

Zambia Labour Migration Review

Jonathan Crush, Vincent Williams and Anil Dhakal
November 2024

FOREWORD

The Southern Africa Migration Management (SAMM) project represents a collaborative effort embodying the ONE-UN approach, uniting the expertise and resources of four prominent UN development and/or humanitarian agencies: the International Labour Organization (ILO), the International Organization for Migration (IOM), the United Nations Office on Drugs and Crime (UNODC), and the United Nations High Commissioner for Refugees (UNHCR).

The SAMM project is dedicated to improve labour and mixed migration management in the Southern Africa and Indian Ocean region. By focusing on South-South migration flows, the project aims to uncover and enhance the positive spillover effects of international migration on regional integration and economic development (e.g. recognising the positive contribution of migrant workers to economic growth).

The SAMM project first produced a Labour Migration Stocktaking Report for the SADC region. Labour Migration Reviews (LMRs) are complementary tools aimed to enhance the capacity of Ministries of Labour, Employers' and Workers' Organizations to engage in tripartite dialogue and influence evidence-based policy formulation and implementation for fair labour migration governance. LMRs include information on at least, seven key labour migration thematic areas:

1. Gender-responsive labour migration policies and/or strategies;
2. International labour standards and national legislation on the protection of migrant workers, as well as advocacy on the contribution of migrant workers to development;
3. Bilateral labour migration agreements (BLMAs) across the region and with third countries;
4. Fair recruitment and decent employment for migrant workers including regulatory legislation on Private Employment Agencies (PEAs), and strengthening of Public Employment Services (PES);
5. Social Security Portability of Benefits for migrant workers through the SADC Guidelines on the Portability of Social Security Benefits;
6. Skills mobility (skills anticipation, skills profiling, skills matching, skills transfer and recognition of qualifications of migrant workers), as well as support to the SADC Qualifications Framework;
7. Labour migration statistics (indicators, module, inclusion in labour market information systems, etc).

The ILO believes that this publication will provide valuable insights and contribute significantly to the ongoing efforts to improve labour migration governance effectively in the SADC and IOC region. We extend our gratitude to all partners and stakeholders for their unwavering support and commitment to this crucial endeavour.

Ph.D Gloria Moreno-Fontes Chammartin

Chief Technical Advisor

Southern African Migration Management Project (SAMM)

International Labour Organisation (ILO)

ACKNOWLEDGEMENTS

The authors would like to thank colleagues at the ILO (International Labour Organization), particularly Ms. Gloria Moreno-Fontes, Mr. Theo Sparreboom, Mr. Jesse Mertens, and Ms. Hareeta Cunniah for their review and critical feedback during each stage of the research project.

We would also like to express our gratitude to Ms. Makungu Baloyi, SAMM Communications Officer for assisting with the production process and the dissemination of the report.

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1 Introduction

Zambia's geographical location makes it a "migration hub" in Southern Africa, as a migrant origin, migrant destination and transit country for mixed migrants. During the colonial period, migrants came from other countries to work on the Zambian Copperbelt. After, independence, as many as 12,000 Chinese workers were temporarily employed in the construction of the Zambia-Tanzania railway funded by China. Civil wars and conflict in neighbouring countries such as Angola, the DRC and the Great Lakes Region have made the country an important destination for refugees in recent decades. The diversity of migration movements to Zambia is reflected in the large number of source countries for regular and irregular migrants.

2 Migration Data Sources

The main data sources for migration to Zambia include the following:

- Zambia Labour Force Survey 2019 available through ILOSTAT
- UNICEF Migration and Displacement country profile (MCDP) (UNICEF, 2021)
- UN DESA Migrant Stock by Origin and Destination 2019 Update
- Zambia Migration Profile 2019 (IOM, 2019a)

3 National Migration Policy

Zambia is in the process of developing a National Migration Policy (IOM, 2019b). In preparation, it produced its first National Migration Profile in 2019 (IOM, 2019a) and has also submitted a report to the Secretary General on progress in implementing the Global Compacts on Migration (Republic of Zambia, 2020). Figure 1 from this document indicates some of the priorities identified by the Government.

