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**THE SOUTHERN  
AFRICAN**

MIGRATION MANAGEMENT  
PROJECT



**Republic of Zambia**  
**Tripartite Dialogue on Labour and Mixed**  
**Migration Governance**  
**19-21 August**  
**Twangale Park Hotel, Lusaka, Zambia**

**Dialogue Report**



## Opening Session

*The Dialogue was moderated by Assistant Labour Commissioner,  
Mukamasole Mundale Kasanda.*

### ***Opening Remarks – Dr. Gloria Moreno-Fontes, Chief Technical Advisor SAMM Project, International Labour Organisation***

Dr. Moreno-Fontes noted that the country-level dialogues were organised within the framework of the Southern Africa Migration Management (SAMM) project that is financed by the European Union. This four-year project (2020-2023) is designed to improve migration management in the Southern Africa and Indian Ocean region. The SAMM Project is a UN Multi-Agency programme composed of the International Labour Organization (ILO), the International Organisation for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Office on Drugs and Crime (UNODC).

She went on to welcome all to the Dialogue and noted that the SAMM project was guided by, and contributed to the realisation of (i) SDG Target 8.8 which states the objective to “Protect labour rights and promote safe and secure working environments for all workers, including migrant workers in particular women migrants, and those in precarious employment”; and, (ii) SDG Target 10.7 which mentions the need to “Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”. She noted that the SAMM Project was bringing together four UN agencies with the aim to improve migration management, considered as one of the most pressing issues of our day.

Dr. Moreno-Fontes noted that labour migration is a cornerstone of the economic development of the African continent, and a key feature of movements in Africa and particularly, of the Southern African Development Community region. With the growing precariousness of the labour force, many African workers are moving to main economic hubs, as they seek employment and other economic opportunities. It will also be important to identify national focal points responsible for each of the thematic areas covered by the SAMM project to support follow-up. The dialogue also served to prepare the ground for the forthcoming “*High-Level Tripartite Dialogue on Labour Migration Governance in the SADC region*”, which the SAMM Project was organizing, which will be a milestone in advancing all this important work.

SAMM’s overall objective is to improve migration management in the Southern Africa and Indian Ocean region. The project targets the 16 SADC Member States: Angola, Botswana, Comoros, Democratic Republic of the Congo (DRC), Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe. She noted that the objective of this Tripartite Dialogue on Labour Migration Governance is to:



- i. Explain the SAMM project activities, learn about past and ongoing related work in the countries, and identify together with Member States', priorities that are demand driven and achievable, given the capacity of each country's human and financial resources.
- ii. Identify the focal points (names, email addresses and phone numbers) for each country that are responsible for the thematic areas of the project.
- iii. Put together a roadmap on the support that the SAMM project could provide under each of the thematic areas identified as priority.

***Remarks by the Minister of Labour and Social Security, Hon. Brenda Mwika Tambatamba, M.P***

The Minister welcomed all to the National Dialogue on labour and mixed migration. She noted that the Government under His Excellency Mr. Hakainde Hichilema, President of The Republic of Zambia believed that well-managed migration neutralizes the threats that come with migration, respects the human rights of migrants, addresses the root causes of migration, and promotes safe and orderly mobility.

The Minister highlighted that, Zambia has made several scores in the migration management space and these included:

- ✓ reviewing of the constitution to provide for dual citizenship which allows former Zambian nationals who may have lost their citizenship to reclaim their citizenship status;
- ✓ the review of the anti-human trafficking act of 2008;
- ✓ the review of the employment code act;
- ✓ the establishment and composition of the technical working group (TWG) on migration data nominated by the office of the secretary to the cabinet;
- ✓ undertaking of the migration-related data assessment which informed the status of migration data in Zambia;
- ✓ the development of the national migration profile;
- ✓ undertaking the assessment on the migration governance indicators (MGI) which lights the strengths and gaps on migration governance in Zambia;
- ✓ domestication of the Palermo Protocol and enactment of Act No.11 of 2008 which criminalizes smuggling of migrants;
- ✓ development of best interests' determination for vulnerable child migrants in Zambia;
- ✓ mainstreaming of migration into national development plan (the 7<sup>th</sup> NDP and the 8<sup>th</sup> NDP);
- ✓ the enactment of the Zambia border management and trade facilitation act of 2018;
- ✓ establishment of the labour market information system (LMIS);
- ✓ the establishment of a diaspora coordination desk, an information online portal and diaspora database under the ministry of foreign affairs and international cooperation; to mention but a few; and,
- ✓ the country was at an advanced stage in the development of a national migration policy

She went on to note that in order for the country to achieve the objective to develop a labour migration policy, a full and dynamic picture of labour migration drivers, volumes, trends, characteristics and impacts is needed. The minister concluded by calling for the strengthen of the



resolute to address the adverse impact of migration, and called on all the stakeholders to double their effort in the fight against human trafficking and addressing the challenges associated with mixed migration flows. She noted that the president had gave direction on ways to reduce the high costs of transactional costs associated with sending diaspora remittances to Zambia.

The Minister went on to thank the SAMM Project for facilitating the hosting of the Dialogue and wished all a fruitful discussions and outcomes.



