appears to have been penalised. The two leading trade union officers have retained their positions in the ZCTU and one of them is a member of the ILO Governing Body.

The fact remains that certain legislative provisions present problems of compliance with the requirements of the standards on freedom of association. The *Industrial Relations Act's* incompatibility with *Conventions Nos. 87 and 98* is undoubtedly one of the reasons for the Government's reluctance to ratify them. One problem provision is section 7 (8) of the Act. This embodies the so-called "one industry, one union" policy, empowering the Registrar of Trade Unions to refuse registration of a union if "it purports to represent a class or classes of employees already represented by or eligible for membership in another trade union". The policy of restricting any given class of industrial employees to one union has been strictly enforced by the Government since the passing of the Act. It has been justified in terms of public security and the need for strong unions able to promote more stable industrial relations. Both the existing trade unions and the employers appear to favour this policy, at least tacitly. Indeed, in contrast to the strong opinions usually expressed by the trade union leaders and employers on other matters, including the need for the Government to ratify *Conventions Nos. 87 and 98*, no similar opinion has been expressed regarding any need to amend section 7 (8) of the *Industrial Relations Act*.

Discrimination

In many countries the gap between the formal position (e.g. legislative and constitutional guarantees) and actual practice is probably greatest in the area of discrimination. Zambia is no exception to this rule, and a large gap

between formally guaranteed rights and their actual enforcement still exists. This is true of sex and tribal discrimination, traditionally the most intractable discrimination problems. The Government has, however, made commendable efforts, not only in amending the laws so as to comply with international labour standards, but also in breaking down *de facto* barriers by promoting equality of all sections of the community in a practical way, in co-operation with employers and trade unions. This is borne out by its own employment practices as well as by the pressure it has brought to bear on public and private organisations generally. It has also given particular emphasis to equality of opportunity in successive national development plans.

Zambia has ratified both the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1951 (No. 111). It has also ratified the Maternity Protection (Revised) Convention (No. 103). Although Convention No. 103 is not, strictly speaking, an instrument on discrimination, it has some bearing on it. These instruments are implemented through a number of legislative texts, including the Constitution, the Industrial Relations Act, 1971, and the Employment Act, 1965.

Section 114 of the Industrial Relations Act, for example, prohibits terminating an employee's services or imposing any other penalty or disadvantage on an employee on grounds of race, colour, sex, marital status, religion, political opinion or affiliation, tribal extraction or social status. This prohibition is reinforced by article 13 of the Constitution, which guarantees fundamental rights and freedoms, and article 25, which renders any discriminatory law unconstitutional and therefore null and void.

The Committee of Experts has, however, sought clarification on several points. The first concerns legislative gaps. Article 25 of the Constitution, for example, does not specifically prohibit sex discrimination, a surprising omission since this form of discrimination, along with that based on tribal origin, is the most prevalent in Zambian society. Besides, article 25 apparently applies only to laws and not to other instruments or practices. Another problem stems from the exclusion of the armed forces, the police and prison services from the scope of the Industrial Relations Act. Although members of these occupations have access to the courts in some instances (usually as a last resort) and to the Investigator-General for redress, the position would be improved by setting specific guide-lines on discrimination for these branches.

The Government made two important changes in the Employment Act in 1982 which enhance the implementation of international labour Conventions in the area of discrimination broadly defined.²⁹ The first was an amendment which provides for maternity leave and protection of female workers from arbitrary acts by employers. Female workers are now entitled to maternity leave with full pay for 12 weeks at intervals of two years. In case of illness arising out of pregnancy, they become entitled to sick leave. The

amendment also prohibits employers from terminating employment or imposing any other penalty or disadvantage upon a female worker within six months after her confinement.

The second change was made under a statutory instrument³⁰ which revoked the exemption from the scope of the Employment Act of persons earning an annual salary of more than 4,000 kwachas.³¹ As a result, the provisions of the Act now apply to all workers irrespective of remuneration except for members of the armed forces, the police and prison services.

Social policy

The influence of international labour standards has probably been most pronounced in the area of social policy and legislation. Following the country's accession to independence, the Government embarked on ambitious programmes of accelerated social and economic development. These were helped by the large revenues earned from the sale of copper and other minerals at favourable prices.

The Government's economic goals and hoped-for social and economic gains were stated in its first two national development plans (1966-70 and 1972-76). The basic goals were the improvement of the general level of well-being of the population; diversification of economic activity to lessen dependence on the copper industry; and the training of local manpower to manage and operate the economy.³² The first two development plans were followed by a third (1979-83), which gave priority to self-sufficiency in food supplies and the provision of fuller and productive employment.