Figure 1 - Key GCM Messages

BOX 1: Key Messages

- Given the migration dynamics that Zambia experiences, pursuing effective migration governance is a national priority. Implementing the GCM is the starting point to address migration challenges while maximizing the opportunities.
- As a host country to the population of concern, the GCM presents an opportunity for Zambia to reaffirm its commitment to protect refugees and migrants whilst minimizing the risks and vulnerabilities.
- The implementation of the GCM should consider the national priorities and interventions rather than being exclusive.
- An inclusive and multi-sectoral approach to addressing migration in the spirit of whole-of-government and whole-of-society approach.
- Separating the GCM from the Agenda 2030 is an attempted failure to achieve the sustainable development goals (SDGs) as the two frameworks are intertwined.
- Zambia acknowledges that migration issues cannot be addressed in isolation but require international cooperation.

Republic of Zambia (2020: 3)

4 Migration Profile

4.1 Migrant Stock

The UN DESA data estimates that the total number of foreign-born international migrants in Zambia is around 170,000 (Table 1). In 2000, the country had close to 350,000 migrants so there has been a 50% decline in the last two decades, primarily because of the voluntary repatriation of refugees from Angola. The number of SADC country migrants fell from 320,000 in 2000 to a low of 88,000 in 2015. The total migrant stock dropped to around 130,000 in 2015 but has increased again in the last few years. Until 2000, over 90% of the migrants were from other SADC countries. Although the proportion of SADC migrants has declined, they still account for two-thirds of the total migrant stock in the country

Table 1 - Migration Trends and Share of SADC Migrants, 1990-2019

	Total Migrants	SADC Migrants	% SADC Migrants
1990	279,463	260,548	93.2
1995	244,338	221,275	90.6
2000	343,703	319,092	92.8
2005	252,895	203,177	80.3
2010	149,962	100,771	67.2
2015	132,107	87,782	66.4
2019	170,249	113,621	66.7

Source: Compiled from UN DESA data

According to the UNHCR (2022), there are currently 93,493 refugees and asylum seekers in Zambia of which 57,057 (61%) come from the DRC and another 19,028 (33%) are from Angola (UNHCR, 2022). The other six percent are from Burundi, Rwanda, Somalia, and other countries.

4.2 Countries of Migrant Origin

Table 2 from UN DESA data shows that migrants come to Zambia from at least nine other SADC countries. Migrants from two SADC countries -- DRC and Angola -- account for over 60% of the total SADC migrant stock and 42% of the total. These migrants are predominantly refugees from civil war and conflict in their own countries rather than labour migrants. Other less important source countries of labour migrants include neighbours Malawi, Tanzania and Zimbabwe, as well as South Africa.

Table 2 - SADC Origin Countries, 2019

	No of SADC Country Migrants	% of SADC Migrants	% of Total Migrants
DRC	44,073	38.8	25.9
Angola	28,908	25.4	17.0
Zimbabwe	15,478	13.6	9.1
Malawi	12,355	10.9	7.3
Tanzania	6,090	5.4	3.6
South Africa	3,487	3.1	2.0
Mozambique	1,476	1.3	0.9
Botswana	1,041	0.9	0.6
Namibia	713	0.6	0.4
Total	113,621	100.0	66.7

Source: Compiled from UN DESA data

The migrant population in Zambia comes from as many as 29 countries, including a diverse group of migrants from 20 African countries (Table 3). Migrants from African countries account for over 80% of total migrants with the greatest number from the DRC (17%) of the total. total migrants. Migrants from Asia (mainly China and India) are the second largest group at the regional level, but with an overall share of less than 4%. According to UN DESA therefore, the number of migrants from China in Zambia is just over 1,100. Although there is considerable variation, other sources suggest that the number is much higher. Long-time Chinese residents of Zambia estimate the number is around 30,000 (Wu, 2022). Another more rigorous study of immigration permits,

census data and interviews with Zambian and Chinese government officials concluded that there were 22,744 Chinese migrants in Zambia in 2012 (Postel, 2017).