## A. Labour Migration

### The GCM, the AU Revised Migration Policy Framework, the AU Free Movement of Persons Protocol, SADC's Protocol on the Facilitation of Movement of Persons and the SADC Labour Migration Policy Framework

**Presentation:** It was noted that the term international migrant worker refers to both international migrants and non-resident foreign persons who are employed or unemployed in the country of measurement. The ILO estimated that there were 169 million migrant workers in 2019, an increase by 5million from the 2017 estimate. The number of migrant workers in Africa increased from 9.5 million in 2010 to 14.5 million by 2019, and the average share of women migrant workers was 38 percent. The number of migrant workers in Zambia is estimated at around 188,000 in 2020 (representing 1% of the total population), with around 200,000 Zambians abroad.

The following were noted as the global and regional framework for evidence-based labour migration policy: (i) Agenda 2030 and the Social Development Goals; (ii) Global Compact for Safe, Orderly and Regular Migration (GCM) and Global Compact on Refugees; (iii) Migration Policy Framework for Africa and Plan of Action (2018-2030); and, (iv) SADC Labour Migration Policy Framework (2014) and Action Plan (2021-25).

It was noted that labour migration in Africa is largely intra-regional, often characterized by significant shares of both low-skilled and high skilled workers. Consolidation of South-South migration corridors to neighbouring labour markets in the search for a job and better wages. In terms of the work of the SAMM Project the following labour migration thematic areas were covered:

- i. Gender-responsive labour migration policies and/or strategies regulating labour migration at national level contributing to the implementation of SADC's Labour Migration Action Plan;
- ii. International labour standards and national legislation on the protection of migrant workers, as well as advocacy on the contribution of migrant workers to development;
- iii. Bilateral labour migration agreements (BLMAs) across the region and with third countries;
- iv. Fair recruitment and decent employment for migrant workers including regulatory legislation on Private Employment Agencies (PEAs), and strengthening of Public Employment Services (PES) capacity;
- v. Social Security Portability of Benefits for migrant workers at the national level through the SADC Code on Social Security and the piloting of SADC Guidelines on the Portability of Social Security Benefits;
- vi. Skills matching, skills profiling and recognition of qualifications of migrant workers at national and bilateral level, as well as support to SADC Qualification Framework;
- vii. Labour migration statistics (indicators, module, inclusion in labour market information systems, etc) and the support on the establishment of SADC Labour Market Observatory.



It was noted that as of 2022, Zambia was one of the countries that had submitted a request to the SAMM Project for assistance in the development of a labour migration policy.

### **Key Priority Area 1. Gender-sensitive and evidence-based labour migration policies, gender equality & women migrant workers' empowerment**

**Presentation:** Gender-sensitive labour migration policies take into account the differences in socio-cultural roles, needs, opportunities, constraints and vulnerabilities of women and men. They guarantee that human rights, including labour rights, are enjoyed equally by women and men migrant workers, and that migration legislation, policies and programmes promote equality of opportunity and treatment in respect of employment and occupation with a view to eliminating any discrimination based on sex. The main elements of such policies include: rights should be enjoyed by men and women migrant workers respecting the principles of gender equality and non-discrimination. Not necessarily mean equal treatment in all instances. Promoting gender equality in labour migration policies may include special gender-specific provisions (e.g. preferential treatment or affirmative action to compensate for long-term discrimination, particularly that suffered by women).

It was highlighted that women migrants need specific legal protection, due to:

- Low regard for women and the types of mostly low-skilled and semi-skilled jobs they perform, thus often resulting in de-skilling and other discriminatory practices.
- More likely to face multiple discrimination and various forms of exploitation and abuse (e.g. non-payment or withholding of wages, lowest wages, workplace violence, non-freedom of movement, bad working conditions) and inequality (no right to family reunification, nor to family life, neither to child care support services).
- Often no right to contribute to social security, mainly health coverage and pension (e.g. domestic workers).
- Relatively more job opportunities for men migrant workers into safe, orderly and regular channels of migration
- Remain outside the scope of national legislation
- Too dependent on the employer for their working and residence permit

In terms of the scope of coverage it was highlighted that unless otherwise specified, *all ILO Conventions apply to both women and men workers irrespective of their nationality*. To be specific the framework of protection composed especially of:

- ✓ 6 Gender Equality Conventions;
- ✓ 10 Fundamental Conventions;
- ✓ 2 Migrant Workers' Conventions: C.97 and C.143.

#### ***Main discussion points:***



It was noted that Zambia, is doing a lot in the protection of migrant workers. In-country migrant workers are protected by the Employment Act and accorded the same rights and protection as nationals, including cover under the minimum wage. For those that are leaving the country, Zambia has established laws and regulations that try to protect the migrant worker before they even leave the country, including the establishment of a security bond. The country has also ratified ILS, signed BLMAs and MOUs.

**Recommendations:** There is need to-

- ✓ Sensitize the public about labour migration and the processes that ensure the protection of migrant workers, including why the security bond was established;
- ✓ Continuously ensure that gender issues are mainstreamed in all labour migration policies, processes and procedures.

## **Key Priority Area 2. International Labour Standards on the protection of migrant workers**

**Presentation:** The protection of migrant workers, has been a concern of the ILO from the beginning, hence the development of instruments that regulating labour migration and equal treatment of migrant workers. This has also seen the establishment of specific International Labour Standards or provisions applying to migrant workers. The instruments aim to address, “*a dual problem*”-migration of workers and the treatment of foreign workers.