While it is generally felt that development efforts so far could have been more successful, substantial progress was made in many sectors of the economy, particularly in the first decade of independence. It is significant that the goals of various development plans have generally conformed to ILO social policy guide-lines, in particular the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), and several other related instruments ratified by Zambia. Convention No. 117 has been applied through a wide range of legislative texts, including the Constitution, the Registration of Births and Deaths Act, 1973, the Registration and Development of Villages Act, 1971, the Lands and Deeds Registry Act, the Industrial Relations Act, 1971, the Lands Acquisition Act, the Education Act, the Factories Act, the Zambian National Provident Fund Act, the Workmen's Compensation Act, the Employment of Young Persons and Children Act, the Minimum Wages and Conditions of Employment Act, the Employment Act, and the Societies Act. These texts deal with a wide variety of development and social policy issues, ranging from social security, minimum wages, and non-discrimination in employment to the expansion of educational facilities for the population.

Various ILO organs have acknowledged that Zambia's efforts in the area of social policy have generally followed the Organisation's guide-lines.

The shortcomings (and there have been many) have mainly been in implementation procedures and levels of achievement. While much needs to be done to overcome underdevelopment in Zambia, there can be no doubt as to the influence of international labour standards in the country's development efforts.

Employment

Employment has been a major preoccupation of the Government's social policy. It has received close attention in successive national development plans, and particular emphasis has been placed on the provision of fuller and productive employment in the third national plan. The extent of progress made in employment, as in other areas of development, is closely related to the performance of the economy. Much progress in employment was made in the first decade of independence, when employment increased faster than in most African countries because of the economy's rapid growth. The position has deteriorated in line with the drastic economic decline of recent years. By 1975 wage employment was already falling,²⁹ and in spite of slight improvements after 1978 recent indications suggest a renewed downturn.³³

Although initial gains have not been sustained, the Government's employment policy, along with other social policy efforts, has been influenced by the Employment Policy Convention, 1964 (No. 122), which was ratified in 1979. In 1981 an ILO mission under the Jobs and Skills Programme for Africa (JASPA), which followed up a previous employment advisory mission of 1975, generally endorsed the Government's existing programmes and also took a favourable view of the new institutions then envisaged by the Government, for example in connection with decentralisation and with prices and wage policies.³⁴

As in the area of social policy generally, the main shortcomings in the Government's efforts to create more employment have resulted from implementation difficulties. This points to the need for improvements in the collection and analysis of statistical data, to determine more exactly the nature and extent of unemployment, and in the monitoring of problems and progress in the implementation of capital projects and other employment policy measures. Some of these are problems of labour administration, discussed below.

The full extent of the impact of ILO recommendations and observations is not known. There are, however, indications that the Government is paying attention at least to some of them. It has, in particular, renewed its efforts towards decentralisation and taken other measures to expand employment, especially in rural areas.

Labour administration

The adoption of the Labour Administration Convention, 1978 (No. 150), and Recommendation, 1978 (No. 158), reflected further recognition of the important place which a competent and efficient labour department occupies in the proper application of international labour standards. In many countries this is the department that co-ordinates implementation efforts. The impact of international labour standards therefore depends largely on how efficiently the labour department performs its functions.

Zambia ratified the Convention in 1980. It is applied through the Employment Act, the Industrial Relations Act, the Workmen's Compensation Act, the Zambia National Provident Fund Act, the Factories Act, the Employment of Women, Young Persons and Children Act, and the Prices and Incomes Act. The Ministry of Labour and Social Services is responsible for the administration of these laws. The Department of Labour set up within the Ministry operates 19 field offices located in areas of industrial and economic activity and manned by labour officers and inspectors who perform a wide variety of functions, ranging from the provision of free employment services for employers' and workers' organisations to the inspection of factory and working conditions to ensure that laws and regulations are observed. The Department also encourages parties to collective disputes to settle them through procedures established by law and practice. It compiles monthly and annual reports on all aspects of labour matters in the country, one purpose of which is to provide national planners as well as employers' and workers' organisations with vital information needed in development planning and collective bargaining. The Department takes part in the preparation of national development plans and, in conjunction with the Ministry of Legal Affairs, advises other government departments on matters of labour policy, including Zambia's obligations under the ILO Constitution and international labour Conventions.