Table 3 - Global Regions and Countries of Migrant Origin, 2019

	Total Migrants	% of Total
Africa		
DRC	44,073	25.9
Angola	28,908	17.0
Zimbabwe	15,478	9.1
Malawi	12,355	7.3
Congo	9,628	5.7
Rwanda	8,470	5.0
Burundi	6,258	3.7
Tanzania	6,090	3.6
South Africa	3,487	2.0
Mozambique	1,476	0.9
Botswana	1,041	0.6
Namibia	713	0.4
Kenya	608	0.4
Nigeria	576	0.3
Uganda	516	0.3
Mali	246	0.1
Cameroon	275	0.2
Ghana	198	0.1
Egypt	185	0.1
Senegal	161	0.1
Sub-Total	140,742	82.7
Asia		
India	5,255	3.1
China	1,143	0.7
Japan	113	0.1
Sub-total	6,511	3.8

North & South America		
USA	1,077	0.6
Canada	226	0.1
Sub-Total	1,303	0.8
Europe		
UK	1,458	0.9
Germany	315	0.2
France	78	0.0
Sub-Total	1,851	1.1
Australasia		
Australia	298	0.2
Sub-Total	298	0.2
Other		
Other South	17,655	10.4
Other North	1889	1.1
Sub-Total	19,544	11.5
Total	170,249	100.0

Source: Compiled from UN DESA 2019 update

The 2017 Labour Force Survey provides a different set of estimates of migrant countries of origin for the 83,200 recorded working-age adults (Table 4). The data is provided for only five individual countries: two from Africa, two from Asia and one from Europe. Two of them (Bangladesh and Bosnia Herzegovina) do not even feature as origin countries in the UN DESA data. The LFS data also identifies 14,200 migrants from India (nearly three times as many as the UN DESA). The LFS Survey indicates that the male:female ratio varies from country to country but overall is very similar at 51% male and 49% female.

Table 4 - Distribution of foreign-born working-aged migrants by country of birth, 2017

Country of Birth	No.	%	Male No.	% Male	Female No.	% Female
India	14,200	17.1	7,600	53.5	6,600	46.5
Angola	3,600	4.3	2,400	66.7	1,200	33.3
Burundi	2,300	2.8	1200	52.2	1,200	52.2

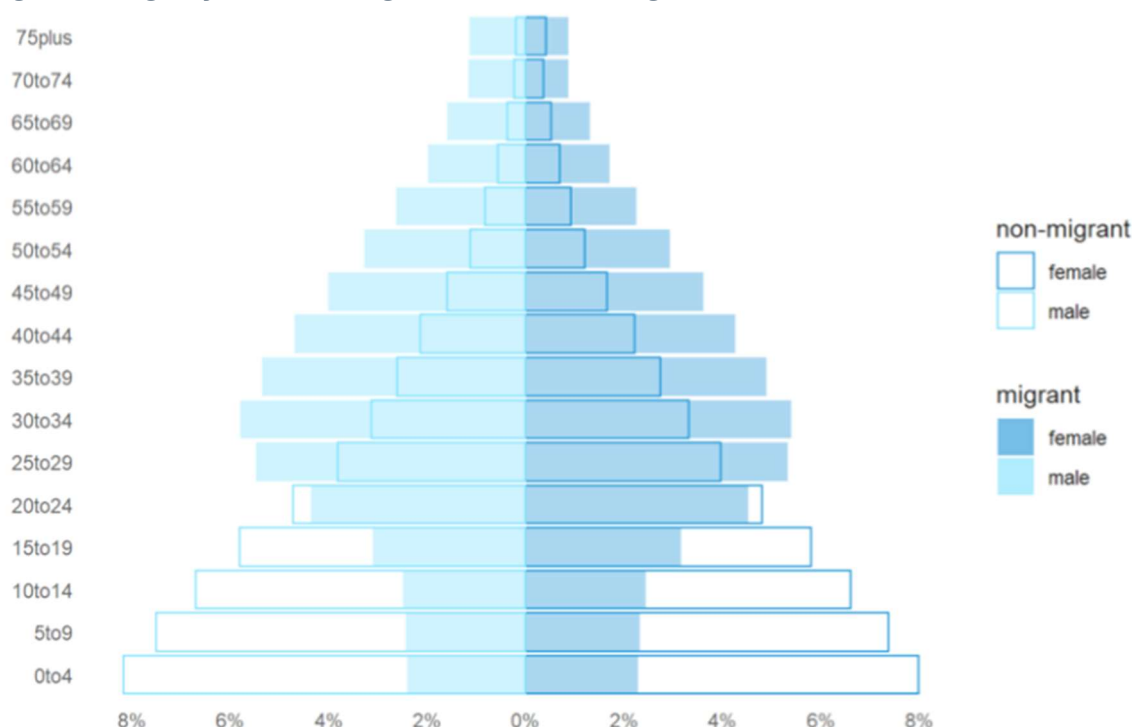
Bosnia and Herzegovina	400	0.5	400	100.0	0	0.0
Bangladesh	400	0.5	400	100.0	0	0.0
Other Countries	62,300	74.9	30,700	49.3	31,700	50.9
Total	83,200		42,600	51.2	40,600	48.8