- *Migration for Employment Convention (revised), 1949 (No. 97)* - provides for equality of treatment and non-discrimination in respect of nationality, race, religion or sex between migrant workers who have been regularly admitted and nationals, arising out of laws or regulations or the practices of the administrative authorities in four areas: living and working conditions, social security, employment taxes and access to justice. The provisions include, among others, equal remuneration, membership of trade unions, and enjoyment of the benefits of collective bargaining.
- *Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)* - aims to eliminate illegal migration and illegal employment and sets requirements for the respect of rights of migrants with an irregular status, while providing for measures to end clandestine trafficking and to penalize employers of irregular migrants. The Convention is aimed at protecting migrant workers from working in abusive conditions. It seeks to promote equality of opportunity and treatment of migrant workers.

Conventions Nos 97 and 143 **recognize a very important set of labour rights for migrant workers**, laying the foundations for promoting a rights-based approach to achieving fair labour migration. Recognizing that migrant workers are workers endowed with labour rights can also help to promote tolerance and reduce discrimination and xenophobia in and outside the workplace, and enhance economic productivity and social cohesion.





*Private Employment Agencies Convention, 1997 (No. 181)* - One purpose of this Convention is to allow the operation of private employment agencies as well as the protection of the workers using their services, within the framework of its provisions. Convention No.181 states that a Member shall, after consulting the most representative organizations of employers and workers, adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies

It was highlighted that Zambia had ratified 48 ILS, but had not yet ratified the following convention on labour migration:

- Migration for Employment Convention (Revised), 1949 (No. 97);
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); and,
- Private Employment Agencies Convention, 1997 (No. 181).

**Main discussion points:** during the meeting the following issues were discussed:

- Support from the ILO was requested in assisting the country undertake a gap analysis towards the ratification of other labour migration ILS; and,
- It was recommended that Malawi ratify all key labour migration conventions and put in place regulations for the functioning of PrEAs in the country.

### **Key Priority Area 3. Bilateral Labour Migration Agreements**

**Presentation:** Bilateral labour agreement were defined as a cooperation agreement between origin and destination countries establishing the specific responsibilities of, and actions to be taken by each of the parties, with a view to accomplishing its goals. BLAs create legally binding rights and obligations and are more action-oriented. Whereas, Memorandum of Understanding, were noted to be a less formal instrument entailing general principles of cooperation. The MOU describes broad concepts of mutual understanding, goals and plans shared by the parties. They are softer, non-binding instruments. Other types of bilateral arrangements, were noted as Framework agreement, Inter-agency understanding, Protocols, Statement of mutual cooperation, Trainee scheme, Cross-border worker agreements, among others.

The objectives of bilateral labour migration agreements are to manage the process of meeting labour market needs quickly and efficiently especially the sectors in which they are severe labour shortages. They may also be useful in supporting broader regional, commercial and economic relations by aiding the development of the country of origin and facilitating its regional integration. They also strengthen ties between countries that share culturally or historical links. BLMAs prevent and reduce irregular migration by offering alternative regular channels to migrate for employment. They also act as regularisation agreements that might be worked out with countries of origin.



**Main discussion points:** the Dialogue discussions noted that:

- What has been the experience of Zambia with MoUs and their implementation? It was noted that Zambia had requested to have an MOU with Qatar, but has seen challenges in the finalisation of the MOU and it has taken 2 months to get a response.
- Protection of migrant workers in irregular situations: it was noted that it was important to protect the rights of migrant workers and this is in line with ILS. It was noted that rights arising from past employment also have to be recognised, hence the need to ensure that MOUs also cover management of workers in irregular status.

#### Key Priority Area 4. Social Protection for Migrant Workers

**Presentation:** the presentation covered the following key areas in relation to migration and social protection (i) Key arguments for extending social protection to migrant workers and their families; (ii) Legal and practical barriers, and other challenges; (iii) Policy options for the extension of social protection to migrant workers; (iv) Unilateral Measures; and, (v) SADC Guidelines on portability of social security benefits. It was noted that Social security is a basic human right that migrant workers, refugees and their families should enjoy throughout their life cycle. Yet, despite progress, 4.1 billion individuals worldwide do not have access to social protection, including migrant workers, refugees, and their families.

Key arguments for extending social protection to migrant workers and their families include, may: improve the general health of the public; help improve the demographic situation of a country as migrant workers are often net contributors to the social security system over their lifetime; facilitate employee mobility and attract highly skilled migrants workers for the proper functioning of labour markets; facilitate the formalization of the labour market as well as the regularization of migrant workers; fill labour shortages particularly in economies with ageing workforces and can contribute to the development and GDP growth of host and home countries; improve labour productivity; and, build stronger and financially healthier social security systems.

The legal and practical barriers (underlying causes) to non-access of social protection for migrant workers were noted as, the principle of territoriality (which looks at the scope of application of social security legislation is limited to the territory of the country where it was enacted) and the principle of nationality (which looks at the coverage and entitlement to benefits limited to nationals of a country)

SADC developed guidelines on the portability of social security benefits, addressing the obstacles faced by migrant workers. The ILO has been supporting participating countries, in particular the 5 piloting countries (Eswatini, Lesotho, Malawi, South Africa, Zimbabwe) and Botswana, Comoros, DRC, Madagascar, Mauritius and Seychelles in the development of Action Plans for the implementation of the SADC Guidelines.



**Main discussion points:** the dialogue noted that in Zambia allowed migrant workers to contribute to the national pension scheme, and migrant workers enjoyed the same benefits as nationals under the scheme, but there were no arrangements on the portability of the accrued benefits.

## Key Priority Area 5. Fair Recruitment of Migrant Workers

**Presentation:** Well managed migration benefits all. Labour recruiters play an important role in matching jobseekers with employment opportunities. However, exploitation of workers during recruitment is far too common. Unethical recruitment practices expose labour recruiters to the risk of losing business, incurring reputational costs, and facing legal liabilities. Challenges in labour migration commence from the recruitment stage. The vulnerability of migrant workers is caused by language in cultural barriers, living family and support networks behind, discrimination and social isolation, lack of awareness of their legal rights and protections, employer-specific work permits, fear of deportation, lack of access to justice, and, migration costs.

The IOM has established the International Recruitment Integrity System (IRIS), which is a consortium of international stakeholders committed to the fair recruitment and selection of migrant workers. The goal of IRIS is to make international recruitment fair for everyone involved: migrant workers, employers, recruiters and countries of origin and destination. It does this by: Promoting respect for the rights of migrant workers; Enhancing transparency and accountability in recruitment; Advancing the Employer Pays Principle; Strengthening public policies, regulations and enforcement mechanisms. It was also noted that the Montreal Declaration enables governments to ensure that there is ethical recruitment of migrant workers if put in practice.

In terms of work/progress made by the Government of Zimbabwe in promoting ethical and fair recruitment the following had been established:

- a. Developed a gender-sensitive action plan on ethical and fair recruitment between April-July 2022;
- b. Developed Standard Operation Procedures on ethical and fair recruitment between April-July 2022; and
- c. There is going to be training and capacity building before the tool on ethical and fair recruitment are rolled out.

### **Main discussion points:**

The need to

- raise awareness on ethical and fair recruitment;
- capacitate of the relevant stakeholders on issues of ethical and fair recruitment, and how to use IRIS;
- establish a database on PrEAs in the country and the number of people they place in employment and where.



## Key Priority Area 6. Labour Migration Statistics

**Presentation:** Zambia is one of the countries in the region with relatively detailed data on labour migration. This has enabled ILOSTAT to have labour market data from the 2014 and 2019 Labour Force Survey consisting of labour migration *stock* data (disaggregated by age, sex, *citizenship*, status in employment, and broad occupational and sectoral categories). As of 2019, UNDESA estimated that there were 493,000 Zambians abroad and 170,000 migrants in the country.

Under the SAMM Initiatives, it was noted that SADC was developing a Labour Market Observatory (LMO) a mechanism for the collection, consolidation, storage and management of regional labour market information from Member States, including information on labour migration and skills. The aims of the LMO were to: (i) harmonize labour market statistical regimes across Member States; and, (ii) ensure aggregation and the availability of up-to-date and comparable labour market information, based on international statistical standards. The following challenges were noted, most countries still only have limited data availability, and not all countries have the same priorities in terms of reporting on labour migration trends/indicators. It was noted that the SAMM Project was providing support this process, through:

- Capacity-development for data producers and data users;
- Support to data collection activities (statistics as well as administrative data); and,
- Strengthening regional collaboration and exchange.

**Main discussion points:** the following were noted, the following -

- Need for training on the collection of data by the Ministry of Labour, and the need for more tools (simplified) to collect data on migrant workers in the country;
- Need to partner with the ILO and IOM to have more up-to-date data on labour migration, and have that data analysed. The data available on labour migration was of 2017.

## Key Priority Area 7. Skills Development and Labour Migration

**Presentation:** it was highlighted that the link between labour migration and skill development, could be explored in the following manner; (i) the lack of employment opportunities in countries of origin, would see skilled people moving to other countries; (ii) there was underutilization of migrants' skills in countries of destination; and, (iii) there may exist be weak skills system and policies which does not allow for the recognition and utilisation of the skills in the country held or provided by migrant workers.

It was noted that there was need for policies, initiatives and frameworks that look at Skills Anticipation, Skills Recognition, Skills Partnership, and, Skills Development within the country and this was key in the nation moving progressively towards achieving decent work. The process of skills development should be tripartite and should have all the social partners fully and effectively participating in the process. The recognition of prior learning was also key in ensuring decent work for migrant workers.



It was highlighted that the key priorities for capacity building under the SADC Study on Skills Recognition were:

- ✓ Data gathering and analysis;
- ✓ High-level coordination with regard to skills development and migration systems;
- ✓ Qualification recognition for the purpose of employment systems for migrants with high levels of qualifications and skills need to be streamlined; and,
- ✓ There is a need for an understanding of how best to recognize the qualifications and skills of migrants with lower levels of skills e.g. need to provide job seeker support to migrants, RPL mechanisms, among others.

**Main discussion points:** the following issues were discussed-

- ✓ Zambia, through the Ministry of labour has undertaken a skills audit but this has to be finalised and there is need for training on how to capture the skills gap and develop tools to address the gaps.

**Recommendations:** there is need to

- ✓ include a Skills Module in the Labour Force Survey to ensure that there is available data on the skills in the country; and,
- ✓ develop a skill recognition framework in the country and a National Qualifications Framework that is in line with the SADC Qualifications Framework.

**SAMM Media Campaigns on promoting a positive image of migrants by highlighting their contribution to development**

The SAMM Project had launched a media campaign to address issues of: (i) Negative perception of labour migration/ migrant workers, including seeing migrant workers as stealing jobs, taking social security benefits away from national workers, etc; (ii) Existing discrimination practices in countries of destination (Xenophobia, racism); (iii) Lack of evidenced-based labour migration data to mitigate negative perceptions and contribute towards policy development and implementation; (iv) Lack of understanding that labour migration is part of the development agenda including its causes and effects.

The SAMM Awareness Raising Campaigns #WeAllBelong Initiative had three components:

<i>SAMM Media Campaigns</i>	<i>SAMM Media Toolkit</i>	<i>SAMM Media Awards</i>
<ul style="list-style-type: none"> <li>▪ Raising Awareness on Migrant Workers’ Rights and Remediation Mechanisms as a well as recognizing migrant</li> </ul>	<ul style="list-style-type: none"> <li>▪ Following the Media Training a SADC Media Toolkit focusing on balanced reporting of migration in the SADC and IOC region will be produced</li> </ul>	<ul style="list-style-type: none"> <li>▪ Outstanding stories on migration and how it contributes to development and realisations of SDGs.. Visual (Short film) Audio (Podcast and Vox pops)</li> </ul>



<p>workers’ contribution to development</p> <ul style="list-style-type: none"> <li>▪ Promoting the Portability of Social Security Rights for Migrant Workers</li> <li>▪ Rights and responsibilities of Persons of Concern (PoC) as outlined in both domestic and international laws and considering country pledges</li> <li>▪ Fair Recruitment of Migrant Workers</li> </ul>	<p>in 2022. TOR is being prepared and work will commence in June 2022</p> <ul style="list-style-type: none"> <li>▪ Reporting on combatting xenophobia</li> </ul>	<ul style="list-style-type: none"> <li>▪ Promote balanced reporting on Migration in the SADC Region</li> </ul>
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**Proposed way forward On Labour and Mixed Migration Governance**

	<b>SCOPE / SITUATION ANALYSIS</b>	<b>LABOR-RELATED CHALLENGES</b>	<b>STRATEGIC OBJECTIVES / RESPONSES</b>	<b>STAKEHOLDERS</b>
<b>Labour Migration Governance</b>				
<b>1.</b>	<p>Identified key legislation:</p> <ul style="list-style-type: none"> <li>- Immigration Act, 2010</li> <li>- ECA 2019</li> <li>- National Pension Scheme Act Cap 256</li> <li>- CEEC Act, 2006</li> <li>- Gender Equity and Equality Act, 2015</li> <li>- ZDA Act, 2006</li> <li>- ZAQA Act, 2011</li> <li>- The Constitution of Zambia</li> </ul>	<ul style="list-style-type: none"> <li>• Legislative inconsistency, e.g. investment incentives and Zambianization.</li> <li>• Efficacy of legislation.</li> <li>• Inward looking legislation.</li> <li>• Terminology of “expatriate” and attendant treatment in the law.</li> <li>• Lack of internal and external referral mechanism.</li> </ul>	<ul style="list-style-type: none"> <li>• Revising legislation to incorporate outflow facilitation, e.g. section 5 of the Immigration Act.</li> <li>• Rights based approach to the formulation and implementation of legislation, subject to the Constitution.</li> <li>• Portability of accrued benefits to the extent possible.</li> </ul>	<ul style="list-style-type: none"> <li>• Cabinet / PAC</li> <li>• MSMEs</li> <li>• MLSS</li> <li>• Employers</li> <li>• Labor movement</li> <li>• MoHAIS</li> <li>• MoFA</li> <li>• MoE, MTS</li> <li>• MoJ</li> <li>• MCDSS</li> <li>• MoH</li> <li>• Judiciary</li> <li>• ZRA</li> <li>• ACC</li> <li>• DEC</li> <li>• NPA</li> </ul>



	<ul style="list-style-type: none"> <li>- The Anti-Human Trafficking Act</li> <li>- The Juvenile Act</li> <li>- The Apprenticeship Act</li> <li>- Industrial and Labour Relations Act</li> </ul>		<ul style="list-style-type: none"> <li>• Strengthen anti-corruption legislation and enforcement.</li> <li>• Transparent coordination among stakeholders.</li> </ul>	
2.	<p>International standards and best practice.</p> <ul style="list-style-type: none"> <li>- PALERMO protocol</li> <li>- Abolition of forced labour convention C29</li> <li>- Freedom of Association C87</li> <li>- Equal remuneration C100</li> <li>- Discrimination at work C111</li> </ul>	<ul style="list-style-type: none"> <li>• Low levels of ratification of international standards and low integration of international best practice.</li> <li>• Insufficient of international cooperation in verification of credentials.</li> <li>• Low level of domestication of international standards</li> </ul>	<ul style="list-style-type: none"> <li>• Strengthen international cooperation mechanisms on information sharing and labor and skills exchange, verification of credentials.</li> <li>• Evaluate the effectiveness of double taxation agreements and ensure they complement labor exchange agreements.</li> </ul>	<ul style="list-style-type: none"> <li>• MoFA</li> <li>• OP</li> <li>• MCTI</li> <li>• Ministry of Justice – Attorney General</li> <li>• Cabinet</li> <li>• Employers</li> <li>• Labour movement</li> </ul>
3	<p>Bilateral Labour Agreements (BLAs)</p> <ul style="list-style-type: none"> <li>- Mauritius MOU</li> <li>- South Africa MOU</li> </ul>	<ul style="list-style-type: none"> <li>- Lack of agreements with countries with more need for labour migrants.</li> <li>- Cultural differences</li> <li>- Failure to implement</li> </ul>	<ul style="list-style-type: none"> <li>- Organise dialogue between different countries</li> </ul>	<ul style="list-style-type: none"> <li>- Government of origin country</li> <li>- Government of destination country</li> <li>- Foreign affairs</li> <li>- Min of Home Affairs</li> </ul>



		<ul style="list-style-type: none"> <li>- Lack of awareness</li> <li>- Lack of proper communication with and between stakeholders</li> <li>- Resistance in paying security bonds</li> </ul>		
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**Protection of Migrant Workers (inflows and Outflows) and Refugees**

<p><b>4</b></p>	<ul style="list-style-type: none"> <li>• Zambia is a destination country for migrant workers;</li> <li>• Laws (Employment Code Act, Section 5; NPS Act, Industrial and Labour Relation Act Cap 269) are available to protect migrant workers to some extent;</li> <li>• Porous borders – difficulty to protect irregular migrant workers as they do not have proper documentation;</li> <li>• Lack of portability</li> </ul>	<ul style="list-style-type: none"> <li>• Anti-human trafficking Act (Section 9) prohibits irregular migration (infringes on human rights)</li> <li>• Lack of Policies in place for fair recruitment</li> <li>• Lack of accurate and reliable data which shows correct statistics on regular and irregular migrants</li> <li>• Lack of portability of social security benefits</li> </ul>	<ul style="list-style-type: none"> <li>• Amend Section 9 of the Anti-human trafficking Act</li> <li>• Develop a Policy on fair recruitment, which has to be used from the country of origin to the country of destination</li> <li>• Apart from Zambia Statistics Agency (ZamStats) collecting data on irregular migration through household-based survey, it would be important to also get</li> </ul>	<ul style="list-style-type: none"> <li>• MLSS</li> <li>• Employers</li> <li>• Labor movement</li> <li>• Employment Agencies</li> </ul>
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<p>benefits - transfer of pension contributions from one country of destination to country of origin;</p> <ul style="list-style-type: none"> <li>• Preferential recruitment – preference is given to Zambian as opposed to migrants;</li> <li>• Some migrants agree to be trafficked in search for greener pastures and find a different situation when they reach the destination country; and</li> <li>• Zambia is a transit point for migrants who wish to go to other countries as Zambians are perceived to be peace loving citizens.</li> </ul>		<p>administrative data from Department of Immigration on migrants</p> <ul style="list-style-type: none"> <li>• Develop a System to transfer social security benefits from the country of destination to the country of origin when they are no longer in employment</li> </ul>	
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<b>Labour Migration Data</b>				
	The main sources of labour migration data are the national censuses, household surveys (Labour Force Survey among others) and administrative data (Home Affairs, Foreign Affairs, Bank of Zambia).	Censuses/Household surveys: The conventional sources of data are infrequent (take too long to update e.g 10 years intervals).	<i>High frequency (annually)</i> of undertaking household surveys coupled with timely and consistent analysis.	Zambia Statistics Agency Ministry of Labour and Social Security IOM Ministry of Home Affairs and Internal Security Bank of Zambia Ministry of Finance and National Planning
	The compilation of migration data faces a number of challenges. The frequency of conventional data sources for labour migration statistics e.g the census takes too long (10 years) to update.	Administrative labour migration data: The information management systems collecting administrative data are fragmented. The data on emigration is heavily dependent on estimation methodologies.	Integration of information management systems to improve labour migration data collection, analysis and sharing.	Ministry of Foreign Affairs and International Cooperation Ministry of Commerce Trade and Industry Ministry of Small and Medium Enterprises Zambia Chamber of Commerce and Industry
	The Statistics Act empowers ZamStats to establish an integrated National Statistical System; provide for mechanisms for coordination, collection,	The Labour Market Information System (LMIS) is not operationalized. Limited capacity in the collection, analysis and use of labour migration data.	Operationalized the LMIS and link it to other similar systems in the Government. Strengthen the capacity of institutions to collect, analyze and	Zambia Federation of Employers Zambia Association of Manufacturers Zambia Congress of Trade Union ILO



	management and dissemination of statistics.		share disaggregated labour migration statistics.	
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## B. Mixed Migration

### The International Framework on labour exploitation, human trafficking and smuggling of persons (migrants)

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

Female victims continue to be the primary targets for Trafficking in Persons. In 2018, most women and girls detected were trafficked for sexual exploitation, whereas men and boys were mainly trafficked for forced labour. Victims are exploited across a wide range of economic sectors, particularly in those where work is undertaken in isolated circumstances including agriculture, construction, fishing, mining, and domestic work.

In terms of trends in Zambia it was noted that:

- Trafficking in the Copper Belt and in the mines
- Most trafficking occurs within the country's borders and involves traffickers exploiting women and children from rural areas in cities in domestic servitude or forced labor in agriculture, textile production, mining, construction, small businesses such as bakeries, and forced begging.
- Jerabo gangs force Zambian children to engage in illegal mining operations, such as loading stolen copper or crushing rocks. Orphans and children from rural areas remain vulnerable to trafficking. Because of the perceived increase in status, family are enticed to send children to work in cities without verifying conditions.
- US JTIP report also states that there are cases of sex trafficking involving minors (boys and girls) perpetrated by Truck drivers in towns along the Zimbabwean and Tanzanian borders, and miners exploit them in Solwezi.
- Traffickers exploit Zambian boys in sex trafficking in Zimbabwe and exploit women and girls in sex trafficking in South Africa.
- Local trafficking for domestic servitude and for working in farms involving children, from rural areas in the Western province in forced labor on cattle farms in Namibia.
- Labour trafficking for domestic servitude in countries in the Gulf

Working under the leadership of Ministry of Home Affairs, the following can be undertaken:

- Operationalization of the Inter-Agency TIP Secretariat under the Ministry of Home Affairs



- TIP Act Amendment
- Development of Smuggling of Migrants Legislation (not under the immigration Act for protection)
- Training (For labour officers, prosecution, investigations, social workers, schools and academia)
- Awareness raising
- TIP Secretariat
- Data collection
- Border Management including strengthening first responders' capacity to identify, rescue and refer victims,
- Partnership with truck drivers.

### Immigration Procedures Related to Labour Migration

The DOI is one of the Departments Under the Ministry of Home Affairs. It is mandated to enforce the Immigration and Deportation Act. The Act in force currently is the Immigration and Deportation Act No. 18 of 2010 [Amendment No.19 of 2016]. The Mission of the Department is to facilitate and regulate the movement of persons entering and leaving the country and control the stay of immigrants and visitors in order to contribute to the internal security and sustainable socio-economic development. The Department plays a major role in managing labour migration. It collects significant amounts of data on labour migration. The Department has formulated a National Migration Policy which recognises that Zambia has for a long time been a migrant sending and receiving country and the need to come up with a deliberate labour export policy. The Development of a skills data base would enhance the operations of the Department in providing information on which skills are saturated and where the gaps are. There is need for more collaboration with the Department of Labour and other stakeholder such as ZamStats and Internal Organisations to enhance information sharing.

#### Guiding Principles

- Principle 1 - An Immigrant to Zambia must have a contribution to make in form of skills, profession or capital.
- Principle 2 - An Immigrant should not deprive a Zambian of employment.
- Principle 3 - An Immigrant should not be a charge on the State.
- Principle 4 - An Immigrant intending to settle in Zambia must be in possession of a permit.

#### Employment Permit

- This permit is issued to foreigners who enter Zambia to take up employment for any period in excess of six months. The application should be made preferably by the employer whilst the applicant is outside Zambia; Immigration and Deportation (Amendment), 2016 Time Frame: Issued in maximum periods of two years' renewable.



- 28. (1) On application being made in the prescribed manner, the Director-General of Immigration may, in consultation with the Ministry responsible for labour, issue an employment permit to any foreigner outside Zambia who— is not a prohibited immigrant; belongs to class A specified in the First Schedule; is employed by the Government of the Republic of Zambia or a statutory body; or is a volunteer or missionary.
- An employment permit shall specify- Immigration and Deportation [ No. 18 of 2010 193 such conditions, if any, for observance by the holder, as to the area within which the holder may engage in employment and the nature of the employment in which the holder may engage, as the Director-General of Immigration considers necessary; and the period of its validity.
- The period of validity of an employment permit, in any case, shall be for a period from the date of its issue to a date, as the Director-General of Immigration, having regard to all the circumstances of the case, thinks fit, and shall be capable of extension.

### Protection Assistance to vulnerable individuals in the mixed flows

**Presentation:** the presentation noted that human rights are the basic rights and freedoms that belong to every person in the world, from birth until death. Everyone is entitled to all the rights and freedoms set forth in the UN Declaration of Human Rights, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Most human rights are guaranteed irrespective of any individual migration status and personal status is an irregular migrant does not exclude him/her from the protection of human rights. Like all citizens, non-citizens are entitled to the rights that are absolute and rights whose denial would never be justified. These rights include the right to life, prohibition against cruel and torture, inhuman and degrading treatment or punishment, the right to due process of the law and the freedom of thought, conscience and religion. All these rights are protected by international and regional laws which obligate the state to observe and protect the rights of individuals who enter their territory and look beyond the documentation required for entry.

In mixed migration flows vulnerable individuals are categorised under the following groups: refugees and asylum seekers, rejected asylum seekers, victims of trafficking (including present trafficked persons and potential traffic persons), stateless persons, accompanied and separated children, stranded migrants, and other vulnerable migrants.

**Main discussion points:** the discussions noted that, there was-

- limited understanding on mixed migration and the need for the protection of all migrants and refugees, thus there was need for capacity building across all government ministries;
- need for a fully-fledge training and education meeting/programme on mixed migration and human rights;



- need to build nation-wide awareness on the rights of migrants regardless of their status of migration, as they being human beings first entitles them to human rights and the protection of such; and,
- need to establish a national referral mechanism for mixed migration.

### Concretising the UNHCR Mandate: Protecting and Assisting Its Persons of Concern

**Presentation:** it was noted the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, although it has entered reservations to the right to work (Article 17). Refugees must obtain permits before they can engage in employment, including self-employment activities. To engage in work, they must obtain a permit, and pay high permit fees. Immigration authorities are mandated to issue permits as provided for in the Immigration and Deportation Act of 2010. Zambia has entered a reservation on freedom of movement (Article 26). Refugees are required to reside in designated settlements. To leave the settlements, they must obtain a mobility pass. Many refugees live outside the settlements illegally due to these restrictions: and are unable to engage in livelihood activities to sustain themselves. Zambia has also entered a reservation on education and travel documents.

The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. Zambia is party to the 1954 Convention on the Status of Stateless persons but is not party the 1961 Convention on the Reduction of Statelessness. The Refugees Act No.1 of 2017 is the national legislation that deals with refugee matters. Implementing regulations to the Act are not yet published. A Refugee policy is still being developed. Immigration and Deportation Act of 2010 and the Immigration and Deportation (General) Regulations, 2011. Immigration authorities are mandated to issue permits as provided for in the Immigration and Deportation Act. Refugees like other foreigners need to obtain permits to access work.

Can a refugee work in Zambia?

- Requirements of a work permit or an investors permit. Refugees can access work permits but at a high cost. Informal sector work: in the refugee settlements (without a permit)
- Formal sector work – examples: teaching, hospitals, engineering, business traders (a permit is required)
- Freedom of movement restrictions
- Situation on access to financial institutions and services – refugees can open a bank account using a refugee identity card/a national registration card.
- Increasing self-reliance activities/options for Refugees; currently agro-based in camp

### Recommendations on Mixed Migration

The following recommendations were noted as a way forward, there is need:



- for a fully-fledge dialogue on mixed migration to be organized, with enough time to deliberate issues of mixed migration;
- to undertake public awareness programmes on labour migration and the rights of labour migrants to avoid and prevent xenophobic tendencies within communities;
- to look at the economic impact of migration and also take into account security issues in the country;
- for tailor-made solutions, and holistic policies that take into account the needs of the nation and the need to protect migrants at the national level, hence the need for a whole-government and whole-society approach to address the issue of mixed migration;
- to establish a rights-based migration management policies and procedures; and,
- for capacity building for government officials from different ministries on mixed migration.





**Annex 1: Dialogue Pictures**



## Annex 2: Participants List

No	Name and Surname	Ministry/Organisation	Male/ Female
1	Mr. Givens Muntengwa	MLSS-HQ	M
2	Ms. Mukamasole M. Kasanda	MLSS-HQ	F
3	Mrs. Emelda N. Sichone	MLSS-HQ	F
4	Ms Musonda C. Ulaya	MLSS-HQ	F
5	Mr. Chola Kabaso	MLSS-HQ	M
6	Ms Chibesa L. Sichone	MLSS-HQ	F
7	Ms. Kabuba Mufana	MLSS-HQ	F
8	Ms. Odia M. Jimaima	MLSS-HQ	F
9	Mr. Cletus Kasanindo	MLSS-HQ	M
10	Mr. Brian Banda	MLSS-HQ	M
11	Ms. Musonda M. Manda	MLSS-HQ	F
12	Ms. Emma M. Banda	MLSS-HQ	F
13	Mr. Ian Kayelu	MLSS-HQ	M
14	Mr. Kennedy Nyanga	MLSS-HQ	M
15	Mr. Moffat Bili	MLSS-HQ	M
16	Mr Lucas Zulu	MLSS-HQ	M
17	Mr. Daniel Makomeno	MLSS-HQ	M
18	Ms. Priscilla M. Makumba	MLSS-HQ	F
19	Ms. Auxilia Kambani	MLSS-HQ	F
20	Ms. Eunice Mifima	MLSS-Lusaka Pro	F
21	Ms. Tandy Lungu	MLSS-Lusaka Pro	F
22	Mr. Constantine Mazimba	MLSS-Copperbelt	M
23	Ms Febby Msango	MLSS-Copperbelt	F
24	Mr. Harrison Kaunda	MLSS-Northwestern	M
25	Mr. Patrick T. Nyirenda	MLSS- Northwestern	M
26	Ms. Taza Mwense	MLSS-Southern	F
27	Ms. Hellen Mwanza	MLSS-Southern	F
28	Ms. Jennifa Sarenje	MLSS-Central	F
29	Ms. Hilda Chendela	MLSS-Luapula	F
30	Mr. Kanyanta Kaliwile	MLSS-Luapula	M
31	Mr. Mathews Shimoomba	MLSS-Northern	M
32	Ms. Loveness Chisenga	MLSS-Northern	F
33	Mr. Clive Kaleji	MLSS-Muchinga	M
34	Mr. Moses Chatepa	MLSS-Muchinga	M



35	Mr. Reuben Banda	MLSS-Eastern	M
36	Ms. Mulenga Mutale	MLSS-Eastern	F
37	Mr. Charles Phiri	MLSS-Western	M
38	Mr. Eddy Makasa	MLSS-Western	M
39	Mr. Muleka Kamanisha	ZCTU	M
40	Mr. Alex Mukisi	MOHAIS- Home Affairs Research and Information Department	M
41	Mr. Boris Mulengu	MOHAIS-Anti-Human Trafficking Secretariat	M
42	Ms. Ilyamumpu Mushota	MOHAIS-Depart. of Immigration	F
43	Mr. Tom Ngululu	MOHAIS-VSU-ZP/FHQ	M
44	Ms. Mwangala L. Kalota	MOFAIC- HQ	F
45	Ms. Nomsisi Wonani	MCDSS- HQ	F
46	Mr. Brian Chigawa	SAMM Project	M
47	Mr. Bruce Sianyeuka	SAMM Project	M
48	Mr. Oliver Chitalu	ZamStats	M
49	Mr. Theo Sparreboom	ILO	M
50	Ms. Gloria Moreno-Fontes	ILO	F
51	Mr. Chando Mapoma	IOM	F
52	Mr. Jesse Mertens	ILO	M
53	Ms. Makungu Baloyi	ILO	F
54	Jeptum BARGORIA	UNODC	F
55	Mr. Patrick Nalere	ARLAC	M
56	Mr. Nyasha Muchichwa	ARLAC	M