The Government has so far submitted only one report since it ratified Convention No. 150. It is therefore difficult to assess the full extent of the instrument's influence, particularly where its practical application is concerned. However, the Ministry's assigned functions are in broad conformity with the requirements of the Convention. Problems stem mainly from the back-seat position the Department has historically occupied within the government hierarchy. Especially with the current restrictions on government expenditure, the Department's budget is too low to enable it to perform its functions fully.³⁵ It is also perpetually undermanned. These shortcomings have affected the discharge of its functions in such key areas as labour inspection, collection and analysis of data and the preparation of replies to the comments of ILO supervisory bodies. It is not surprising that the Department's annual reports are usually a year or two behind schedule.³⁶

Technical assistance and the promotion of international labour standards

Among ILO activities tending to enhance the influence of international labour standards, special importance attaches to the provision and monitoring of technical assistance by the Office, acting either independently or in co-operation with other agencies active in development.

Zambia, like other developing countries, has taken advantage of ILO technical assistance to improve the implementation of international labour Conventions. Several ILO technical assistance programmes may be mentioned here. Soon after independence the Government sought to check inflation by regulating wages and prices, and to that end asked the Office for technical assistance. In 1969 Professor H. A. Turner of Cambridge University undertook a mission to assess conditions and advise on an effective prices and incomes policy. His mission report³⁷ provided the basis for an official wages, prices and incomes policy. In the report he related wages and their increments to productivity, while recommending a ceiling on annual rises. The report also recommended the setting up of a prices board. In 1978 Professor Turner headed a second mission to assess progress and provide further advice.³⁸ Although progress has been painfully slow in implementing an effective prices and incomes policy, the missions provided an impetus which led in due course to the passing of the Prices and Incomes Act, 1981. This set up the machinery for implementing a prices and incomes policy, including a Prices and Incomes Commission as recommended in the first Turner report. The Commission is now operational.

Two other significant instances of technical assistance were the ILO/UNDP missions on employment, already referred to briefly. The missions were carried out under the ILO Jobs and Skills Programme for Africa (JASPA). The first mission, undertaken in 1975, "identified critical gaps between the objectives of Zambia's plans and programmes and their implementation and outlined how an employment and basic needs-oriented development strategy might contribute to the solution of problems".³⁹ The report was accepted by the Government and given full consideration in the third national development plan (1979-83). The 1981 follow-up mission specifically reviewed the situation from a "basic needs" point of view. Government efforts in successive national development plans to expand employment and improve social services were generally found to be in line with international labour standards, although major problems still exist in the implementation of programmes.

While requests for technical assistance are of themselves no indication of progress in the implementation of international labour standards, particularly at a time when aid is most in demand owing to the world-wide economic decline, they at least constitute a sign of willingness to pursue improvement. In Zambia's case it is apparent that benefits have been derived from technical assistance, and these benefits tend to enhance the influence of international labour standards.

Conclusion

This brief analysis of the influence of international labour standards on Zambian legislation and practice highlights the progress made in ensuring greater compliance with such standards in a number of areas. It also shows the vital role played by the ILO supervisory machinery in promoting the effective implementation of standards.

It is, of course, clear from the foregoing discussion that there is room for much improvement. The difficulties that still hinder effective implementation cannot, however, be attributed to any lack of commitment to ILO ideals on the part of the Zambian Government. Neither are such problems peculiar to Zambia, for they are essentially problems of underdevelopment common to most Third World countries. As the second JASPA mission observed in its report, there are several major constraints on Zambia's development: these include the deterioration in the international economic environment, the world recession and the continuing instability and conflicts in southern Africa. To the extent that such constraints inhibit Zambia's ability to deal with its domestic problems, they also affect its capacity to implement international labour standards through its social policies and legislation dealing with employment, education, social welfare, labour administration and so on.

Equally valid, however, is the argument that, even under the current constraints, Zambia could do more to implement international labour standards more effectively, e.g. by way of improving labour administration within the limits of available resources. In particular, a greater effort might be made to improve the collection and analysis of labour and social data, to review shortcomings in current legislation and practice, and to monitor effectively the implementation of labour policy more effectively.

The last time Zambia ratified a Convention was in 1980. It is tempting to urge further ratifications as a way of enhancing the influence of international labour standards, but there is of course no point in ratifying Conventions beyond a government's capacity to implement them. This is true for Zambia as for many other developing countries.

There are, however, a number of Conventions which, if ratified, could enhance the influence of international labour standards in Zambia in an essential way. Two such instruments are Conventions Nos. 87 and 98, which are fundamental to the country's commitment to basic human rights and whose provisions, if implemented, would do much to promote freedom of association in Zambia. Ratification is, however, not compatible with the Industrial Relations Act, 1971. As noted earlier, many of the Act's provisions are in conflict not only with the requirements of the Conventions on freedom of association, but with other standards as well. A recent report that the Government is considering the repeal of the Act in the near future is therefore encouraging,⁴⁰ especially as such a step would pave the way for compliance with international labour standards in a number of areas.