Source: ILOSTAT/LFS 2017

4.3 Age and Sex Distribution of Migrant Population

UNICEF's Migration and Displacement Country Profile provides an age and gender population pyramid of migrants and compares the migrant group with non-migrants in Zambia in 2020 (Figure 2). The pyramid clearly shows that male and female migrants are predominantly of working age (particularly in the age groups from 25 to 44). The migrant distribution is very different from the Zambian population which is dominated by youth and children under the age of 20 and declines in importance with each succeeding age group.

Figure 2 - Age Pyramid of Migrants and Non-Migrants, 2020



Source: UNICEF (2021)

Table 5 shows the sex ratio by migrant region and country of origin. For African migrants as a whole, the proportion of male and female migrants is very similar at around 50%. Only six African countries have more female than male migrants, but with the exception of West African countries and Uganda (which are male-dominated), no

African country has less than 45% of migrants who are female. Populations from other regions, especially Asia, tend to be more heavily male.

Table 5 - Sex of Migrant Population by Regions and Countries of Origin, 2019

	Total Migrants	No. of Females	No. of Males	% Female	% Male
Africa					
DRC	44,073	21,579	22,494	49.0	51.0
Angola	28,908	14,508	14,400	50.2	49.8
Zimbabwe	15,478	8,586	6,892	55.5	44.5
Malawi	12,355	6,246	6,109	50.6	49.4
Congo	9,628	4,795	4,833	49.8	50.2
Rwanda	8,470	4,095	4,375	48.3	51.7
Burundi	6,258	3011	3,247	48.1	51.9
Tanzania	6,090	3278	2,812	53.8	46.2
South Africa	3,487	1,715	1,772	49.2	50.8
Mozambique	1,476	721	755	48.8	51.2
Botswana	1,041	561	480	53.9	46.1
Namibia	713	395	318	55.4	44.6
Kenya	608	273	335	44.9	55.1
Nigeria	576	253	323	43.9	56.1
Uganda	516	200	316	38.8	61.2
Cameroon	275	128	147	46.5	53.5
Mali	246	84	162	34.1	65.9
Egypt	185	68	117	36.8	63.2
Ghana	198	62	136	31.3	68.7
Senegal	161	38	123	23.6	76.4
Sub-Total	140,742	70,596	70,146	50.2	49.8
Asia					
India	5,255	2,400	2,855	45.7	54.3
China	1,143	347	796	30.4	69.6
Japan	113	56	57	49.6	50.4
Sub-total	6,511	2,803	3,708	43.1	56.9
North & South America					
USA	1,077	507	570	47.1	52.9