Twenty years of political stability such as Zambia has enjoyed is a relatively long time in African statehood. It is long enough to make it possible to take stock, consolidate and adjust course where necessary. As the Government and the people of Zambia reflect on the advances and setbacks of the past years, it can only be hoped that they will look at the country's international labour standards record and aspire to make faster progress in the years ahead.

Notes

¹ It was on 24 October 1964 that the United Kingdom Protectorate of Northern Rhodesia became the independent republic of Zambia, and on 8 December of the same year that it became the ILO's 111th Member.

² See, for instance, President Kaunda's addresses to the ILO Second African Regional Conference (ILO: *Record of Proceedings*, Second African Regional Conference, Addis Ababa, 1964, pp. 180-182) and to the International Labour Conference (ILO: *Record of Proceedings*, International Labour Conference, 53rd Session, Geneva, 1969, pp. 96-102); and the address of the Zambian Minister of Labour and Social Services to last year's International Labour Conference (ibid., 70th Session, Geneva, 1984, pp. 21/18-20).

³ Calculated from ILO: *Report of the Director-General: Position of African countries regarding the ratification and implementation of international labour standards* (Report I, Part 2), Sixth African Regional Conference, Tunis, 1983), table 1, pp. 35-36. The calculation does not include South Africa and Namibia.

⁴ *The Courier*, Africa-Caribbean-Pacific/European Community (Brussels, Commission of the European Communities), May-June 1984, p. 18.

⁵ These figures, the latest officially available, are for 1982. See Ministry of Labour and Social Services: *Annual Report for the Year 1982* (Lusaka, 1984).

⁶ "The influence of international labour Conventions on Nigerian labour legislation", in *International Labour Review*, July 1960, p. 27.

⁷ *The Courier*, loc. cit.

⁸ The extent of this decline is well documented. A recent UNDP/ILO survey, for instance, found the following changes in real terms: gross domestic product per head declined by 52 per cent from 1974 to 1980, private consumption per head by 21 per cent from 1975 to 1979, government recurrent expenditure by 25 per cent from 1975 to 1979, and government capital expenditure by 65 per cent from 1975 to 1979. All indications suggest that this sharp decline has continued unabated. Extreme dependence on copper and other minerals also continues: revenue from this source still accounts for 95 to 98 per cent of the country's foreign exchange earnings. See, inter alia, ILO: *Zambia's basic needs in an economy under pressure* (Addis Ababa, 1981); I. Kaplan (ed.): *Zambia: A country study* (Washington, DC, The American University, 1979); and *The Courier*, loc. cit.

⁹ See Cherry Gertzel, in U. G. Damachi et al. (eds.): *Industrial relations in Africa* (London, Macmillan, 1979), p. 307.

¹⁰ The Minimum Age (Industry) Convention, 1919 (No. 5); the Right of Association (Agriculture) Convention, 1921 (No. 11); the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12); the Workmen's Compensation (Accidents) Convention, 1925 (No. 17); the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19); the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26); the Forced Labour Convention, 1930 (No. 29); the Underground Work (Women) Convention, 1935 (No. 45); the Recruiting of Indigenous Workers Convention, 1936 (No. 50); the Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64); the Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65); the Contracts of Employment (Indigenous Workers) Convention, 1947 (No. 86); and the Migration for Employment Convention (Revised), 1949 (No. 97), excluding Annexes I, II and III; and the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117).

¹¹ The Unemployment Convention, 1919 (No. 2); the Minimum Age (Industry) Convention (Revised), 1937 (No. 59); the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); and the Abolition of Forced Labour Convention, 1957 (No. 105).

¹² *Official Bulletin* (Geneva, ILO), Jan. 1965, p. 34.

¹³ Zambia's philosophy and policies on human rights have been explored by many scholars in recent years. See, inter alia, R. Hall: *The high price of principles: Kaunda and the White South* (London, Hodder and Stoughton, 1969); H. S. Meebelo: *Main currents of Zambian humanist thought* (London and Lusaka, Oxford University Press, 1973); K. D. Kaunda: *Humanism in Zambia and a guide to its implementation, Parts I and II* (Lusaka, Government Printer, 1967 and 1979); and J. Pettman: *Zambia: Security and conflict* (New York, St. Martin's Press, 1974).

¹⁴ See note 2.

¹⁵ In article 4 of the Constitution and section 263 of the Penal Code.

¹⁶ Chapters 134, 106 and 105 of the Laws of Zambia and Acts Nos. 35 and 36 of 1971 respectively.