Canada	226	119	107	52.7	47.3
Sub-Total	1,303	626	677	48.0	52.0
Europe					
UK	1,458	687	771	47.1	52.9
Germany	315	145	170	46.0	54.0
France	78	46	32	59.0	41.0
Sub-Total	1,851	878	973	47.4	52.6
Australasia					
Australia	298	145	153	48.7	51.3
Sub-Total	298	145	153	48.7	51.3
Other					
Other South	17,655	8,223	9,432	46.6	53.4
Other North	1,889	880	1,009	46.6	53.4
Sub-Total	19,544	9,103	10,441	46.6	53.4
Total	170,249	84,151	86,098	49.4	50.6

Source: Compiled from UN DESA 2019 update

4.4 Migrant Employment

The Zambia Department of Immigration is responsible for providing permits to work in Zambia. Table 6 lists 12 types of permit issued in the years 2013-2017. Over this period, the Department issued a total of 101,792 permits with almost 50 % (50,319) for employment and 20% (19,818) for temporary employment. Overall, the number of employment permits issued declined over this period.

Table 6 - Number of Permits Issued, 2013-2017

Permit type issued	2013	2014	2015	2016	2017	Total	%
Employment	11,393	10,546	9,020	10,468	8,892	50,319	49.4
Temporary Employment	6,126	4,068	6,118	6,005	3,619	19,818	19.5
Temporary	3,515	5,029	2,557	2,917	2,760	6,275	6.2
Study	1,007	1,952	696	1,162	1,133	5,950	5.8
Residence	1,374	1,128	781	816	865	4,964	4.9
Visiting	686	1,031	1,062	1,102	1,064	4,945	4.9
Investor	603	655	528	585	476	2,847	2.8
Cross Border	804	572	215	162	112	1,865	1.8
Spouse	265	339	371	544	239	1,758	1.7
Diplomatic	264	417	387	361	106	1,535	1.5
Transit	204	355	295	305	355	1,514	1.5
Asylum Seekers	–	–	–	2	–	2	0.0
Grand total	26,241	26,092	22,030	24,429	19,621	101,792	100.0

Source: IOM (2019)

LFS data records that 51,700 migrants are employed in services (50%), agriculture (38%), industry (12%) and non-agriculture (62%) sectors of the economy. Industry and services employ a disproportionate number of male migrants, at 84% and 60% respectively. The sex breakdown in agriculture is more even at 52% male and 48% female. Overall, 60% of the employed migrants are male and 40% are female. This data does not include employment in Zambia's large urban informal economy by refugees and undocumented migrants (Bbale and Maate, 2016).

Table 7 - Employment by Economic Sector and Sex

Sector	No. of Migrants Employed	Migrants as % of Total	% Breakdown by Sector	Male No.	% Male	Female No.	% Female
Services	25,700	1.4	49.7	15,500	60.3	10,300	40.1
Agriculture	19,700	0.6	38.1	10,300	52.3	9,400	47.7
Industry	6,200	1.2	12.0	5,200	83.9	1,000	16.1
Total	51,700	0.9	100.0	31,000	60.0	20,700	40.0

Source: Compiled from ILOSTAT

5 POLICY AND LEGISLATIVE FRAMEWORK

5.1 **Zambian Constitution of 1991 (with Amendments through 2016)**¹

Part III of the Zambian Constitution of 1991 (with amendments through 2016) is titled Protection of Fundamental Rights and Freedoms of the Individual and in Article 11, sets out the Fundamental Rights and Freedoms, as follows:

It is recognised and declared that every person in Zambia has been and shall continue to be entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed, sex or marital status, but subject to the limitations contained in this Part, to each and all of the following, namely:

- a. life, liberty, security of the person and the protection of the law;*
- b. freedom of conscience, expression, assembly, movement and association;*
- c. protection of young persons from exploitation;*
- d. protection for the privacy of his home and other property and from deprivation of property without compensation*

¹ https://constituteproject.org/constitution/Zambia_2016.pdf?lang=en

Subsequent articles in Part III provide for the following:

Article 12. Protection of Right to Life

Article 13. Protection of Right to Personal Liberty

Article 14. Protection from Slavery and Forced Labour

Article 15. Protection from Inhuman Treatment

Article 16. Protection from Deprivation of Property

Article 17. Protection for Privacy of Home and Other Property

Article 18. Provisions to Secure Protection of Law

Article 19. Protection of Freedom of Conscience

Article 20. Protection of Freedom of Expression

Article 21. Protection of Freedom of Assembly and Association

Article 22. Protection of Freedom of Movement (applicable to citizens only)

Article 23. Protection from Discrimination on the Ground of Race, etc

Article 24. Protection of Young Persons from Exploitation

While there is no specific clause pertaining to the limitation of rights, various Articles make reference to the possibility that rights may be limited, provided that it is *reasonably justifiable in a democratic society*. The only rights that apply exclusively to citizens are Articles 22 (Protection of Freedom of Movement) and Part V of the Constitution, relating to Political Rights.

5.2 Industrial and Labour Relations Act, 1993²

The Industrial and Labour Relations Act of 1993 was adopted to repeal and replace the Industrial Relations Act, 1990. The Act provides for the:

- establishment and regulation of trade unions, including the Zambia Congress of Trade Unions,
- establishment and regulation of employers' associations, including the Zambia Federation of Employers,
- establishment and regulation of Joint Councils and Collective Agreements,
- establishment and functions of a Tripartite Consultative Labour Council, and,
- the establishment and functions of the Industrial Relations Court

5.3 Employment Code Act, 2019³

The Employment Code Act of 2019 repealed and replaced several labour-related laws, as follows:⁴

- Employment Act, 1965

²<https://www.parliament.gov.zm/sites/default/files/documents/acts/Industrial%20and%20Labour%20Relations%20Act.pdf>

³<https://www.parliament.gov.zm/sites/default/files/documents/acts/The%20Employment%20Code%20Act%20No.%203%20of%202019.pdf>

⁴ <https://iclg.com/practice-areas/employment-and-labour-laws-and-regulations/zambia>

- Employment (Special Provisions) Act, 1966
- Employment of Young Persons and Children Act, 1933
- Minimum Wages and Conditions of Employment Act, 1982

The Employment Code Act was adopted to:

- regulate the employment of persons;
- prohibit discrimination at an undertaking;
- constitute the Skills and Labour Advisory Committees and provide for their functions;
- provide for the engagement of persons on contracts of employment and provide for the form and enforcement of the contracts of employment;
- provide for employment entitlements and other benefits;
- provide for the protection of wages of employees;
- provide for the registration of employment agencies;
- regulate the employment of children and young persons;
- provide for the welfare of employees at an undertaking;
- provide for employment policies, procedures and codes in an undertaking

The Act also provides for the appointment of a Labour Commissioner (responsible for the administration of the Act) and labour officers and inspectors who may:

- (a) enter freely at any reasonable time, whether by day or by night to inspect, any premises or conveyance where the Labour Commissioner reasonably believes persons are employed;
- (b) enter by day any premises in order to carry out any examination, test or inquiry that the Labour Commissioner considers necessary in order to determine if the provisions of this Act are being complied with;
- (c) interview, whether alone or in the presence of a witness, an employer or employee on any matter concerning the application of a provision of this Act;
- (d) question a person who the Labour Commissioner considers has useful information, except that the person shall not be required to answer any question that may tend to prejudice or incriminate that person

5.4 Immigration and Deportation Act, 2010 ⁵

The Immigration and Deportation Act was adopted in 2010 to:

- consolidate the law relating to immigration;
- provide for the appointment of a Director-General of Immigration and other immigration officers and provide for their powers and functions;

⁵ https://zamimmigration.azurewebsites.net/wp-content/uploads/2019/10/Immigration_and_Deportation-Act-.pdf

- promote a human rights based approach and culture in respect of immigration controls;
- regulate the entry, exit and remaining within Zambia of immigrants and visitors;
- provide for prohibited immigrants and other specified persons and their deportation from Zambia;
- provide for, and regulate, immigration consultants;
- create an environment of cooperation with other public institutions and promote an integration of functions and harmonisation of operations among public institutions controlling borders and activities at ports of entry;
- repeal and replace the Immigration and Deportation Act, 1965;
- and provide for matters connected with, or incidental to, the foregoing.

Part IV, Article 28 of the Act provides for the issuing of employment permits to foreigners by the Director General of Immigration, in consultation with the Ministry responsible for Labour. In general, employers are required to verify that there are no locals available to fill a specified position, before hiring a foreigner.

6 LABOUR MARKET INSTITUTIONS

6.1 Labour Commissioner

The Labour Commissioner and labour officers/inspectors are responsible for administering the labour laws and ensuring compliance through inspection and investigations. They are also usually the primary method of dispute resolution in both individual and collective disputes. For individual disputes, Labour Officers serve as informal mediators under the Employment Act. For collective disputes, the Labour Commissioner plays an extra-legal dispute resolution role as he has no legal role but a significant practical one.

6.2 Industrial Relations Division of the High Court of Zambia

The Industrial Relations Division of the High Court of Zambia, in accordance with the Industrial and Labour Relations Act, has exclusive jurisdiction to hear and determine any industrial relations matters. Industrial relations matters include issues relating to: inquiries, award and decisions in collective disputes; interpretation of the terms of award, collective agreements and recognition agreements; general inquiries into, and adjudication on, any matters affecting rights, obligations and privileges of employees, employers and their representative bodies

6.3 Tripartite Consultative Labour Council

Established in terms of the Industrial and Labour Relations Act of 1993, the Tripartite Consultative Labour Council is a statutory council comprised of members representing trade unions, employers and Government as the Minister may determine, being not less than 21 in total. The council is chaired by the Minister and its function is to advise the Government on all issues relating to labour matters, manpower, development and utilization. The body plays a purely advisory role and the Government is not legally bound by the decisions of the council.

7 RATIFICATION OF INTERNATIONAL INSTRUMENTS

Zambia has ratified 48 ILO Conventions, of which 40 are in force.⁶ With regard to fundamental rights covering all workers in the country, including migrant workers (regardless of migration status), the following Conventions have been ratified:

	Convention No	Title	Date of Ratification
Fundamental Conventions	C029	Forced Labour Convention, 1930 (No. 29)	02 Dec 1964
	C087	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	02 Sep 1996
	C098	Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	02 Sep 1996
	C100	Equal Remuneration Convention, 1951 (No. 100)	20 Jun 1972
	C105	Abolition of Forced Labour Convention, 1957 (No. 105)	22 Feb 1965
	C111	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	23 Oct 1979
	C138	Minimum Age Convention, 1973 (No. 138)	09 Feb 1976

⁶ A full list of conventions ratified by Zambia can be found at https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103264

	C155	Occupational Safety and Health Convention, 1981 (No. 155)	23 Dec 2013
	C182	Worst Forms of Child Labour Convention, 1999 (No. 182)	10 Dec 2001
	C187	Promotional Framework for Occupational Safety and Health Convention, 2006 (No 187)	23 Dec 2013
Governance Conventions	C81	Labour Inspection Convention, 1947 (No. 81)	23 Dec 2013
	C122	Employment Policy Convention, 1964 (No. 122)	23 Oct 1979
	C144	Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)	04 Dec 1978
Technical Conventions	C97	Migration for Employment Convention (Revised), 1949 (No. 97)	02 Dec 1964
	C181	Private Employment Agencies Convention, 1997 (No. 181)	23 Dec 2013

Zambia has not ratified the following ILO conventions that are specifically related to labour migration or of particular significance in terms of the recruitment and employment of migrant workers:

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- Domestic Workers Convention, 2011 (No. 189)
- Violence and Harassment Convention, 2019 (No. 190)

Zambia has also not ratified the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁷

8 BILATERAL LABOUR AGREEMENTS

Zambia concluded a Memorandum of Understanding with South Africa in 2016, which provides for cooperation in the following areas:⁸,

- collective bargaining;

⁷ https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=194&Lang=EN

⁸ Southern African Trade Union Coordinating Council (SATUCC), Developing a Cohesive and Transformative Labour Migration Policy Framework for SADC. Regional Research on Migration Report (2017)

- dispute resolution systems;
- labour inspections;
- social dialogue;
- labour market information;
- occupational health and safety including HIV/AIDS and wellness in the workplace;
- international labour cooperation issues;
- social security issues relating to unemployment insurance and compensation; and
- productivity issues.

In addition, Zambia also has a bilateral social security agreement with Malawi pertaining to medical assessments of Malawian miners who worked in Zambia, as well as to facilitate the remittance of monthly pensions.

According to IOM (2019), Zambia has various bilateral agreements with other like-minded States to further its domestic and foreign policy through regional and international integration and cooperation, including labour exchange protocols. However, the specifics of these agreements are not provided.

Zambia has bilateral labour engagements with the Republic of Seychelles and the Republic of Madagascar for the employment of skilled migrant workers in the education sector (IOM, 2019a). Through these engagements, Zambia has facilitated the recruitment of teachers from Zambia to the Seychelles. Zambia is also receiving requests for recruitment of labour from the Gulf States. The Government wants to put in place mechanisms to promote the protection of labour migrants including through negotiation of bilateral labour agreements.

9 FAIR RECRUITMENT OF MIGRANT WORKERS

There is not much information available in the public domain about the recruitment of migrant workers in Zambia. However, the Employment Code Act of 2019 has a specific section that regulates the licensing and operation of employment agencies, which would apply to the recruitment of migrant workers. In summary, the section on the licensing and operation of employment agencies stipulates that no person may operate an employment agency without a permit issued under the provisions of the Employment Code Act. The following are some of the pertinent regulations pertaining to the operation of employment agencies.

An employment agency shall not:

- a) charge a prospective employee fees for matching services rendered except fees, not exceeding five percent of the employee's first wages with the

successful employer, that may be payable in respect of services relating to job seeking;

- b) maintain a register of employees that the agency has placed with employers for purposes of charging the employees fees; and
- c) interfere with the employment relationship between the employer and employee, including on matters relating to breach of contract and settlement of disputes.

Furthermore, the regulations provide that an employment agency shall not provide employment to an employee without ensuring that the employee has a contract of employment with the employment agency before or on the commencement of the employment.

Employment agencies are also required to keep and maintain registers and records that may be prescribed and submit these to the Labour Commissioner.

10 SKILLS RECOGNITION OF MIGRANT WORKERS

The Zambia Qualifications Authority was legally established in 2011, and in 2016, developed and implemented the Zambia Qualifications Framework (ZQF).⁹ The purpose of the ZQF is to:

- create a single integrated national framework for learning achievements;
- facilitate access to, and mobility and progression within education, training and career paths;
- enhance the quality of education and training; and,
- promote education, training and employment opportunities

In 2018, Zambia was selected as one of eight SADC Member States to pilot the alignment of the national qualifications framework with the SADC Qualifications Framework (SADCQF). For this purpose, Zambia established a National Alignment Committee that was representative of all relevant stakeholders. According to the latest report (referenced below), this process is currently on hold, pending review of the ZQF and possible review of the SADCQF.

⁹ https://www.etf.europa.eu/sites/default/files/2020-10/session_2_zambia_nqf_zafa_6th_plw_engl.pdf

11 SOCIAL PROTECTION OF MIGRANT WORKERS

In 2014, the Ministry of Community Development, Mother and Child Health of Zambia published a comprehensive National Social Protection Policy based on 4 pillars, as follows: ¹⁰

1. Protective
2. Preventive
3. Promotive
4. Transformative

In relation to migration, the policy includes victims of human trafficking and child labour as key beneficiaries in the implementation of the social protection policy. However, the policy does not explicitly address applicability to migrants in general, and migrant workers in particular. The assumption is that, unless otherwise provided for in law or regulations, the social protection policy does apply to migrants, given the non-discrimination provisions in the Zambian constitution.

¹⁰ <https://www.social-protection.org/gimi/gess/RessourcePDF.action?ressource.ressourceId=54164>

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www.sammproject.org
samm-project@ilo.org