¹⁷ In recent years the scope of these provisions has been considerably reduced in practice. Decline in resources has meant that only a few primary and secondary school leavers are recruited into the Service, and then on a voluntary basis. This is in contrast to the initial years of the Service when recruitment was mostly compulsory, including that of college and university graduates.

¹⁸ ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 4 A), International Labour Conference, 56th Session (Geneva, 1971), pp. 11-12.

¹⁹ idem: *General Survey of the reports relating to the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105)*, Report III (Part 4B), International Labour Conference, 65th Session, Geneva, 1979, para. 56.

²⁰ The Prisons (Amendment) Rules, 1982.

²¹ Zambia has been a one-party State since 13 December 1973.

²² See also ILO: *General Survey* . . . , op. cit., paras. 102-109, 133 and 140.

²³ *ibid.*, para. 130.

²⁴ *ibid.*, paras. 123 and 130.

²⁵ "Essential services" under the Industrial Relations Act, 1971, is an extensive category which, under presidential discretion, can be stretched to cover most services in the economy. Section 3 (1) (b) of the Act defines "essential services" as meaning: (a) any service relating to the generation, supply or distribution of electricity; (b) any fire brigade or fire service; (c) any sewage, rubbish disposal or other sanitation service; (d) any health, hospital or ambulance service; (e) any service relating to the supply or distribution of water; (f) any service relating to the production, supply, delivery or distribution of food or fuel; (g) mining, including any service required for the working of a mine; (h) any communication service; (i) any transport service, and any service relating to the repair and maintenance or to the driving, loading and unloading of a vehicle for use in the transport service; (j) any road, railway bridge, ferry, pontoon, airfield, harbour or dock; (k) any other service or facility, whether or not of a kind similar to the foregoing, declared by the President to be a necessary service for the purposes of and under the Preservation of Public Security Regulations or any other regulations or enactment replacing the same.

²⁶ The Zambian trade union movement and its relatively strong position vis-à-vis successive administrations have been the subject of a number of studies. See in particular R. H. Bates: *Unions, parties and political development: A study of mineworkers in Zambia* (New Haven, Connecticut, Yale University Press, 1971); A. D. Roberts: *A history of Zambia* (New York, Africa Publishing, 1976); and W. Tordoff (ed.): *Politics in Zambia* (Manchester, Manchester University Press, 1974).

²⁷ The latest issues were raised in direct requests in 1984 on Conventions Nos. 141 and 151.

²⁸ *Official Bulletin*, 1982, Series B, No. 2, paras. 70-79.

²⁹ Ministry of Labour and Social Services, op. cit.

³⁰ Statutory Instrument No. 151 of 1982 revoking Statutory Instrument No. 245 of 1973.

³¹ 8 kwachas = US\$1 (approximate current rate).

³² For an assessment of the programmes see Kaplan, op. cit., pp. 162-163.

³³ *Times of Zambia* (Lusaka), 16 Dec. 1984, citing the *Government Monthly Digest* statistics.

³⁴ ILO: *Zambia's basic needs in an economy under pressure*, op. cit., p. xxxi, para. 24.

³⁵ In 1982, for instance, the entire Ministry of Labour and Social Services, one of the Government's five biggest departments, was allocated only 5,509,701 kwachas for recurrent expenditure and 292,000 kwachas for capital projects (Ministry of Labour and Social Services, op. cit., p. 1).

³⁶ The latest annual report compiled, that for 1982, was published in 1984.

³⁷ *Report to the Government of Zambia on incomes, wages and prices in Zambia: Policy and machinery* (Lusaka, Government Printer, 1969).

³⁸ ILO/UNDP: *Second report to the Zambian Government on incomes, wages and prices in Zambia: Policy and machinery* (Geneva, 1978).

³⁹ ILO: *Zambia's basic needs in an economy under pressure*, op. cit., p. xiii.

⁴⁰ *Times of Zambia*, 9 Sep. 1984.

Publications of the International Labour Office

Small-scale processing of pork

Technical memorandum No. 9

Prepared jointly by the ILO and UNEP, this technical memorandum is the fourth in a series on food processing technologies intended to acquaint small-scale producers with alternative production techniques in order to help them to choose and apply those best suited to local conditions.

The memorandum provides detailed technical information on the small-scale production of a variety of pig-meat products, including the raw materials required, processing equipment, plant layout and hygiene, and the processing stages for each product.

The socio-economic and environmental effects of alternative scales of production and technologies are also analysed for the benefit of public planners and project evaluators from industrial development agencies, in order to help them formulate and implement policies in favour of meat processing technologies that are both socially and environmentally appropriate.

ISBN 92-2-100542-9

Price: 20 Swiss francs

Available from booksellers, ILO offices in many countries or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland.