

HAKI ZETU

ESC rights in Practice

The Right to Work and Livelihoods



Lawson B. Swoth
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The Right to Work and Livelihoods

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The programme aims to contribute to:

- The growth of human rights activism in Africa, with an emphasis on making human rights work in and for rural communities; and
- Innovation of strategies and methods to make a meaningful contribution to the promotion, protection, respect and fulfilment of human rights in Africa.

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This book was written by Jan Theron, Coordinator of the Labour and Enterprise Policy Research Group (LEP) of the University of Cape Town, South Africa. Jan is a former trade unionist and also practises as an attorney. More details about Jan and LEP can be found at www.idll.uct.ac.za/idll/staff/jantheron and www.idll.uct.ac.za/idll/lep.

Gillian Nevins, the principal writer of the Haki Zetu series, ensured consistency of the booklet with the other handbooks in the series, and did some extra work on the checklists in Section 3. Gillian worked with Amnesty International for 25 years, as researcher in the Africa Programme and as Campaign and Training Coordinator in the ESC rights team, after which she retired and started doing consultancy work.

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Paul McAdams, Canadian human rights consultant and senior programme associate at Human Rights Education Associates (HREA), edited the document and provided design advice, as he did for the whole Haki Zetu series.

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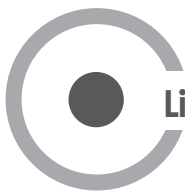
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“Work has always been the means by which human beings access their livelihoods, and therefore central to the human experience. It has shaped society and defines us as individuals.”¹

There were approximately 413 million people living on less than the poverty level of US\$1.25 a day in sub-Saharan Africa in 2010, according to the Millennium Development Report on Africa. This represents 48.5% of the population. A much larger number and percentage of people have to live on less than US\$2 a day. While the number of extremely poor has declined over the past decades, the somewhat less poor are increasing in number.²

The work that people do is usually the primary means by which they support themselves and their dependents economically. It is therefore obvious that if the number of people living in poverty in Africa is to be reduced, it will be necessary to improve both their access to work, and the quality of the work they do. The question is, how can this be achieved?

The right to work has been recognised as a human right since the adoption of the Universal Declaration of Human Rights in 1948. Since then, it has been recognised in a number of international and regional instruments, notably the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR, in respect to freedom of association and trade unions), and the African Charter on Human and Peoples’ Rights (ACHPR).

The UN Committee on Economic, Social and Cultural Rights (CESCR) has said, in its General Comment No. 18 on the Right to Work, that *“The right to work is essential for realising other human rights and forms an inseparable and inherent part of human dignity...”* Yet the right to work remains amongst the least developed of human rights.

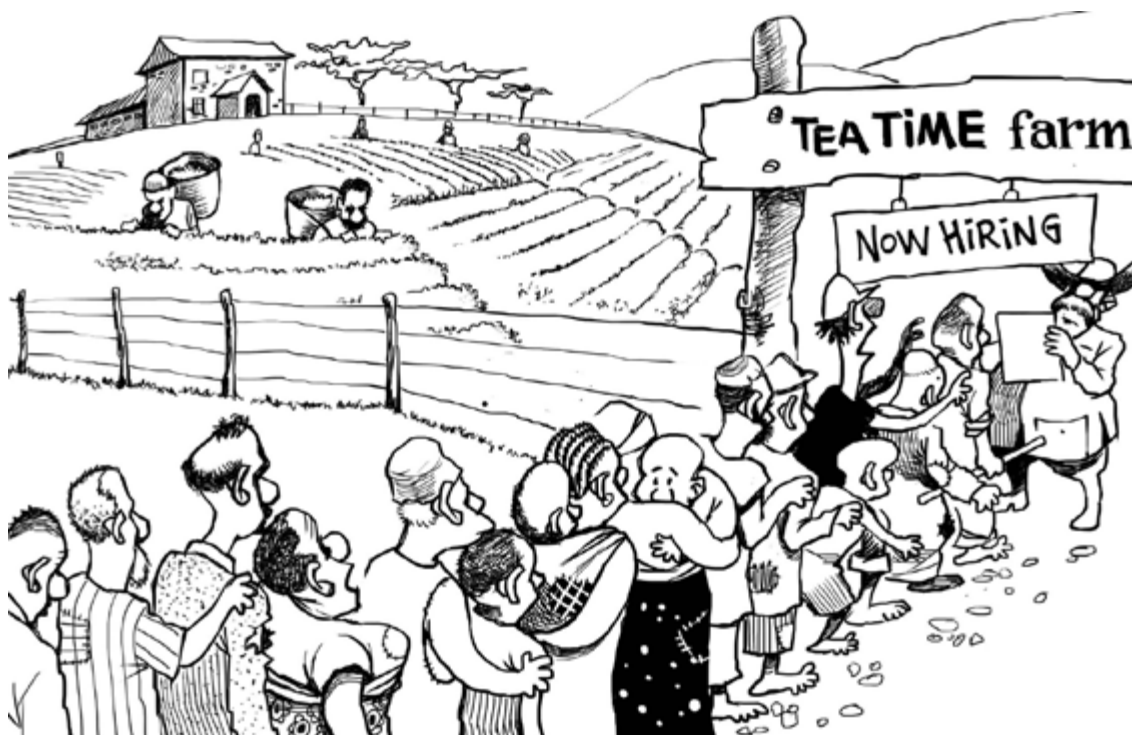
This may be because the question as to how to improve access to quality work has been, and remains, politically contested. It concerns, among other things, how national economies are organised, and who actually benefits from economic growth. It also concerns, in the context of Africa, the legacy of slavery and colonialism, and the relationship between Africa and the global economy. One of the reasons why interest in the right to work has increased recently, is surely because of the changes that have taken place in the global economy over the past few decades. These changes have opened up new work opportunities for some. Many more,

however, are without adequate work, or are unemployed. For the same or similar reasons there are calls to recognise a right to a > livelihood, even though this right is not explicitly recognised in any international human rights treaty. The argument for recognising such a right is discussed in Section 1.3.

In 2012, the International Labour Organisation (ILO) estimated there were 200 million people unemployed globally³, and that 400 million jobs would be needed over the next ten years to avoid a further increase in unemployment. Even if this number of jobs were created, it would still leave 900 million workers and their families living below the poverty line of US\$2 a day. Further, even among those who have work, there are many who do not have "decent work". This is what the ILO has termed the global jobs crisis.⁴

"General Comments" are documents giving advice to States parties to a Covenant or Treaty. See the Main Book, Part I, Section 3.5.

Terms indicated by an arrow > are defined in the Glossary.



This booklet considers work in both the formal and > informal economy. It discusses what the ILO regards as decent work, and how we understand its relation to the right to work. It also describes what we regard as the three components of the right to work - the freedom to work, the opportunity to work, and just and favourable conditions of work (or rights at work) - and how these may be used to promote more work opportunities and better quality work.

The perspective of this booklet is that people who have the most to gain from more and better quality work should be involved in debating how to fully realise the right to work. That is because, as the CESCR points out in its General Comment No. 18, work that is freely chosen or accepted also contributes to a person's "development and recognition within the community". It is too important a question to leave to politicians.

This booklet is designed to help civil society organisations, human rights workers and

activists to work on realising the right to work and livelihoods. For this purpose, it is divided into three sections:

- Section 1 gives a brief introduction to the right to work and the main issues facing those defending the right.
- Section 2 prepares the reader to take action towards realising the right to work and gives advice on:
 - How to identify the State's obligations regarding the right to work;
 - What the role of non-State actors is;
 - How to identify violations of the right to work;
 - Where to find the right to work in national laws and policies; and
 - Working with the community to develop and carry out a strategy.
- Section 3 is about realising the right to work in practice. It provides several strategies to monitor and defend the right to work as defined in Section 1.

At the end of the book there are Acronyms, a Glossary and Endnotes.

There are three appendices:

- Appendix 1: International and African human rights laws and standards
- Appendix 2: Relevant international and regional organisations
- Appendix 3: Sources and resources on the right to work



Section 1: Understanding the right to work and livelihoods

1.1 What do we understand by “work” and “livelihoods”?

> “Work” means all forms of work, in all economic sectors. It therefore includes work that is done for someone else, in an > employment relationship between the > worker and an > employer, and work that is carried out “independently”.

In many countries there are laws which regulate different aspects of work done in an employment relationship, which we can refer to collectively as > labour legislation. Labour legislation generally only applies to work in an employment relationship. The rationale for labour legislation is that the relationship between a worker and her or his employer is an unequal one, and the worker is vulnerable. Accordingly the rights of the worker need to be protected.

A worker in an employment relationship who is not protected by labour legislation, because the legislation is ineffective, or because it is not applied in practice, is sometimes described as being informally employed. Someone employed to assist a street trader would be a common example.

Workers who are informally employed may be found in the formal and informal economy. The informal economy refers to enterprises that generally do not comply with government regulations, for example an enterprise that does not pay tax, or is engaged in criminal activities. However, the distinction between the formal and informal economy is not always clear-cut.

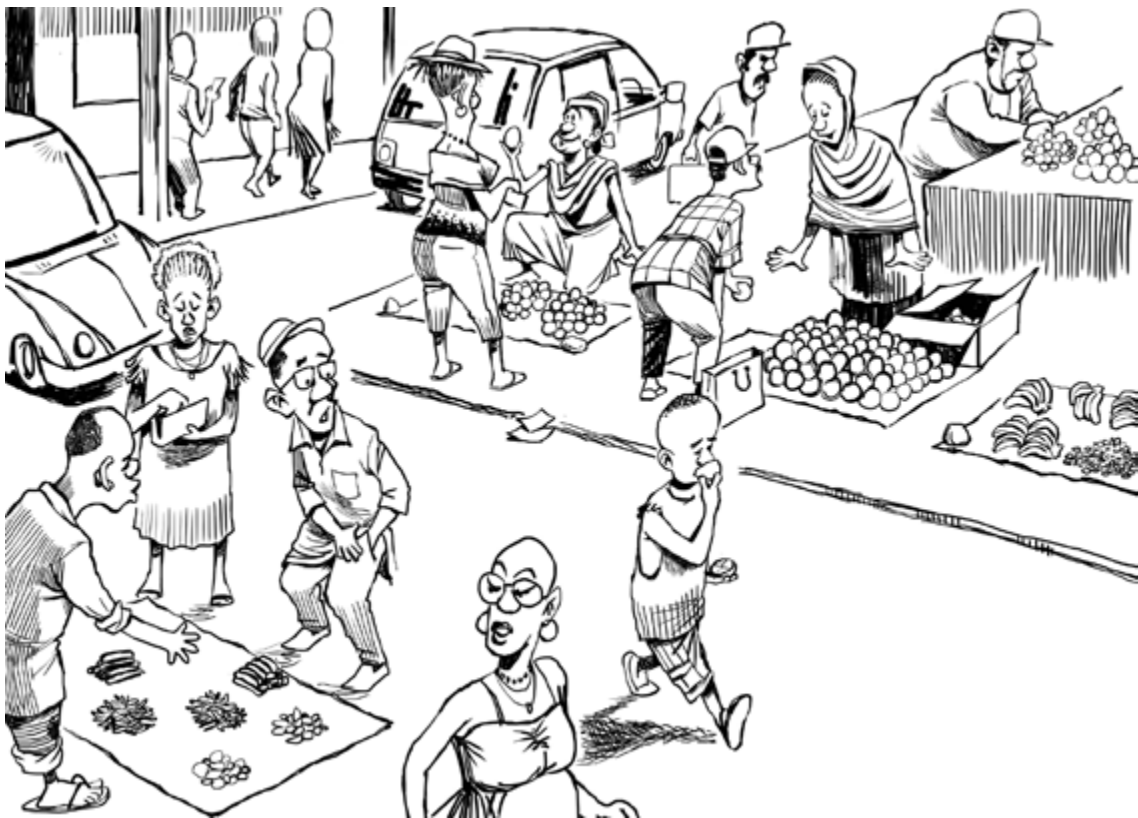
Some kinds of work that are carried out independently are part of the formal economy. A doctor or plumber, for example, who works independently for his or her own account is likely to be part of the formal economy, both because he or she pays tax, and because these are occupations that are directly or indirectly regulated by the government. A street-trader or shoe-shiner could be an example of work that is carried out independently, that is part of the informal economy.

“Work” therefore has a broader meaning than what is referred to in Anglophone countries as “labour”, and which is usually understood to mean work done in an employment relationship. Nevertheless, many people continue to think that the only kind of work that matters is work done in an employment relationship, for a salary or wage.

Similarly, many people think of a “job” as only meaning one with an employer, in an employment relationship. However, in this booklet, we regard someone who is > self-employed and who works independently as also having a job. “Job” therefore refers both to work in an employment relationship and work carried out independently.

Work also includes both paid work and unpaid work. Women and children in the household, for example, often perform unpaid work. The same could be said of men who are unemployed while women and children are earning money.

Because the work a person does is usually the primary means by which he or she supports himself or herself, and his or her dependants, there is a close relationship between “work” and “livelihood”. When we use the phrase “work and livelihoods”, it is to emphasise this close relationship, and that work refers to all forms of work. When we speak of “livelihood” on its own, we are referring to all the means by which people live, which may include resources and materials they utilise to do so.⁵



Who is really independent?

“Independent contractor” is a legal term that is sometimes used to describe a self-employed person who works independently. Someone who is independent is regarded as able to look after himself or herself, and is not in need of protection. Also, there is usually no one else who can be regarded as accountable for the conditions under which someone who is independent works.

A person who is genuinely independent may regard himself or herself as an entrepreneur. An entrepreneur is someone who establishes her or his own business, in the expectation of making a profit, and may become an employer in her or his own right. An entrepreneur also bears the risk, should the business fail.

However, most self-employed people in Africa are not entrepreneurs in this sense. They are simply doing what they have to do to survive. If offered a choice, they might accept a job with an employer. For this reason it is more appropriate to regard them as workers than entrepreneurs. To distinguish them from workers in an employment relationship we refer to them as > own account worker.

Many own account workers are not genuinely independent, either because they are simply doing what they have to in order to survive, or because they find themselves in an employment-like relationship with a person for whom they work. An example of an employment-like relationship is a small grower who is contracted to supply a large transnational corporation (TNC, also called a multinational corporation, or MNC), and has no other market for her or his produce. (See the case study of the cocoa farmers of Côte d'Ivoire in Box 13).

For more information on TNCs, see the Main Book Part I, Section 5.4.

Sometimes a worker is designated as “independent” in the contract to hide the fact that he or she is really in an employment relationship. Employers may do this to avoid complying with labour legislation. This is an example of what is called > disguised employment.

There was a case some years ago in clothing (apparel) factories in South Africa, where employers asked workers to sign new contracts stating that they were “independent contractors”, even though in all other respects their relationship with the employer was unchanged. The employers then argued that the workers were not covered by the collective agreement for clothing workers (see Box 16), because they were not > employees.

Lawyers have devised various tests to differentiate who is in an employment relationship and who is not. One approach is to identify different factors that can be associated with an employment relationship, such as that the worker works for only one person, or is economically dependent on that person. So where, for example, an information technology (IT) consultant works for only one client, and depends entirely on that client for an income, it could be argued that he or she is not genuinely independent.

Box 1: Some useful quotes

The ILO Director General's Report to the International Labour Conference, 1999: "... *almost everyone works but not everyone is employed.*"

The Committee on Economic, Social and Cultural Rights (CESCR)'s General Comment No.18 (The Right to Work): "*The right to work...encompasses all forms of work, whether independent work or dependent wage-paid work.*"

1.2 Work in Africa

The reason work in an employment relationship is regarded as the most important form of work is that in developed countries, over the years, large numbers of people have been employed in these kinds of jobs, and there has been a general expectation that people of working age will be able to find such jobs. Work in developed countries is also generally in the formal economy.

In Africa, by way of contrast, it is estimated that only ten percent of the workforce is employed in the formal economy.⁶ It is only in a few countries such as South Africa where large numbers work on the mines and in factories, that the majority is regarded as formally employed. However, even in South Africa the proportion of workers in the informal economy has been growing significantly.

In most African countries the majority of people work in agriculture, with large numbers of them working on small farms and/or only feeding their own families. Where there are resources such as minerals, these are generally extracted and sold in their raw form, without adding any value to them, for example by refining them or turning them into other products. People who are not employed in agriculture are increasingly concentrated in big urban centres, where they work in the informal economy.

Working in an employment relationship in the formal economy is likely to be more attractive than working in the informal economy. However in most countries formal jobs have usually been with government, in the public sector, or with big firms in the private sector (profit and non-profit). Employment with small firms in Africa and developing countries generally is unregulated.

Yet the number of jobs in the public sector has been falling in most countries in Africa and elsewhere. This is because governments have been under pressure from international financial institutions (IFIs) such as the World Bank and International Monetary Fund (IMF) to reduce their spending, in order to qualify for loans. At the same time jobs with big private firms are hard to come by.

The private sector comprises firms that are privately owned. Usually these firms are constituted as companies that operate for profit. The profits are distributed to those who have invested in the company, in accordance with their share in its ownership. The shareholder(s) with the biggest share(s) control the company. A smaller but still substantial part of the private sector consists of non-profit organisations, or NGOs.

There are many ways in which companies can be structured, and they can be regarded as comprising a spectrum, ranging from small to big. A small firm may be privately-owned by local businessmen or women, providing goods and services for a local market. The biggest of the big firms nowadays are TNCs that operate across national borders. Often their headquarters are in a developed country in Europe, North America or Asia.

Whether big or small, a company that operates for profit will only employ workers for as long as it is able to make a profit. Among the strategies bigger companies and TNCs, in particular, have adopted to increase their profits, are the following:

- Mechanising their operations. Nowadays goods can be produced more quickly and cheaply, and with fewer workers, than could ever have been imagined before the introduction of computer-based technologies;
- Re-locating their operation to whatever country is seen as most advantageous to them, often because of lower wages or other benefits (for example, where they will pay less tax);
- Cutting to a minimum the number of workers in full-time, continuous employment (which we will refer to here as employment in a > standard job) and relying on temporary or part-time workers (or > non-standard forms of employment) to supplement their requirements; and
- Reducing to a minimum the number of workers a company directly employs, and relying on smaller firms to produce goods or services for them, under licence, or as > franchisees, or as sub-contractors. This, in turn, has given rise to indirect, or > triangular employment, where the client firm is in many respects responsible for the conditions under which the workers of the smaller firm work, and may even directly or indirectly supervise their work, but is not their employer in law.

The difference between standard, non-standard and triangular employment is further clarified in Section 1.6 and Figure 1.

Box 2: The International Labour Organisation (ILO)

The International Labour Organisation (ILO) was founded in 1919 and is the oldest international human rights organisation in the world. It is now an agency of the United Nations, and is based in Geneva. It has regional offices in different parts of the world, including Africa.

Unlike other UN agencies, its structures comprise three parties: representatives of the

> *continued*

governments of member states; representatives of organised business; and representatives of > organised labour. Accordingly, it is often described as a tri-partite organisation (meaning an organisation composed of three parties).

The ILO establishes labour standards, in the form of Conventions and Recommendations dealing with employment and work. Since 1998 its aim has been to get as many countries as possible to ratify what it regards as the “fundamental conventions”, and to promote the objectives of decent work (see below). There are eight fundamental conventions:

- Forced Labour, No. 29 of 1930;
- Freedom of Association and the Protection of Rights to Organise, No. 87 of 1948;
- Right to Organise and Collective Bargaining, No. 98 of 1949;
- Equal Remuneration, No. 100 of 1951;
- Abolition of Forced Labour, No. 105 of 1957;
- Discrimination (Employment and Occupation), No. 111 of 1958;
- Minimum Age, No. 138 of 1973; and
- Worst Forms of Child Labour, No. 182 of 1999.

Source: www.ilo.org (see also Appendix 2 and 3); the conventions can be found at: www.ilo.org/dyn/normlex/en/f?p=1000:12000:0::NO and their ratification status at: www.ilo.org/dyn/normlex/en/f?p=1000:11001:0::NO

1.3 What is the right to work and a livelihood?

The Universal Declaration of Human Rights (UDHR) states that “*everyone has a right to work...*” However the international instrument that deals with the right to work most comprehensively is the International Covenant on Economic, Social and Cultural Rights (the ICESCR), a binding treaty ratified by 44 African countries and 160 countries worldwide.⁷

At the regional level the ACHPR also recognises the right to work, as do the national constitutions of a number of countries in Africa. However, even countries that do not explicitly refer to a right to work generally recognise some components of the right, as discussed in Section 2 (Preparing to take action). The three important components of this right are:

- The **right to freely choose** a means of earning a livelihood. This can also be regarded as the **freedom to work**, and also implies the right not to be unfairly deprived of work;
- The right of everyone to have the opportunity to work, in order to be able to earn a livelihood. This can be regarded as the **right to work in a general sense**; and

For more information on the international human rights system, see the Main Book, Part I, Section 3.3.

References to the right to work in national constitutions are made in Box 23.

- That workers have the right to just and favourable conditions of work. These can be regarded as **rights at work**, since someone who does not have a job cannot exercise such rights.

The different components of the right to work are discussed more fully below. However although the African Charter refers to “every individual” having the right to work, it is important to note, as the CESCR has emphasised, that the right to work is at the same time a > collective right. This means that workers have the right to associate with one another and to join organisations that represent their interests, and these organisations also have rights in respect of their members. The best known such organisation is the > trade union. The ICESCR also makes specific provisions for trade union rights, guaranteeing the right to form and join trade unions, as well as the right to strike.

However the right to freedom of association encompasses all forms of organisation. In the case of own account workers, the appropriate form of organisation is likely to be a > cooperative or > association. An association is a broad term that covers any kind of organisation or group formed to pursue a common objective. A cooperative is a particular kind of association, namely an association that operates as an enterprise according to cooperative principles.

There may be legislation that enables associations to register with the government, but it is generally only a requirement that certain kinds of associations register. The national laws of most countries in Africa provide for the registration of cooperatives, and people have the rights to associate as members of a cooperative.

It is important to note that both cooperatives and trade unions should be autonomous (independent). This means they should be free to draw up their own constitutions (sometimes known as by-laws in the case of cooperatives) and elect their own representatives. However in both there has been a history of government interference. A case in point was when the government took over the cooperatives in Tanzania in 1966. There are also many examples in Africa of governments treating cooperatives as instruments of government policy.

Although a right to a livelihood is not recognised by any international instrument, Article 7 of the ICESCR states that just and favourable conditions of work require that workers receive > remuneration that, as a minimum, provides “*a decent living for themselves and their families*”, and Article 11 recognises “*the right of everyone to an adequate standard of living.*” A right to work thus implies a right to a livelihood.

Hence, just as it is necessary to emphasise that work refers to all forms of work, and not just to an employment relationship, it also makes sense to refer to “the right to work and a livelihood”. In other words the right to a livelihood should be understood as being strongly linked to, and part and parcel of the right to work.

At the same time, a right to a livelihood can also be understood to be a separate right, derived from the right to life and the right to dignity. The Indian Supreme Court has said that “*the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood.*”⁸ It may be more appropriate to refer to a right to a livelihood in this sense, where we are talking about access to natural or other resources, such as where households or a community or an indigenous people rely on such resources.

Box 3: Main violations of the right to work

Violations of the right to work occur when a government, either deliberately or through a failure to act, does not carry out its obligations to respect, protect and fulfil the right to work. States violate the right to work in situations where:

- Child labour persists;
- The right to freedom of association of workers is being violated;
- There are communities or indigenous peoples whose livelihoods are being threatened;
- Cases of discrimination occur (on grounds of gender, race, sexual orientation, disability, religious conviction or age);
- Individuals, groups or corporations violate the right to work of others, and no steps are taken to prevent them from doing so;
- There is a failure to adopt or implement a national employment policy designed to ensure the right to work for everyone, or to monitor the realisation of the right to work at the national level;
- Individuals or groups, particularly the disadvantaged and marginalised, are denied enjoyment of the right to work as a result of insufficient expenditure, or misallocation of public funds; or
- There is a failure to implement technical and vocational training programmes.

1.4

Freedom to work: the right to gain a living by work that is freely chosen or accepted

The freedom to work means that a person is free to choose or accept whatever work or occupation or trade or profession that a person is permitted to do.⁹ It does not imply the State is not entitled to regulate certain kinds of work, or certain occupations or trades or professions, provided it does not discriminate unfairly against any category of people in doing so.

States may also permit trade unions and employers to enter into trade union security arrangements (sometimes called the “closed shop”) by way of collective agreement. In terms of such an arrangement, workers may be compelled to become members and pay membership dues (or subscriptions) to the trade union concerned.

The freedom to work means that a person is free to choose an occupation or trade or profession, and that no one should in any way be forced to work, or to join a particular occupation or trade or profession. By the same token, no one should be unfairly deprived of their work, or unlawfully removed from their occupation or trade or profession. The State must refrain from doing anything itself that would have the effect of unfairly depriving anyone of their work, or permit others to unfairly deprive anyone of their work.

Box 4: A violation of the right to work in Cameroon

Abdoulaye Mazou, a magistrate in Cameroon had been put in prison by military tribunal without trial. He was released, detained and then kept under house arrest for many years. After his release, he was not reinstated to his previous position as magistrate. The ACHPR found that, by not reinstating the Magistrate after it had adopted an amnesty law, the government had violated his right to work because the State had prevented him to work in his capacity of magistrate even though others who had been condemned under similar conditions were reinstated.

Source: *Annette Pagnouille (on behalf of Abdoulaye Mazou)/Cameroon 39/90_10AR*. ACHPR case, see their website.

Just as people in the formal economy can go to court to defend their right to work, those in the informal economy should be protected from being unfairly deprived of their livelihood. As noted above, when we speak of “livelihood” we usually do so in relation to households or communities or indigenous peoples that depend on a range of resources that enable them to subsist. Examples are the Ogoni people in Nigeria, the Endorois in Kenya or the Bushmen (or San) in Botswana.

Box 5: Violation of the livelihood rights of the Ogoni people in Nigeria

In the case of the *Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria* (155/96), the ACHPR held that the Nigerian government, by failing to prevent the repressive conduct of its security forces, had subjected the Ogoni people to violations of a number of rights protected by the African Charter. The government's actions included preventing people from having access to the fields where they were cultivating crops.

Although the Commission made no direct reference to a violation of the right to work or livelihoods, it appealed to the government of the Federal Republic of Nigeria "*to ensure protection of the environment, health and livelihood of the people of Ogoniland [...]*."

Source: ACHPR case 155/96, see their website.

Box 6: Operation Murambatsvina in Zimbabwe

In May 2005, the government of Zimbabwe embarked on Operation Murambatsvina with the aim of clearing illegal informal businesses and residential developments. During the operation, traders were arrested and many people were evicted from their homes.

“The operation was executed with great speed and brutality...”, according to the UN envoy’s report, “and the informal sector has been virtually wiped out, rendering individuals and households destitute. 32,538 structures of small, micro and medium sized enterprises were demolished.” The operation rendered many people economically destitute.

“Most of the victims were already among the most economically disadvantaged groups in society, and they have now been pushed deeper into poverty and have become more vulnerable. In economic terms, the operation has destroyed and seriously disrupted the livelihoods of millions of people who were coping, however poorly, with the consequences of the prolonged economic crisis”.

Source: “*Operation Murambatsvina: Unlawful Forced Evictions; Crimes against Humanity; and Cruel, Inhuman or Degrading Treatment of the Poorest of the Poor Submission to the African Commission on Human and People’s Rights*” (ACHPR) 41st Session.

1.4.1 Slavery, servitude and forced labour

The right to freely choose a means of working or earning a livelihood also implies that no one should be forced to work in any way whatsoever.

> Slavery in all its forms has been prohibited since the 1926 Slavery Convention. The UDHR also provides that no one shall be held in slavery or > servitude. Servitude is a condition akin to slavery. Slavery is also prohibited under Article 8 of the ICCPR and Article 5 of the African Charter on Human and Peoples’ Rights.

In 1956 the Supplementary Convention on the Abolition of Slavery was adopted, to augment the Slavery Convention. This prohibits, amongst other practices, serfdom (where a tenant is bound to live and labour on land belonging to someone else), servile marriage (where, for example, a woman is promised in marriage without her consent) and child servitude (where a child is delivered to another person with a view to exploiting that child).

> Debt bondage, also known as indentured labour, is another form of servitude. This is where someone works without wages for a period of time, in order to pay off a debt. In colonial times, there was extensive use of indentured labour in many part of the world. Workers from India, for example, were brought to work in sugar cane plantations in Mauritius

and South Africa. These workers had to work without pay for however many years it took to pay the cost of their passage to Africa.



Modern forms of servitude might include vulnerable workers, such as migrant workers, or workers in domestic households or agriculture, who become indebted to their employer. Because these workers are not able to accumulate enough to settle their debts, and find better paid work, they are in effect held captive by the employer.

> Forced labour is also prohibited. This has been defined in ILO Convention 29 (Forced or Compulsory Labour) as “*all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.*” There are certain exceptions to the prohibition against forced labour, however. These include compulsory military service and prison labour. subject to appropriate safeguards.

The vulnerable workers mentioned above often work under threat of a penalty. It may be that the employer has the worker’s identity document or passport, and threatens to keep it. Or, in the case of unregistered migrant workers, it may be that an employer threatens to report them to the authorities. These forms of servitude are prohibited under international law. Forced labour is often also associated with human trafficking. Human trafficking occurs when people are transported across borders against their free will, in order to subject them to forced labour, often in the sex trade or as prostitutes.

A relevant standard is the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* (also referred to as the *Trafficking Protocol* or *UN TIP Protocol*).

Despite its prohibition, some forms of slavery still persist in Africa, particularly in the Sahel region. Mauritania was the last country in the world to abolish slavery. It did so in 1981 but did not make slavery a criminal offence until 2007.

Box 7: Modern day slavery in Mauritania

Despite the abolition and criminalisation of slavery in Mauritania, a Special Rapporteur from the UN Human Rights Council described situations akin to slavery and practices such as forced marriages, serfdom, and domestic servitude, involving men, women and children.

In some situations victims were “*completely controlled by their owner using physical and/or mental threats; could not independently make any decision related to their lives without their master’s permission; were treated as commodities – for example, girls being given away as wedding presents; lacked freedom of movement; and were forced to work long hours with very little or no remuneration.*” The methods of control used by masters “*including the use of religion have resulted in a deep-rooted acceptance of their inherited slavery status.*”

The Rapporteur, among other things, recommended legislative amendments and a holistic national strategy to combat slavery.

Source: *Mauritania: Report of Special Rapporteur on contemporary forms of slavery* (2010), Human Rights Council (5th Session).

The role of UN Special Rapporteurs is explained in the Main Book, Part I, Section 3.5.

Box 8: Forced labour in Eritrea

Eritrea’s national service scheme was originally conceived as an eighteen month period of public service. Now men and women are conscripted indefinitely under such harsh and abusive conditions that the scheme is regarded as representing a system of forced labour.

Nevsun Resources Ltd is a Canadian company that mines gold in Eritrea. It engaged a company owned by Eritrea’s ruling party to carry out construction work at its Bisha mine. This company utilised conscripts to do so. These conscripts were forbidden to leave the area of the Bisha mine without authorisation. One who did so, to attend the funeral of a grandparent, was captured en route and imprisoned for four months.

> *continued*

Source: *Hear No Evil: Forced Labour and Corporate Responsibility in Eritrea's Mining Sector* (2013). Human Rights Watch report. Available online at: www.hrw.org/sites/default/files/reports/eritrea01134Upload.pdf.

1.4.2 Child labour

Children are most vulnerable to human trafficking and forced labour. But even in circumstances that do not amount to forced labour, child labour is problematic. A child cannot be regarded as having the capacity to freely choose a means to earn a living, or to enter into a contract. Most people would also agree that a child should not be expected to earn his or her living, although it is generally in situations of dire poverty that child labour is most prevalent.

The Convention on the Rights of the Child (CRC) recognises the right of the child to be protected from economic exploitation, and from performing any work that is likely to be hazardous, or to interfere with the child's education, or in any way to be harmful to the child. The CRC has been ratified by every member of the United Nations except Somalia and the United States.

Box 9: A child labour monitoring system

A child labour monitoring system involves:

- Regular inspections to identify child labourers and the risks they face;
- Referring the child labourers to children's services;
- Verifying that employers no longer make use of child labourers; and
- Tracking the former child labourers after removal to ensure they have satisfactory alternatives.

Source: ILO website, Child Labour Monitoring. See online:

www.ilo.org/ipec/Action/Childlabourmonitoring/lang--en/index.htm.

Guidelines for developing Child Labour Monitoring (CLM) processes. Available online:

www.ilo.org/ipecinfo/product/viewProduct.do?productId=1500

The CRC also requires State parties to adopt measures to provide a minimum age below which children are not permitted to work, and to regulate the hours of work of children above the age limit. Both in terms of the CRC and many national constitutions, children have a right to education. Child labour often detrimentally affects their access to education, and their performance at school. However this would not preclude technical and vocational training being part of the school curriculum.

More information about the right to education can be found in the Haki Zetu handbook *The Right to Education*.

The ILO's Convention 138 (Minimum Age) addresses the question of the minimum age in some detail, and also obliges governments to pursue a national policy designed to ensure the effective abolition of child labour.

Ordinarily this minimum age must not be less than the age of completion of compulsory schooling, and in any event not less than 15 years. Where, however, the economy and educational facilities of a country are "insufficiently developed" a country may, initially, introduce a minimum age of 14 years.

In the case of work that is likely to jeopardise the "health, safety or morals" of the child, the minimum age should be not less than 18 years.

Child labour nevertheless persists in many African countries. ILO Convention 182 (Worst Forms of Child Labour), as its name suggests, targets the worst forms of child labour. These include:

- The sale and trafficking of children, forced labour and the forced or compulsory recruitment of children for use in armed conflict;
- The procuring or offering of a child for prostitution, or for the production of pornography;
- The use of a child for any kind of illicit activity, such as for drug trafficking; and
- Any work which is hazardous or likely to harm the health, safety or morals of children.

For more information, see the CRC's Optional Protocols on the use of children in armed conflict and the sale of children and child prostitution. In addition, see Appendix 3 for more specific child labour resources including toolkits.

Box 10: The fishing boys of Lake Volta, Ghana

The fishing boys of Lake Volta have been given away or sold by their often desperate parents and handed over to relatives or smooth-talking strangers who promise to teach the boys a trade and give them a "better life", the narrator of a recent documentary film relates:

"Removed from their families the fishing boys find themselves in the lake which will become their working place for their entire childhood life. They work 14 hours a day under the hot sun year in year out. They are given one small meal a day. Despite protection against child labour it is difficult to enforce the law in the area. Reliance is placed on skilled advocates to defend and rescue the kids".

Source: Narration from *"Not My Life: A film about slavery in our time. A story about the way the world is"*, directed by Robert Bilheimer (2011).

1.5 The right to work in a general sense

The ICESCR proclaims the right to work in a general sense. However, the ICESCR does not define the right in a detailed way, or say what must be done to realise the right (although the monitoring body - the CESCR - has provided some further guidance in General Comment 18).

The right to work in a general sense should not be understood as an absolute and unconditional right to obtain employment. Governments would, in any event, probably not be capable of providing jobs for all, considering that they depend to a greater or lesser extent on the private sector to provide jobs.

Most people would agree that the primary role of government is to create an environment in which jobs are created. But how governments should do so, and the extent to which they rely on the private sector (including foreign investors), is a question of political and economic policy.

Some, for example, focus exclusively on the role of the private sector in creating jobs. In order to stimulate the private sector, they argue, it is necessary to deregulate the labour market. Deregulation means removing regulations that are seen as burdensome, including labour regulations such as those which require firms to pay minimum wages, or which restrict the right of employers to dismiss their workers.

People holding similar views about deregulation also claim that collective rights exercised by trade unions are obstacles to individuals being employed, and violate the “right to work”. This argument has been particularly influential in certain states of the United States, which have become known as “right to work” states.

However the relation between regulation and employment is debatable. The global jobs crisis has demonstrated this. Unemployment in countries that have adopted policies of deregulation is in many instances as high, or higher, than countries that have not. It can also be argued that, as a result of deregulation, workers have less money to spend on goods and services. This in turn has contributed to reducing economic activity.

In any event, deregulation is hardly necessary when the market has never been effectively regulated in the first place. This is the case in many countries in Africa. One of the reasons is that governments lack the capacity to do so. This has a lot to do with > privatisation, another policy that promotes the private sector, and which is closely associated with deregulation.

The reality is that the private sector will only create jobs when it is profitable for it do so, and there is little likelihood that it will be profitable now or in the foreseeable future to create anything like the number of jobs the global jobs crisis requires. The only alternative

is for governments to do so themselves, or in partnership with the private sector and organisations like trade unions, cooperatives, NGOs and others (representing what is called civil society).

The ICESCR provides some guidance regarding what policies (as well as laws) governments should adopt, and how these policies should be applied in practice. It recognises, for example, the importance of technical and vocational guidance and training, which it sees as a means of fulfilling the right to work in a general sense.

The right to work in a general sense also implies that the labour market must be open to all who are resident in the country. Any form of discrimination in access to employment, whether on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability, health status, sexual orientation or like grounds would be a violation of Article 2 of the ICESCR. It would also be a violation of Article 2 of the ACHPR.

ILO Convention 111 (Discrimination (Employment and Occupation)) also requires countries to adopt “*a national policy designed to promote....equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.*”

1.5.1 Developing a policy to achieve full and productive employment

The ICESCR advocates policies and techniques that achieve “*steady economic, social and cultural development and full and productive employment...*” but does not clearly indicate how this is to be achieved. The ICESCR does require that a State uses the maximum of its available resources to realise ESC rights, including the right to work.

General Comment No. 18 of the CESCR also does not indicate how “*full and productive employment*” is to be achieved. Rather, it focuses on the process that should be followed in order to “*adopt and implement a national employment strategy and plan of action.*” It is through an effective strategy and action plan that the right to work in a general sense can be realised.

The process to be followed in adopting an employment strategy and action plan should be transparent and participatory. Specifically, employers’ and workers’ organisations should be included in the process. Workers’ organisations would obviously include trade unions.

However since such a strategy and action plan should be “addressing the concerns of all workers”, other forms of organisation, such as cooperatives and associations representing self-employed workers or small farmers, should also be included.

Box 11: Strategising and planning for “full and productive employment”

An employment strategy and plan of action to achieve “full and productive employment” should target disadvantaged and marginalised individuals and groups in particular. It should also include indicators and benchmarks by which progress in relation to the right to work can be measured and periodically reviewed.

While there can be no blueprint for such an employment strategy and plan of action, the following are amongst the topics that might be considered:

- The provision of technical and vocational guidance and training;
- The promotion of small business, or > small and medium enterprises (SMEs, sometimes also called small, medium and micro-enterprises, or SMMEs). This would include improving access to credit, and marketing support;
- The promotion of small-scale farming, including proper agricultural extension facilities, access to input and credit, and marketing support;
- The promotion of formal as opposed to informal employment, while recognising that many people working in the informal economy do so in order to survive;
- The promotion of not-for-profit organisations such as cooperatives and other self-help organisations that contribute towards the > social economy;
- > Public works programmes, particularly where targeted at the most disadvantaged; and
- The introduction of a universal basic income grant.

Even where governments have not adopted a formal employment strategy and plan, the right to work provides a basis for evaluating what steps governments have taken to promote “full and productive employment”, and how effectively these steps are being implemented.

Box 12: What is decent work?

The work that the right to work envisages must be decent work. Decent work is a concept developed by the ILO which it now regards as reflecting its main purpose. The concept involves productive and fairly paid work, proper conditions of work, prospects for personal development and freedom to organise and participate. Decent work is regarded as having four objectives, or pillars. In a recent formulation, these are described as follows:

- *“Creating jobs – an economy that generates opportunities for investment, entrepreneurship, skills development, job creation and sustainable livelihoods.*
- *“Guaranteeing rights at work – to obtain recognition and respect for the rights of workers.*

> continued

All workers, and in particular disadvantaged or poor workers, need representation, participation, and laws that work for their interests.

- *“Extending > social protection – to promote both inclusion and productivity by ensuring that women and men enjoy working conditions that are safe, allow adequate free time and rest, take into account family and social values, provide for adequate compensation in case of lost or reduced income and permit access to adequate healthcare.*
- *“Promoting > social dialogue – involving strong and independent workers’ and employers’ organisations, is central to increasing productivity, avoiding disputes at work, and building social cohesion.”*

Source: ILO Decent Work agenda, available online:

www.ilo.org/global/about-the-ilo/decent-work-agenda/lang--en/index.htm

At a national level, the ILO is seeking to implement these objectives by developing Decent Work Country programmes, and securing commitment to what it regards as its fundamental or core conventions.

This does not mean that the ILO is no longer concerned with countries ratifying its other conventions and recommendations. It does, however, represent an acknowledgment of the reality that developing countries do not always have the resources to comply with certain standards, or that certain standards are not as relevant to workers in developing countries, with high levels of informal employment.

The ILO's eight fundamental or core conventions can be found at www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm

1.6 Rights at work

Everyone has the right to “just and favourable” conditions of work, according to the ICESCR, while the ACHPR refers to “equitable and satisfactory” conditions. In both cases, this implies:

- Remuneration which provides all workers with fair wages, and equal remuneration for work of equal value without distinction of any kind;
- Safe and healthy working conditions;
- Equal opportunity for promotion;
- Rest, leisure and a reasonable limitation of working hours;
- The right to join a trade union; and
- The right of trade unions to function freely.

However, it is clear from the terms in which certain of these rights have been framed in the ICESCR that they were conceived with workers in an employment relationship in mind, and in some instances with workers in standard jobs in mind. It is only workers in an employment relationship, for example, who earn wages. It is difficult to see how a worker who is

> temporary or part-time (and therefore not in a standard job) would qualify for promotion. By the same token the right to join a trade union does not satisfactorily address the situation of own account workers wishing to join an organisation. Some trade unions would accept them as members, while others would not. This would depend first and foremost on the constitution of that trade union. But it might also depend on the labour legislation of that country.

Labour legislation in most countries only applies to workers in an employment relationship, and recognises trade unions as representing such workers. Rights that apply to trade unions, such as > collective bargaining, also presuppose that there is an employer who is accountable for the conditions under which workers work. Trade unions seeking to represent own account workers might therefore not be recognised in terms of existing labour legislation.

It is debatable whether the interests of own account workers are best represented by a trade union, or an organisation such as a cooperative or association. This should be a matter for the workers concerned to decide. The ILO's Convention concerning Freedom of Association and Protection of the Right to Organise, recognises the right of workers to establish and join organisations of their own choosing, without previous authorisation. "Workers' organisation" is a term that would apply to trade unions and other forms of organisation.

Rights at work are discussed below (Sections 1.6.1 to 1.6.6) under headings that are intended to cater for all workers. These are as follows:

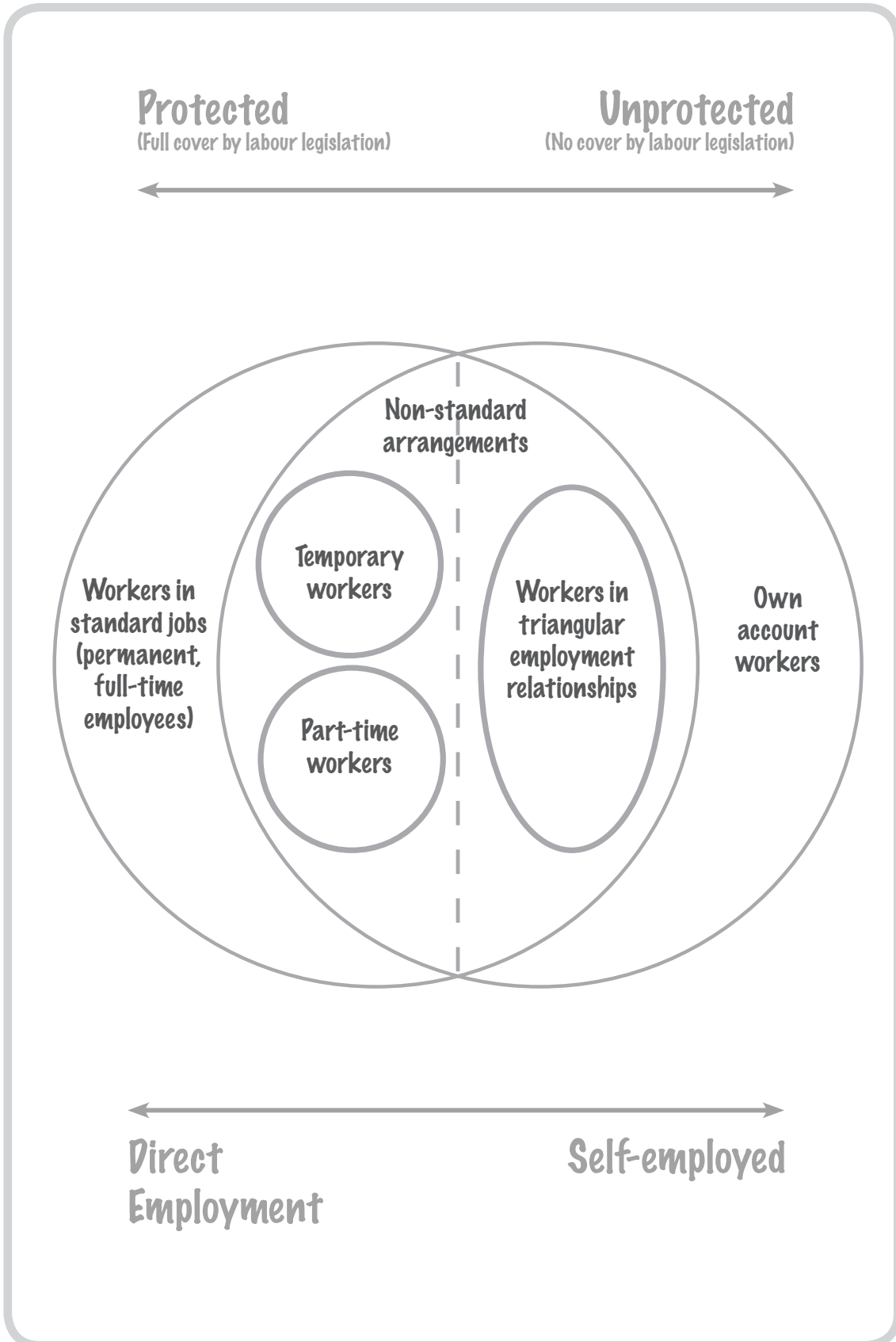
- The freedom of association and the right to organise;
- The right to bargain collectively;
- Income security;
- Conditions at work;
- The principle of equal treatment; and
- Security of employment.

These conditions or rights at work in principle apply to all categories of workers, which are outlined in Figure 1 (Categories of Workers), but they may apply differently to the different categories, based on national labour legislation. For the different categories, these rights are also still in the process of being rooted better in international and national laws. An example of a recent development is the ILO Convention concerning Decent Work for Domestic Workers (see Box 26).

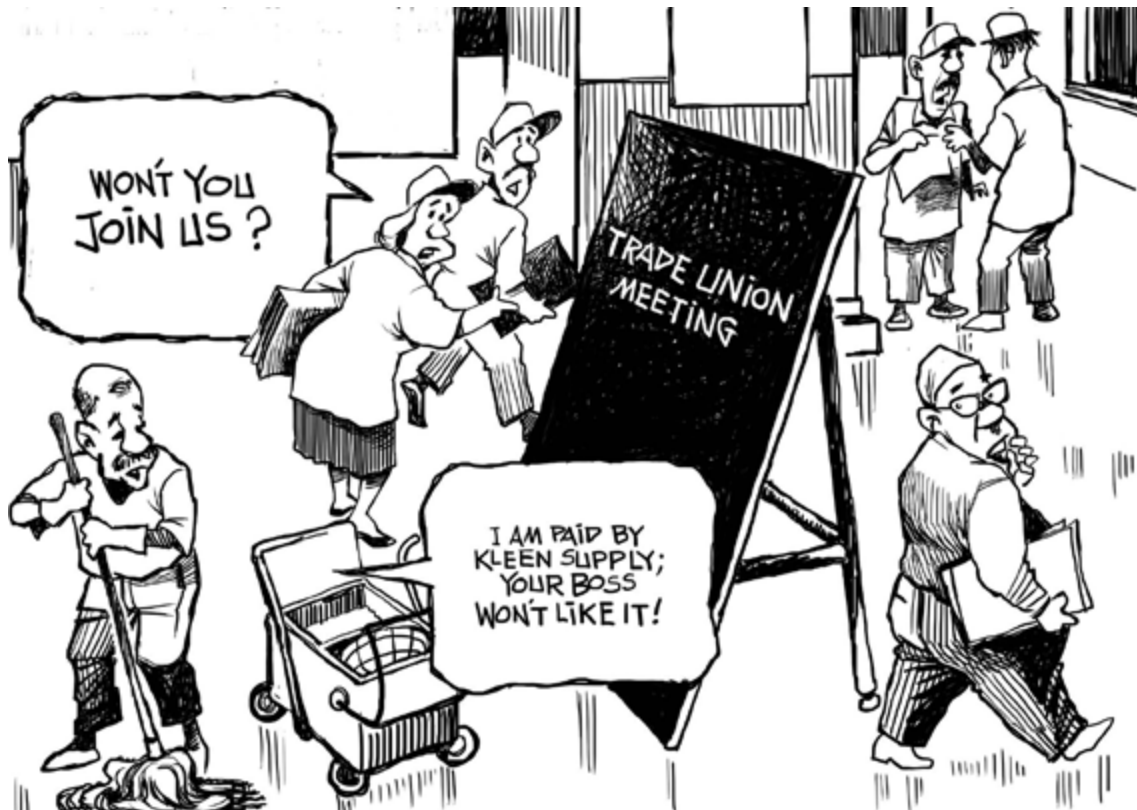
Apart from the main distinction between workers in an employment relationship and own account workers, there are two categories of workers that can be categorised collectively as non-standard:

- Temporary or part-time workers in a direct employment relationship; and
- Workers that are employed on a temporary basis to work for a client, which is sometimes called indirect employment, and sometimes called triangular (or trilateral) employment (because there are three parties to the relationship).

Figure 1: Categories of workers



However there are important differences between these categories of non-standard employment. Where workers are employed to work for a client, such as in the case of a cleaning service or security service, or agencies providing temporary workers (also known as labour brokers, or labour hire agencies) the question arises as to who is the real employer.



Another important difference between these categories of workers concerns the > workplace where they work. This is important, because this is where they associate with one another, and exercise their rights. Workers that are directly employed generally work in the workplace of their employer. In the case of workers in a triangular employment relationship, it will often be the workplace of the client, as in the case of the cleaning or security service, or an agency providing temporary workers.

In the case of own account workers, the workplace may be the home, or a public space that is not usually recognised as a workplace, like the street, or a marketplace, or a municipal landfill (rubbish dump). Because of the prevalence of own account workers in Africa, in this booklet the right to work extends to the right to a livelihood.

The following paragraphs explain in more detail about the different rights at work, and what they might mean for different categories of workers.

1.6.1 Freedom of association and the right to organise

ILO Convention 87 (Freedom of Association and Protection of the Right to Organise) is one of those that the ILO regards as fundamental. As already noted, it recognises the right of workers to join organisations of their own choosing. It also recognises the right of employers to do so, without previous authorisation.¹⁰

Workers' and employers' organisations are also entitled to draw up their constitutions and rules, and to elect their representatives "in full freedom". The public authorities are required to refrain from interfering with the exercise of this right. Workers' and employers' organisations may also establish or join > federations, or > confederations, and such federations or confederations may join international federations.

Freedom of association is also specifically protected in terms of the Universal Declaration, the ICCPR and the ICESCR, and there is a close relation between freedom of association and the right to freedom of peaceful assembly. In October 2012 the Human Rights Council adopted resolution 21/16, reaffirming its commitment to both these rights.

There are more detailed provisions regarding organisational rights in other ILO conventions, and the national labour legislation of some countries. The Labour Relations Act of South Africa is an example. These provisions include the following:

- The rights of access of trade union officials to their members at the workplace;
- A facility whereby the employer agrees to deduct members' subscriptions from their wages (sometimes referred to as stop-order, or check-off facilities);
- More detailed provisions regarding the election of representatives; and
- The right to information for the purposes of collective bargaining.

Labour legislation, as indicated, only applies to workers in an employment relationship. For this reason, the organisational rights it provides are only applicable to trade unions, although some of the rights could also be applicable to other forms of organisation. For example, where workers belong to a savings and credit cooperative (SACCO), workers might want their SACCO to have access to the workplace, as well as the facility to deduct subscriptions from the payroll.

The exercise of these rights will also be conditional on some proof that an organisation is representative. It is first and foremost through organisation in the workplace that an organisation becomes representative, because this is where the workers are associated.

It is therefore very difficult for workers in a triangular employment relationship, who are employed at the workplace of a client, to exercise certain organisational rights. That is because workers can only exercise their rights against their employer, but not against the client. The client controls the workplace where the workers work, and can easily refuse trade union officials access to the workplace, or prevent meetings being held at its workplace. The difficulty workers in a triangular employment relationship face in bargaining collectively is

discussed below. To begin to address these difficulties, workers need to know what the terms of the contract are between their employer and the client for whom they actually work. A right to information could help them to obtain disclosure of the relevant terms of this contract.

To learn more about the right to information, see the Main Book, Part I, Section 6.5.

A right to information would also be important for own account workers that are contracted to supply a global chain, or retailer (> retail). Such own account workers might be engaged directly by the global chain or retailer concerned, or they might be engaged through intermediaries, or a chain of intermediaries. To determine whether they are receiving a fair price, workers need to know the price for which the goods they produce are sold. Where there are intermediaries involved, they need to know how much the intermediaries are getting. One of the benefits of the cooperatives as a form of organisation is that it can take over some of the functions the intermediaries perform, and thereby enable producers to capture more of the value of what they produce.

Article 9 of the ACHPR provides that every individual shall have the right to receive information. National constitutions and laws may also provide for individuals to lodge requests for information needed for the exercise of their rights.

The exercise of freedom of association and organisational rights would also apply to a community or indigenous people, where it concerns the right to a livelihood. By the same token, it would apply to the unemployed. There are, for example, ongoing initiatives in South Africa to organise the unemployed. Organisations of unemployed people could play an important role in formulating policies to promote full and productive employment.

Box 13: Cocoa farmers in Côte d'Ivoire

Most of the world's cocoa is grown in West Africa, in particular in Côte d'Ivoire. There is also extensive use of child labour in the production of cocoa, with over 200,000 children employed in Côte d'Ivoire alone. One of the explanations for this situation is the low prices farmers are paid, many of whom are contracted to multinational companies such as Nestlé.

The use of child labour on farms that supply cocoa represents a serious risk to Nestlé's reputation. After increasing pressure, the company engaged an international NGO, the Fair Labor Association, to conduct an assessment of the extent of the problem. The report found "multiple serious violations" of the company's own supplier code. In response to this, Nestlé adopted a holistic plan to "root out" child labour.

This plan involves training farmers on implementing a supplier code to respect children's rights, improving productivity and strengthening farmer organisation through forming cooperatives, amongst other things. The rationale for doing so is that to eliminate child labour it is necessary to eliminate the conditions of economic deprivation which give rise to it. The plan also envisages raising social standards by, for example, building more schools. *> continued*

Sources: *Combating child labour in cocoa growing*, ILO 2005, *Addressing child labor in Nestlé's cocoa supply chain in Côte d'Ivoire*, 2012 (www.fairlabor.org)

1.6.2 The right to bargain collectively

The right of workers and worker organisations to bargain collectively regarding their remuneration and conditions of work flows from the organisational rights recognised by Article 8 of the ICESCR, which includes the right to strike. This right is also specifically provided for in a number of ILO Conventions, notably Convention 98 (Right to Organise and Collective Bargaining). This is one of the conventions the ILO regards as fundamental and has been ratified by 53 out of 54 African states.

Collective bargaining takes place between an employer and a trade union or workers' organisation representing the workers employed by that employer. It can also take place between more than one trade union or workers' organisation and an employer, or more than one employer. Where there are several employers involved, they may choose to be represented by an employers' organisation.

Collective bargaining can also take place at different levels. The most basic level is at individual workplace or plant, and hence sometimes referred to as plant level bargaining.



Collective bargaining is more complicated in the case of triangular employment. The cost at which these workers' employer will provide the service is agreed beforehand with the client. Even if the contract between their employer and the client does not specify the actual wages workers will get (it sometimes does), in effect it determines what their employer can pay. Arguably there is little point in bargaining with their employer over wages. The person workers need to bargain with is the client.

Box 14: Cleaning workers in the steel industry: a case of triangular employment

Cleaning is an integral part of the production process in any factory, and it sometimes involves hazardous physical labour. A case in point is a state-of-the-art steel mill in Saldanha Bay, South Africa, belonging to Arcelor Mittal, a TNC. Cleaning workers have to shovel molten slag (melted iron or steel that contains toxic substances). Whereas in former years this would have been done by workers employed by the steel mill, now it is carried out by a cleaning service.

The wages of workers employed by the mill are determined by a collective agreement with Arcelor Mittal. The cleaning workers, however, are not covered by this agreement. Although they work in the same workplace, under the supervision of Arcelor Mittal, they earn a fraction of what their counterparts earn. What they want is a wage equivalent to that which the workers that are directly employed earn.

Source: J. Theron, *"The Shift to Services and Triangular Employment: Implications for Labour Market Reform."* Industrial Law Journal, January 2008.

As already noted, there are increasing numbers of own account workers who are in an employment-like situation. Small growers who are producing under contract for a TNC are an example. Own account workers may be organised into associations or cooperatives. Some may belong to trade unions. Whatever the form of organisation, one of its objectives will be to increase the bargaining power of the members, both with any intermediaries who provide them with work, and with the bigger firms or TNCs for whom they ultimately produce.

There are endeavours to extend collective bargaining to relationships that are not employment relationships, such as the relationship between street traders who work for their own account and a local authority. An alternative view would be to argue that this is not collective bargaining, because the local authority is not accountable for the conditions under which workers work. It is simply a negotiation.

Box 15: Traders in Kinshasa bargain over the levies they have to pay

Historically, the dominant form of worker organisation has been the trade union, but trade unions can take different forms, and are having to adopt new strategies to cater for growing numbers that are self-employed. At the same time there are other kinds of organisations that aim to meet the needs of these workers. The street traders of Kinshasa illustrate a situation that exists in many African cities.

Kinshasa is the largest city in the Democratic Republic of the Congo, and it is estimated there are some 1.8 million people who are traders or vendors, some of whom operate in markets, and some on the streets, or from door to door. By law, traders are required to have a license to operate as such, for which they pay a fee. They also have to pay a levy to the government (instead of tax).

The traders are organised into a national union of Congolese vendors, “inter-professional” trade unions that organise workers in both the formal and informal economies and mutual associations which provide micro-loans and other services to them. When the levies were more than doubled in 2011, these organisations campaigned against the increase, and eventually succeeded in achieving a significant reduction in 2012. They also secured an agreement from the authorities that allowed them to establish a permanent consultative forum where local government would engage with these organisations regarding issues affecting traders, although it remains to be seen whether it will be effective.

Source: Streetnet International, 2012. Summary report: *Case studies of collective bargaining and representative forums for street traders*.

1.6.3 Income security (decent remuneration)

Where workers are organised, whether in trade unions or other organisations, one of their primary objectives is likely to be to provide income security to the members. Where workers are in an employment relationship, the primary means of providing income security will be through a minimum wage. In the case of own account workers, it must be secured through other measures (insofar as it is possible to do so).

Minimum wages

Where workers belong to trade unions, the ideal is to specify a minimum wage by way of a collective agreement. This can be done either by persuading the employer to agree to a specific wage (for example, so many shillings per hour, or per week, or per fortnight), or a specific increase in the wage (for example, an increase in the existing wage of so many shillings, across the board, or a percentage increase), or both.

Labour legislation in some countries provides for the extension of collective bargaining agreements to “non-parties”. Non-parties are employers and their workers in the industry or sector to which the agreement in question applies, who are not members of the employers’ organisation(s) or trade union(s) that negotiated the agreement.

In the clothing (or apparel) industry in South Africa, for example, wages are bargained collectively at an industry level and extended to non-parties. This has been very controversial (see Box 16). It is only in relatively few industries that this happens. Most collective bargaining in the private sector takes place at company or plant level.

However, most workers in most countries in Africa are not covered by collective agreements.

The other mechanism for regulating wages, and thus providing a degree of income security, is the determination of a minimum wage by the State.

This can be done by government introducing a national minimum wage. Alternatively, government can determine a minimum wage for workers employed in a specific sector. In either event, the approach advocated by the ILO in its Minimum Wage Fixing Convention (131 of 1970) is that there should be prior consultation between government and representative organisations of employers and workers.

A number of Francophone countries have introduced a national minimum wage, including Benin, Burkina Faso, Burundi, Cameroon, Côte d’Ivoire, Gabon and Niger. Countries that determine wages on a sectoral basis include Algeria, Angola, Ghana, Kenya, Madagascar, Malawi, Mozambique and South Africa.

Whatever approach is adopted, a minimum wage is only effective if it is enforced. This requires an effective inspection system. It is doubtful if many African countries have the capacity to enforce a minimum wage.

Other measures

The determination of minimum wages, whether by collective bargaining or the State, does not benefit own account workers. There are various ways in which own account workers can organise to enhance income security. These include:

- Negotiating better prices with buyers;
- Eliminating middle-men or intermediaries;
- Linking up with consumer organisations, such as fair trade organisations, to strengthen their bargaining position; and
- Forming SACCOs or rotating savings schemes for their members.

There is a close relation between the provision of income security and the provision of social security.

Box 16: The clothing industry in Southern Africa

The clothing or apparel industry was once a major employer in South Africa, especially of women, and for many years wages have been bargained centrally, between the trade and an employers' organisation. However there has been a long-standing problem of small firms that are not members of the employers' organisation refusing to pay the same wages. Mention has already been made of how some firms "converted" their workers from employees to "independent contractors", so as to pay lower wages (see Section 1.1, "Who is really independent?").

The clothing industry is now in crisis. On the one hand it cannot compete with the industry in countries in the East like China, Bangladesh and Cambodia. On the other hand there are still small firms that refuse to pay the wages agreed upon. Many are located in the province of Kwazulu Natal in South Africa, not far from Lesotho and Swaziland, and there are also bigger employers that are relocating across the border, to Lesotho and Swaziland. The minimum wages in these countries are a fraction of what the employers must pay South African workers. It seems the only way to address this problem is to develop a regional approach.

Box 17: The relationship of the right to work to the right to social security

Article 9 of the ICESCR recognises "*the right of everyone to social security, including social insurance.*" In terms of CESCR's General Comment No. 19, social security encompasses the provision of benefits, whether in cash or in kind, to provide for nine social risks, or contingencies, which it refers to as the nine principal branches of social security. These are as follows:

- Health care;
- Sicknes;
- Old age;
- Unemployment;
- Employment injury;
- Family and child support;
- Maternity;
- Disability; and
- Survivors and orphans.

Social insurance refers to a contributory scheme, in terms of which workers and their employers are both required to contribute to a fund for the benefit of the employees, in the event of ill health or reaching retirement age, for example. Sometimes, the government also contributes to such funds.

> *continued*

However contributory schemes of this kind generally presuppose that workers are employed in jobs that are full-time and ongoing “standard jobs”, in other words. Non-contributory schemes that provide universal coverage (which benefit everyone who experiences a particular risk or contingency) or targeted social assistance schemes (where benefits are received by those in a situation of need) are thus needed to provide coverage to those who do not belong to contributory schemes.

It can be argued that the need for non-contributory schemes is even greater, given the global jobs crisis. One form of non-contributory scheme that has been suggested, which its proponents argue would create jobs and help sustain livelihoods, is a basic income grant.

Others argue that such a grant is not fiscally (economically) sustainable, and in order to extend social security coverage what is needed are self-help measures, such as community-based or mutual schemes. SACCOs are a popular form of self-help scheme in many African countries.

It follows from the above that there is a close relationship between the right to work and livelihoods and the right to social security, and General Comment No. 19 recognises all the above schemes, as well as privately run schemes, as acceptable ways of fulfilling the right to social security.

General Comment No. 19 also emphasises the importance of the right in guaranteeing human dignity for all persons, and the role of social security in alleviating poverty and promoting social inclusion.

The African Charter does not specifically provide a right to social security, but the African Commission’s “Principles and Guidelines on ESC Rights” found, in Paragraph 65, that the right “... can be derived from a joint reading of other rights in the Charter ...”

Source: CESCR General Comment No.19

(http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f19&Lang=en) and www.achpr.org/instruments/economic-social-cultural/.

1.6.4 Conditions of work

“Conditions of work” is a broad concept, covering a wide range of issues affecting workers in the workplace. These include the following:

- Occupational health and safety;
- Working hours;
- Paid holidays;
- Public holidays;
- Work at night;
- Sick leave; and
- Maternity protection.

Article 7(b) of the ICESCR emphasises the right of all workers to safe and healthy conditions at work, and nearly half of ILO instruments deal directly or indirectly with occupational health and safety. The Occupational Safety and Health Convention (155 of 1981), for example, requires countries to adopt a coherent occupational health and safety policy.¹¹ It specifies steps to be taken by governments, and within firms, to reduce incidents of occupational health and safety, as well as procedures for the recording and notification of such incidents.

Most countries have separate legislation dealing with occupational health and safety.¹² Sometimes there is one law dealing with all aspects of health and safety. This is the case in Uganda, Kenya and Libya. In other countries, such as Egypt, Ethiopia, Tanzania and Tunisia, there are various laws dealing with different aspects of health and safety.¹³

For more information, Haki Zetu's The Right to Health booklet also contains information on healthy workplace environments.

The other conditions of work may be dealt with by national labour legislation, either by establishing a minimum “floor of rights” that applies to all workplaces, or by introducing separate regulations in respect of workplaces in different sectors. Agriculture, for example, is often dealt with differently from other sectors, or is not dealt with at all.

Whereas the right to safe and healthy conditions should apply to all workers, whether or not they are in an employment relationship, national labour legislation concerning hours of work, paid leave and the like may only apply to workers in an employment relationship. This would exclude own account workers, who are self-employed, and are therefore regarded as being able to determine their own work hours and other conditions of work. In reality, this may not always be true.

It is also debatable whether provisions like hours of work and paid leave should apply in situations in which workers work collectively, such as in a producer (or worker) cooperative. In a genuine worker cooperative, the workers who are the members own the enterprise. This can be regarded as a form of collective self-employment, in which the workers determine collectively their own work conditions. The members may regard these conditions as decent even though they do not conform with labour legislation.

In these circumstances there could be a provision for exemption from the legislation. On the other hand, bogus (fake) worker cooperatives can be formed by persons wishing to evade labour legislation or collective agreements, as has happened in the clothing industry in South Africa (see Box 16).

As with much else regarding the right to work, the solution to this problem depends on the one hand on effective organisation, and on the other hand on effective enforcement by the State.

Box 18: Occupational health and safety on mines: Tilwezembe mine in the DRC

Much of the mining in the Democratic Republic of the Congo is done by artisanal miners, working with hand-tools. There are between 70,000 and 150,000 miners in Katanga province alone, producing copper and cobalt. This is sold by miners to intermediaries who export it, mainly to China.

These miners work in extremely dangerous conditions, usually without safety equipment. Tilwezembe mine, near Kolwezi, is an example. There are frequent injuries and sometimes fatalities as a result of landslides, falling boulders and asphyxiation (lack of oxygen) due to inadequate ventilation. Although these injuries and fatalities are supposed to be reported, in practice it seems this seldom happens. Miners complain that they receive no support from government when they are hospitalised.

The Democratic Republic of the Congo has ratified a number of human rights treaties and ILO conventions, including the Labour Inspection Convention 81. But it appears the government's capacity to meet its obligations is very limited. What is needed to bring about safer conditions is pressure from those who rely on the minerals these miners produce.

Source: Amnesty International. *Profits and loss: Mining and Human Rights in Katanga, Democratic Republic of the Congo*. 2013.



Box 19: ILO Convention 81 (Labour Inspection Convention 1947)

A labour inspector is someone employed by government to secure the enforcement of laws relating to the conditions of work and protection of workers. In terms of Convention 81, an inspector may freely enter a workplace at any hour of day or night, without notice, to establish whether the laws are being complied with.

The Convention states that governments must appoint sufficient inspectors to discharge their duties, taking into account the number of workers liable to be inspected, and their size (amongst other things). But not all workplaces are liable to inspection. Mining, for example, may be exempted (although this is covered by a separate treaty, the Safety and Health in Mines Convention No. 176).

1.6.5 The principle of equal treatment

Article 7 of the ICESCR stipulates that there should be “*equal remuneration for work of equal value without distinction of any kind ...*” This is also the object of ILO Convention 100 on Equal Remuneration which is regarded by the ILO as a fundamental convention.¹⁴ Article 7 also emphasises the importance of “*women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.*”

Inequality of treatment at work nevertheless persists and not just between men and women but also on the basis of race, ethnicity, disability and other arbitrary grounds. There are other specialist international treaties dealing with issues of discrimination, which have been ratified by most African states. These include the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of People with Disabilities (CRPD).¹⁵

Although discrimination and prejudice is due to various social and historical circumstances, the global jobs crisis and increasing global inequality have created fertile ground for it to grow. The use of triangular or indirect employment has had an important role in increasing inequality in the workplace. It camouflages gross inequalities between the workers of an employer contracted to provide goods and services to a firm, and the workers of that firm, which is typically a bigger firm or TNC.

These inequalities are most stark where workers of different employers are working side by side in the same space, doing work of equal value. Typically this is the workplace of the client firm. For workers employed by different employers to get equal remuneration for work of equal value, they need to be organised.

The case of the steel-mill in Saldanha Bay, South Africa, is an example of this (see Box 14). The “cleaning” workers are really lesser skilled workers doing heavy, and potentially hazardous, physical work. However, because Arcelor Mittal is not their employer, it does not have to disclose to anyone the conditions under which they work, and the fact that they are treated differently from the workers of Arcelor Mittal.



Box 20: Exploring the Gender Pay Gap: the case of Ethiopia

Ethiopia has committed itself to gender equality and empowerment of women, and ratified the UN Convention on Elimination of All Forms of Discrimination against Women (CEDAW). One of the first practical steps to achieving equality is to identify the extent of the gender pay gap.

Using data from the 2005 Ethiopia Labour Force Survey, one study found that female wages in Ethiopia represent about 55 percent of male wages. Even in the public sector, women tend to earn on average 30 percent less than men.

A variety of measures are needed to promote gender equality in pay including long-term investment in education and creating a working environment that fosters gender equity. In the interim, measures to enforce anti-discrimination legislation are needed, combined with an institutional framework supporting wage equity.

Source: Alexandra Kolev and Pablo Suarez Robles. *Exploring the Gender Pay Gap through different age cohorts: The Case of Ethiopia* (2010) GDALM 55-8.

1.6.6 Security of employment

The exercise of any rights at work is difficult when there is no security of employment - where workers can be dismissed for no valid reason, and without due process.

The ILO's Termination of Employment Convention (158 of 1982) provides that an employer may not terminate an employment relationship "*unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service.*"¹⁶

The Main Book's glossary defines due process as "appropriate legal procedures and safeguards to ensure that a person or persons are not deprived of their rights".

A reason related to capacity would, for example, relate to poor performance, or where the worker is no longer able to work due to ill-health, and his or her condition is permanent. A reason related to conduct might be the breach of a rule in the workplace, such as theft, or breach of a safety procedure. Sometimes it is not easy to draw the distinction between conduct and capacity: for example, where a worker is repeatedly late, due to a health problem.

As regards due process, the Convention provides that a worker must be given an opportunity to defend himself or herself against an allegation of misconduct or incapacity. This implies some form of hearing. However there are circumstances in which the employer cannot reasonably be expected to do this. This would be the case where a worker absconds, or simply does not report to work, and does not explain the reasons for his or her absence. Normally a period of days should have elapsed before a worker could be regarded as having absconded.

A termination for "operational requirements" concerns a situation in which the employer is obliged to lay off (or > retrench) workers due to economic circumstances, or to shut down altogether. Because this situation is not due to the conduct or capacity of the workers, it is sometimes termed a "no-fault" dismissal.

The procedure to be followed in this instance entails consultation, rather than a hearing, with the workers affected, and with a trade union, if available. The purpose of the consultation is both to consider the reasons why dismissal is contemplated, and whether there is anything that can be done to avoid dismissal - the workers might agree to work short-time, for example - as well as the basis on which workers have been selected, which should be objective and fair. National labour legislation may prescribe an amount of > severance pay that is due to each worker in this situation, as well as the minimum period of notice that must be given.

A worker will be considered unfairly dismissed where there is either not a fair reason for dismissal, or a fair procedure has not been followed. The Convention recommends that national labour legislation also provides for the establishment of an independent body to

which workers can appeal, such as a tribunal. It also provides for rules that make it easier for a worker to prove his or her case.

However, a right not to be unfairly dismissed only applies to workers in an employment relationship (“*engaged under a contract of employment*”, as the Convention puts it). The right also applies primarily for workers who are in a direct as opposed to an indirect, or triangular, employment relationship. In a triangular employment relationship, a client firm can terminate the employment of a workforce engaged in providing it with goods or services without dismissing them.

For example, any client who employs a security or cleaning firm can terminate the engagement in terms of the contract between them. Even though this may result in the loss of jobs of the workers actually providing the service, the client is currently not obliged to provide the workers with a reason for termination, or consult with them, because the client is not their employer in law. The relationship between the client and an employer providing goods and services is seen to be of a commercial nature, and labour legislation does not apply.

This is not a problem that is adequately addressed in Convention 158, which excludes workers engaged under a contract of employment (in an employment relationship) for a specified period or for a specified task. Employment for a specified task is especially problematic, because the task can be defined in vague terms that permit the client to decide when it is completed.

Just as the relationship between a client and an employer providing goods and services is seen as commercial, so too is the relationship between own account workers and those whom they supply. However where, for example, small farmers are contracted to produce for a single buyer, the relationship is akin to employment. In other words, the termination of such a contract would have no less devastating consequences than the termination of a worker’s employment.

The consequences may even be more devastating, where a small farmer and his or her family depend on a livelihood in farming, and have no alternative sources of income. Although the small farmer may have a legal claim against the buyer who terminates the contract, it is likely to be limited. In all likelihood the contract has been drafted by lawyers in the hire of the buyer, that knows all too well how to protect their client’s interests.

The rules that make it easier for a worker who has been dismissed to prove his or her case would also not apply to a small farmer whose contract has been terminated. However in this and like cases it could be argued that the government is obliged to protect workers against infringements by third parties, in terms of the provisions of the ICESCR.

1.7 Groups in need of special protection

The CESCR's General Comment No. 18 identifies specific groups of workers that are in need of special protection. The groups below are not necessarily the only groups of workers in need of protection (in some cases, ethnic and religious groups are also vulnerable).

There are also other ways to categorise groups in need of special protection: for example by identifying vulnerable sectors, such as domestic workers, or by identifying forms of > non-standard employment, such as temporary or part-time work.

1.7.1 Women

Women workers play an important role in several sectors in Africa, such as agriculture. However, much of the work they do is unacknowledged and unpaid, or only paid in kind. For example, women often maintain the household, and care for children, the elderly and sick. They may also participate in gardening or house-building and, particularly in rural areas, fetch water from rivers or wells. Women are also often employed in sectors which pay low wages, such as in the case of clothing (apparel) manufacture (see Box 16).

The ICESCR requires that governments undertake to “*ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights*”. This requires a comprehensive system of protection to combat gender discrimination. This should include ensuring equal pay for work of equal value and forbidding dismissal on grounds of pregnancy. Women's opportunities for employment should also be enhanced by addressing their lower access to education and certain cultural norms.

It is also particularly important that women workers are organised, and adequately represented at all levels in worker organisations.

1.7.2 Young persons

Both globally and in Africa, the youth have perhaps been harder hit than any other group by the global jobs crisis. Young people make up a high proportion of those who are unemployed, or without decent work. This situation has also contributed to social upheavals in many countries, notably in Tunisia and Egypt.

In Africa, young people aged between 15 and 25 represent more than 60 percent of the continent's total population and account for 45 percent of the total labour force.¹⁷ Yet there are high levels of illiteracy amongst them, especially amongst young women. Many have few or no skills and unemployment levels are high. Vocational training is often advocated as a means to integrate youth into the labour market, but it is unlikely that any single intervention will be sufficient to do so. What is needed is a comprehensive plan to promote youth employment for both girls and boys.

See Checklist 4 for more information on vocational training.

1.7.3 Children

In the context of youth employment it becomes even more indefensible to have children of school-going age working and being economically exploited. The question of child labour is discussed in 1.4.2 above.

See Checklist 6 for more information on child labour.

1.7.4 Older persons

Older persons are entitled to enjoy the same rights as others, but are particularly at risk in times of economic recession or hardship. Special measures may be needed to protect them, in the realm of protecting their rights to work, their rights at work, and their social security (see Box 17).

1.7.5 Persons with disabilities

To benefit from a right to work, persons with disabilities must be able to access work and the workplace. The ideal is that workplaces must be adjusted so as to accommodate workers with disabilities.



1.7.6 Migrant workers

Throughout its history, Africa has experienced important migratory movements, both voluntary and forced. However, the nature and dynamics of migration has changed. In this regard, it is necessary to distinguish different categories of migrants.

While it is important to acknowledge that there are internal migrants (citizens who move from one locality to another in the same country), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPRAMW)

defines a migrant worker as a person who is engaged “in a remunerated activity” in a country of which she or he is not a national. It also distinguishes between documented and non-documented migrants, in other words migrants that are in a country with the requisite approval of its government and those that are not.

Migrant workers are obviously a highly vulnerable group, and particularly non-documented workers. In terms of the ICPRAMW, no migrant workers may be held in slavery or servitude, or required to perform forced or compulsory labour. Migrant workers shall also enjoy no less favourable treatment than applies to nationals in respect of remuneration and conditions of work. Where there is a minimum wage in force, for example, it should apply to migrant workers.

Box 21: A Migration Policy Framework

To address the challenges posed by migration, the AU has adopted a Migration Policy Framework. This provides guidelines on several issues relating to migration, including labour migration. It recommends that governments incorporate into national legislation the provisions of the two ILO Conventions dealing with labour migration as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (to check the ratification status, see http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4&lang=en).

The ILO conventions dealing with labour migration are the Migration for Employment Convention, No. 97 of 1949, which has been ratified by ten African countries (Burkina Faso, Cameroon, Kenya, Madagascar, Malawi, Mauritius, Nigeria, Tanzania and Zambia) and the Migrant Workers (Supplementary Provisions) Convention, No. 143 of 1975 (ratified by Burkina Faso, Cameroon, Kenya, Togo and Uganda).

The AU Framework also recommends that States:

- Promote greater participation of social partners and relevant civil society organisations in the development and implementation of labour migration policies;
- Take measures to ensure equal access for labour migrants and nationals to employment and proper working conditions;
- Combat discrimination and xenophobia (fear or dislike of people from other countries) through civic education and awareness-raising activities; and
- Provide social protection and social security benefits for labour migrants while working abroad and/or upon their return.

See African Union. *The Migration Policy Framework for Africa*, Executive Council, Ninth Ordinary Session, 2006, Banjul, Gambia, Available at: www.unhcr.org/4d5258ab9.html



Section 2: Preparing to take action

This section describes what needs to be done before taking action to realise the right to work and livelihoods. Civil society and human rights workers need to study government obligations and national laws and policies, and understand their own role and the role of the private sector. A framework for doing so is given below. Then, the Section contains an imaginary case of a violation, that can be used to apply the framework. Finally, activists will need to develop strategies to take action.

2.1 Identifying government obligations to realise the right to work and livelihoods

Governments that have formally agreed to implement international human rights treaties have the obligation to respect, protect and fulfil the right to work and livelihoods. To learn more about the international and African treaties and declarations, reference can be made to Annex 1.

An explanation of the obligations to respect, protect and fulfil is given in the Main Book, Part I, Section 4.1.

Obligation to respect

The obligation to respect the right to work means that governments should amongst other things:

- Ratify the fundamental conventions of the ILO;
- Prohibit forced or compulsory labour;
- Refrain from depriving anyone of their work or livelihood in an unfair or arbitrary way;
- Refrain from any activity or practice that unjustifiably restricts the right of anyone to work or to a livelihood, and in particular persons belonging to a disadvantaged or marginalised group in need of special attention (see Section 1.7 above);
- Prevent any form of discrimination in, and promote equal access to, employment; and
- Respect the right of all workers to “just and favourable” (or “equitable and satisfactory”) conditions at work.

Obligation to protect

The obligation to protect means that governments should:

- Prevent third parties (such as private employers, or companies or individuals) from unfairly or arbitrarily depriving any person(s) of their work or livelihood;
- Protect the right of workers to associate with one another and form organisations to advance their interests;

- Safeguard the autonomy (independence) of workers' and employers' organisations;
- Ensure that forums exist where workers' organisations and employers or employers' organisations can negotiate or discuss matters of mutual interest;
- Adopt legislation or take other measures ensuring equal access to work and training and to ensure that privatisation measures do not undermine workers' rights. (Specific measures to increase the flexibility of labour markets must not render work less stable or reduce the social protection of the worker.);
- Prohibit forced or compulsory labour by non-State actors (private entrepreneurs and companies);
- Establish an adequately staffed labour inspectorate to monitor compliance with rights at work; and
- Establish an inexpensive and accessible system to resolve or adjudicate allegations of non-compliance.

Obligation to fulfil

The obligation to fulfil concerns what governments should do to facilitate, promote and provide the right.

According to General Comment No. 18, paragraph 26, the State is obliged to “*recognise the right to work in national legal systems and to adopt a national policy on the right to work as well as a detailed plan for its realisation.*” States should ensure that the policy is relevant by inviting comments and suggestions from employers' organisations, workers' organisations and organisations of civil society.



The objectives of such policy should be to stimulate economic growth and development, raise standards of living, meet human resource requirements and reduce unemployment.

This policy could include provisions such as:

- Details regarding the measures government intends to adopt in order to ensure that jobs that are generated are sustainable;
- Details regarding resources to be allocated to reduce the unemployment rate, in particular amongst women and other groups in need of special attention;
- A review of the extent to which rights at work apply to disadvantaged or marginalised categories of workers, and where amendments to the relevant legislation are needed;
- Establishing, or taking appropriate measures to establish, a compensation mechanism in the event of loss of employment;
- Establishing, or taking appropriate measures to establish, public or private employment services such as training centres, vocational guidance centres or placement services at the national and local levels;
- Establishing mechanisms to address alleged violations, such as courts or human rights commissions. These should be accessible and affordable;
- Creating public awareness of the right to work through, amongst other measures, educational and informational programmes; and
- Providing technical and vocational guidance and training to its citizens.

Obviously, the above policy measures would need to be implemented and applied in practice, for example by allocating resources for reducing unemployment, establishing employment services, so that they can be monitored by the engaged actors.

Box 22: African Union policies and plans to promote employment

The African Union (AU) has undertaken a number of initiatives to increase employment in Africa. The 2004 “Ouagadougou Declaration and Plan of Action on Employment Promotion and Poverty Alleviation” required governments to “*include employment creation as an explicit and central objective of their economic and social policies.*” In 2011 the AU developed a “Social Protection plan for the Informal Economy and Rural Workers (SPIREWORK)”. The signatories agreed to “*place employment creation as an explicit and central objective of our economic and social policies at national, regional and continental levels, for sustainable poverty alleviation and with a view to improving the living conditions of our people.*”

These policies and plans can be found online at:

www.africa-union.org/EMPLOYMENT/declaration%20on%20employment%20and%20poverty%20alleviation.pdf ; and

www.au.int/en/sites/default/files/SA4543_SPIREWORKFinal_English.doc

2.2 The right to work and livelihoods in national legislation

A number of African countries' constitutions recognise the right of everyone to freely choose a means of earning a livelihood, which is sometimes described as the freedom to choose a trade or occupation or profession (the freedom to work). See some examples in Box 23 below.

Also, 53 out of 54 African countries have ratified the ILO's two fundamental conventions on forced labour and 51 countries have ratified the two fundamental conventions dealing with child labour, namely the Worst Forms of Child Labour and Minimum Age Conventions. As indicated in Section 1.3, 44 countries have ratified the ICESCR.¹⁸

Eight African countries explicitly recognise a right to work in their constitutions, but in some countries this is linked to a duty to work. A number of other countries recognise aspects of the right to work, such as that work must be freely chosen, without referring to the right to work as such. Examples of these constitutions are given in Box 23 and Box 24.¹⁹

All countries have labour legislation that regulates conditions at work. However, as indicated, labour legislation only applies to workers in an employment relationship. In general, labour legislation also does not adequately address the situation of workers in non-standard employment, especially workers in a triangular relationship. Governments would need to develop separate policies and laws to tackle problems of workers in non-standard employment.

Box 23: Some national constitutions that explicitly provide for a right to work

Angola (2010): Article 76 *"Work shall be the right and duty of all citizens." "Every worker shall have the right to fair pay, rest, holidays, protection, health and security at work, in accordance with the law"*.

Benin (1990): Article 30 *"The state shall recognise for all citizens the right to work and shall strive to create conditions which shall make the enjoyment of this right effective and shall guarantee to the worker just compensation for his services or his production."*

Cameroon (1996): Under the preamble to the Constitution *"Every person shall have the right and the obligation to work"*.

Cape Verde (1992): Article 58 *"Work shall be a right of every citizen. The State shall have the duty to create the necessary conditions for the effective realisation of such right."*

Central African Republic (2004): Article 9 *"The Republic guarantees to each citizen the right to work, to rest and to leisure with respect to the demands of national development. The Republic assures to them favorable conditions to their blossoming by an efficient employment policy."*

> continued

Democratic Republic of the Congo (1990): Article 31 *“Work is a sacred right and duty. The State shall guarantee the freedom to work. Every citizen shall have the right to be compensated according to his work and his capacity. For the same work, a woman shall have the right to the same salary as a man.”*

Morocco (2011): Article 13 *“All citizens have equal rights to education and work.”*

Mozambique (2004): Article 84 *“Work shall be a right and a duty of every citizen. All citizens shall have the right to freely choose their profession. Forced labour shall be prohibited, except where the work is performed within the framework of penal legislation.”*

Source: www.kituoachakatiba.org

National constitutions of all countries in the world can be read, searched and compared at www.constituteproject.org

Box 24: Some national constitutions that provide for aspects of the right to work

Many countries have constitutions that prohibit all forms of slavery and forced labour: for example **Botswana** (1966), **Gambia** (1996), **Ghana** (1992), **Namibia** (1998), **Nigeria** (1999), **Zambia** (1996) and **Zimbabwe** (1991).

In addition to the prohibitions against slavery and forced labour, the constitutions of **Kenya** (2010), **Malawi** (1994) and **South Africa** (1994) provide for a “right to fair labour practices.”

Liberia (1986) provides in Article 18 for equal opportunity for work and employment for all workers. Similarly, **Morocco** (1996) provides in Article 13 that all citizens have equal rights in seeking employment.

Mozambique (1990) provides in Article 51 that *“labour shall be protected and dignified and shall be the driving force of development.”*

Rwanda (2003) provides in Article 37 that *“every person has the right to free choice of employment. Persons with the same competence and ability have a right to equal pay for equal work without discrimination.”*

The country that arguably goes furthest toward recognising a right to work in a general sense without mentioning it in so many words is **Ethiopia** (1994). Article 14(6) provides that the State must *“devise policies designed to create employment of the poor and unemployed; issue programmes designed to open up work in the public sector and undertake projects.”* Article 14(7) provides that the State *“take necessary measures to*

> continued

expand the opportunities of citizens to engage in gainful employment” and, in Article 14(8) that “peasants shall have the right to be paid a fair recompense for their produce which would enable them to progressively attain an improved standard of living and in proportion to their productive contribution to the national wealth ...”

Mali is an example of a country that refers to a duty to work. Article 19 of the constitution (1992) provides in that *“the rights to employment and furlough [leave] are recognised and shall be equal for all. Every citizen has a duty to work but one may only be restricted to specific employment in the case of fulfilment of a service of exceptional public interest, equal for all according to the conditions defined by law.”* The existence of a duty to work raises the question whether such a duty can be reconciled with the requirement that work should be freely and voluntarily chosen.

Source: www.kituoachakatiba.org

National constitutions of all countries in the world can be read, searched and compared at www.constituteproject.org

2.3

Understanding the role of non-State actors

Important non-State actors include the following:

- Employers in the private sector;
- Employers’ organisations or organisations representing companies or other persons operating in the private sector, such as trade associations;
- Larger firms and TNCs that contract with small growers to produce for them, or with small firms to provide them with goods and services; and
- Trade unions and other civil society organisations (who of course have a fundamental role in ensuring respect for the right to work).

Governments have the obligation to ensure that all non-State actors respect the right to work, and to take all necessary measures to safeguard workers from infringements of the right to work by third parties, including from the unlawful termination of employment.

It is also important that non-State actors acknowledge their own role and responsibilities in creating jobs and providing non-discriminatory access to work. As well complying with the relevant legislation, they should comply with > codes of conduct and other appropriate measures promoting respect for the right to work, agreed between the government and civil society. Civil society has a role to hold government and the private sector accountable for what they signed up to.

Box 25: Corporate social responsibility, codes of conduct and global framework agreements

Corporate social responsibility (CSR) refers to policies and practices of employers (including TNCs) on issues affecting their social and environmental impacts and relationships in the workplace, the marketplace, the supply chain, the community, and the public policy realm. This includes measures such as not polluting the environment and taking good care of employees, consumers, suppliers, local communities, policymakers, and society-at-large. CSR policies often include a code of conduct on employment matters, or a commitment to comply with such a code.

Sometimes groups of employers also adopt a code of conduct. An example is the Good Practice Guide towards indigenous people adopted by the International Council on Mining and Metals (ICMM), a body whose members include nineteen of the world's leading mining companies.

The problem with such codes is, firstly, that they are voluntary. Secondly, as the ICMM code illustrates, it defines the issues dealt with in the code. There is only passing mention that companies “*need to ensure that labour standards are being met*”, and no indication as to what these standards should be. The only reference to ILO Conventions is to its convention on Indigenous and Tribal People (No 169). There is no mention of the right of miners to belong to autonomous organisations or trade unions.

Presumably the reason that TNCs and large enterprises adopt such codes is to safeguard against allegations that they have violated human rights. The relation of human rights to business was the subject of an investigation by a special advisor to the UN Secretary-General. This gave rise to the so-called Ruggie Framework, and subsequently, in 2011, to the adoption of the UN Guiding Principles on Business and Human Rights. These principles seek to clarify the obligations of businesses in complying with international human rights standards, and of States to enforce them. Although the Principles fall short in some areas, notably accountability and the right to a remedy for victims affected by business-related human rights abuses, they are a significant step forward in strengthening corporate responsibility.

Another way to promote “corporate responsibility” is through > ethical trade codes, or fair trade codes. These are codes that are established by NGOs, which accredit firms that comply with their standards. These NGOs also monitor compliance with the standards.

However, agreements negotiated with organisations representing workers are arguably preferable to codes of conduct. In this regard, > global trade union federations (GUFs) representing different national trade unions in a sector have entered into agreements with

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a variety of TNCs about the way in which such TNCs treat their workers, or deal with trade unions, for example. These agreements are known as > global framework agreements (GFAs). An example is the agreement that the global trade union federation in the retail and services sector, UNI, has entered into with the South African retail chain Shoprite. This agreement provides a framework for relations between the trade union and the employer in the seventeen African countries in which Shoprite is established. A 2010 study found that there were 74 GFAs of which 55 had operations in Africa.

Sources and resources:

ICMM *Indigenous Peoples and Mining; Position Statement*, May 2013. and *Good Practice Guide*, 2010. Both available online at www.icmm.com/publications

The Ruggie Framework. Available online:

www.unglobalcompact.org/docs/issues_doc/human_rights/A.HRC.17.RES.17.4.pdf

The Business and Human Rights Resource Centre. Available online:

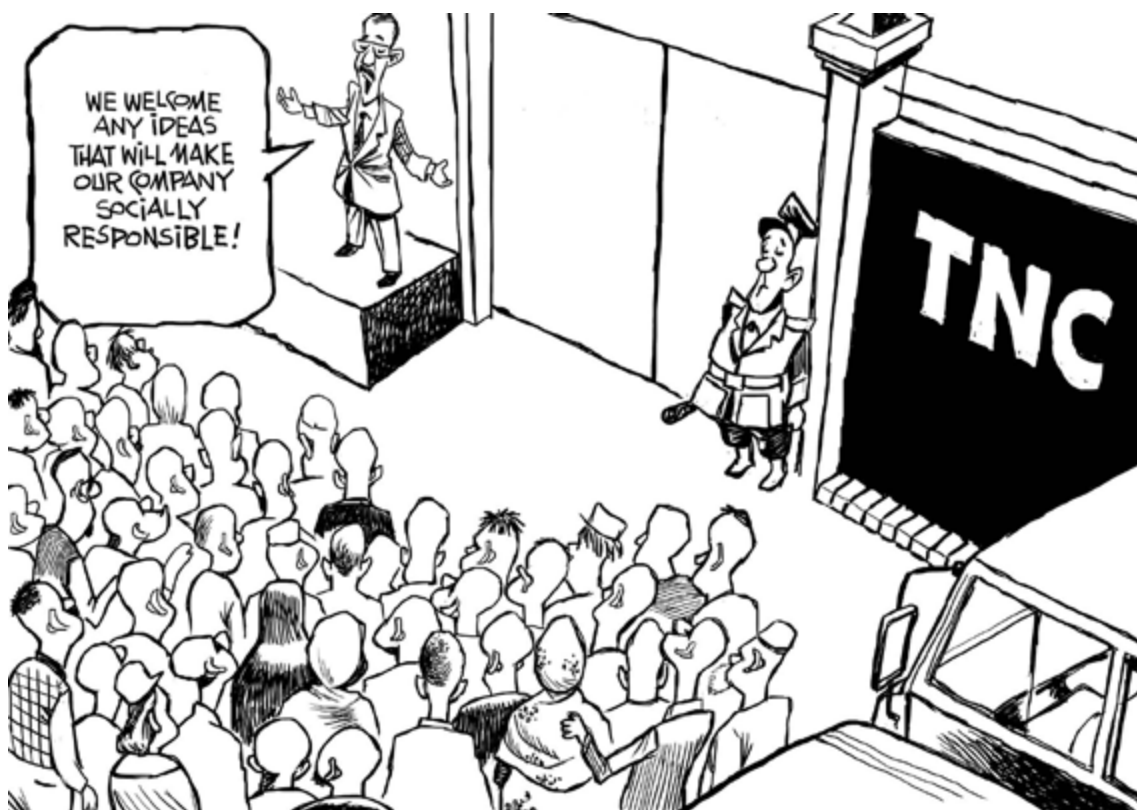
www.business-humanrights.org/Documents/Labour

Global Framework Agreements for Africa – Using the Space Created. 2010. Labour Research Service, Cape Town. Available online:

www.global-labour-university.org/fileadmin/GLU_conference_2011/papers/Michelle_Taal.pdf

GFAs for different sectors can be found online at:

www.global-unions.org/framework-agreements.html?lang=en



2.4 Identifying violations of the right to work and livelihoods

A violation of the right would occur where government fails to respect, protect and fulfil the right. Examples of such violations of the right are listed in Box 3.

A distinction should be drawn, however, between the inability and the unwillingness of governments to comply with their obligations in the above regard. An example of the inability of a government to comply with its obligations might be where the government argues it has insufficient resources to do so. The validity of such an argument would depend on an evaluation of what resources a government has at its disposal, and how their resources are allocated.

Similarly, there is a distinction between violations through acts of omission (failure to act) and acts of commission (deliberately causing harm). For example, a violation through acts of omission might occur where government fails to prevent individuals or groups or corporations from violating the right of others due to insufficient regulation. An appropriate intervention might be to advocate that government enlists the support of workers' organisations or employers' organisations to remedy such a situation.

Violations through acts of commission will generally be more serious, and might include the following:

- Forced labour;
- The repeal or suspension of legislation necessary for continued enjoyment of the right to work;
- Denial of access to work to particular individuals or groups, whether in terms of legislation or practice; or
- The adoption of legislation or policies which are manifestly incompatible with international obligations in relation to the right to work.

Case Study: Identifying violations of the right to work and to a livelihood

For more information on identifying human rights violations, see the Main Book, Part I, Section 4.6.

The following case study, which is based on a news report, explains the process of analysing a situation in order to determine:

- Whether the government has failed to fulfil a specific obligation and, if so;
- Whether this amounts to a human rights violation.

The aim is to challenge readers to test their ability to identify human rights violations.

Summary of the main points of the issue:

- About 80 women workers have been employed by a fish processing factory called BigFish. BigFish supplies frozen fish to a large company called Mega Stores, a global retail chain.

- The women have elected a committee to take a memorandum setting out their complaints to management. The women have complained that:
 - They earn less than their male colleagues although they do exactly the same work and process the same quantities of fish;
 - They work in a very cold warehouse and some have suffered from coughs and frozen fingers;
 - Workers have to buy their own protective clothing;
 - Their (male) supervisor uses abusive language;
 - The cost of living has risen but BigFish has refused to pay them more. However, the men who work for BigFish have been given a rise in salary;
 - When they fall ill, the workers lose their benefits and “sick certificates” are not accepted; and
 - The women have to “clock out” when they want to use the toilet. This means that the time spent in the toilet is taken off the time that they have worked for the day.
- When their committee asked to meet the company management, it refused. The committee then took a day’s leave, to travel to the nearest office of the Department of Labour. The official whom they spoke to accepted their memorandum, but told them he could do nothing to assist them, because they were not members of a registered trade union. When they went back to work the next day, the members of the committee were told they were dismissed. Although no reason was given, the workers believe the Department of Labour official they saw phoned their manager about their visit.
- The women got in touch with a local NGO, who found out that Mega Stores had signed up to an ethical trade code, which included equal remuneration for work of equal value, safe and healthy working conditions and fair treatment of workers.

Exercises:

- Review the government obligations at stake
 - Which obligations to respect apply?
 - Which obligations to protect apply?
 - Which obligations to fulfil apply?
- Identify areas that need further research
 - What additional information must be gathered about the issue, from the women workers, from the factory and from the retail chain?
 - Which national laws and policies apply? Which articles/sections can be used to advocate for the rights of the women?
 - Which are the responsible ministries and government bodies?
 - Which regional or national standards apply?
 - What other information can be gathered about the ethical trade code?
- Assess whether or not there have been violations of the right to work or a livelihood. On the basis of the above information and with reference to elements of the right to work and a livelihood, assess whether the government may be accused of:
 - Failing to take concrete targeted steps to realise the right;

- Failing to provide adequate working conditions;
- Failing to provide information services and complaints mechanisms; and
- Failing to prevent or take action against gender discrimination.

2.5 Developing strategies for action

The Planning Box at the end of the Main Book, Part II, suggests steps that are necessary for identifying and planning strategies for action. These steps are:

- Identifying the problem(s), setting goals and objectives;
- Developing a plan of action;
- Gathering information;
- Claiming and defending rights; and
- Evaluating the project and developing a follow-up plan.

While identifying the problem(s), it is crucial to find out and analyse whether and how they relate to ESC rights and especially right to work issues, and to focus action strategies to address those issues.

In identifying and planning strategies for action with workers, it is important to understand which groups of workers different organisations represent, and how representative they are in fact. It would be advisable to have the broadest process of consultation possible, involving all sections of the working population.

A wide range of organisations and institutions are concerned with work and employment, as well as government, the AU, the ACHPR, and the ILO. Organisations representing employers and workers are generally seen as representing opposing interests. Where there are different organisations representing employers, on the one hand, and workers, on the other hand, the different organisations of employers will generally have more in common with one another than with any workers' organisation, and vice versa. It is for this reason that employer and worker organisations commonly form some form of federal structure.

However, different worker organisations may also represent different interests, for example where members are predominantly skilled, or predominantly male, or from a particular racial or ethnic group. Where worker organisations represent a section of the workforce in any particular industry or sector, it may give rise to problems unless other workers are organised.

The situation where there is an organisation that only looks after the section of an industry or workforce which it organises, and which fails to help other workers organise, tends to lead to greater inequality. Both trade unions and cooperatives subscribe to values of solidarity, to counter this tendency.



Section 3: Actions to realise the right to work and livelihoods

This section suggests ways to work with communities and worker organisations, including organisations of own account workers or small growers, to realise the right to work and livelihoods. See also the Main Book, Part II, Section 3.

Different types of action include:

- Raising awareness of the right;
- Doing a survey among communities and worker organisations to find out about the problems they face regarding the right to work and a livelihood;
- Supporting communities and worker organisations' efforts to advocate for appropriate policies and laws on the right to work and a livelihood;
- Monitoring compliance with international law and standards;
- Monitoring the implementation of legislation and policies relevant to the right to work and livelihoods;
- Working to realise the right through self-help activities and organisation; and
- Bringing violations of the right to work to the attention of the relevant government authorities. Where there is a clear violation of the right to work, and if the national authorities fail to act, CSOs could approach relevant regional or international complaint mechanisms. See the Main Book, Part II, Sections 9 and 10.

3.1 Promoting and protecting the right to work and livelihoods

In Section 1 it is explained that the right to work should be understood to comprise three parts: the freedom to work, the right to work in a general sense, and rights at work. There is thus a need to create greater awareness not only of the international law and standards that underpin the different components of the right to work, as outlined in this booklet, but also their relationship to one another.

Activities that would promote a better understanding of the right to work include:

- Identifying instances in which existing legislation and policy is failing to give effect to international law and standards, or to strike an appropriate balance between supporting the different components of the right to work in terms of attention and funding;
- Engaging with workers' organisations, NGOs, CBOs and government agencies regarding what is an appropriate balance;

- Obtaining from the ILO a copy of its decent work country programmes for the country concerned. If there is none, find out why, and also find out whether there is any regional decent work programme (a regional decent work programme is, for example, being discussed for the Southern African Development Community, SADC);²⁰
- Assessing to what extent the decent work country programme (or regional programme) fulfils the objectives of decent work, and engaging with the ILO regarding this assessment;
- Lobbying for a transparent employment policy or strategy that upholds the right to work and other related rights (particularly in terms of the provision of decent work) and which strikes an appropriate balance between the different components of the right to work; and
- Working with workers' organisations and communities to ensure that policy or strategy is decided in a participatory and inclusive manner.

Decent work country programmes are listed on the ILO website at www.ilo.org/public/english/bureau/program/dwcp/countries/



Monitoring the balance between different components of the right to work and various stakeholders

There are of course different ways to look at the question whether legislation and policy is striking an appropriate balance between the different components of the right to work. Usually, however, it will boil down to a question of resources, both human and financial.

It may be argued, for example, that too many resources are being allocated to protecting rights at work, and not enough resources are being allocated to creating employment opportunities, or to countering human trafficking. Equally, the converse may be argued. However, both arguments need to be backed up by concrete evidence. Civil society organisations should obtain the required data and case evidence to back up their arguments for a better implementation of the right to work.

It may also be argued that too many resources are being allocated to particular rights at work, or rights that benefit a particular section of workers, and not enough to others. These are complex debates. They become even more complex if the need to extend rights to own account workers is acknowledged, or workers in the informal economy, as well as the need to provide better protection to workers in non-standard forms of employment.

How best to protect workers that are not covered by legislation, or not adequately covered, is also a matter of debate. One of the questions that arises in this context is whether separate legislation is needed, or whether existing legislation can be extended to cover such workers. Worker organisations often like the idea of one law for all workers. But this may not always be feasible or desirable, given that particular groups have particular needs.

It would not be appropriate to extend legislation regulating the hours of work or leave, for example, to own account workers. By the same token, legislative provisions that are suitable for full-time workers may not provide adequate protection to part-time workers. Different kinds of provision are sometimes needed for different kinds of workers.

Box 26: International policy documents on the informal economy

The AU Social Protection Plan for the Informal Economy and Rural Workers 2011-2015 (SPIREWORLD) aims at *“Promoting Employment for Social Cohesion and Inclusive Growth”*. It reconfirms a key priority area of the Ouagadougou Plan of Action on Employment Promotion and Poverty Alleviation (September 2004): *“Extend increased coverage of social protection to the informal sector of the economy”*.

The SPIREWORLD plan states, in paragraph 8, *“For countries with large informal economies, one of the highest priorities is social protection for the workers in that sector. Basic safety measures and human relations management can quickly produce tangible results in terms of productivity and profits - and help them to move to the formal economy.”*

The ILO report *“Decent Work and the Informal economy”*, (Report VI, International Labour Conference, 90th Session, 2002) also contains valuable information on promoting the right to work in the informal sector.

The ILO Convention Concerning *Decent Work for Domestic Workers* (Domestic Workers Convention, No. 189) is a concrete example of bringing greater formality to a sector that is usually regarded as part of the informal economy. Under this convention, domestic workers are entitled to the same basic rights as those available to other workers, including weekly days off, limits to hours of work, minimum wage coverage, overtime compensation, social security and

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information on the terms and conditions of employment. In Africa, some countries including South Africa and Mauritius have ratified the convention. Others like Zambia and Tanzania have raised the minimum wage for domestic workers. A landmark court ruling in Kenya in December 2012 placed domestic workers under the protection of the labour law, extending to them the national minimum wage and social security benefits. For an overview of global progress, see: http://web1.hrw.org/sites/default/files/content_downloads/stories/HRW_ilo_dw_convention_map.pdf

It would not be appropriate to extend legislation regulating the hours of work or leave, for example, to own account workers. By the same token, legislative provisions that are suitable for full-time workers may not provide adequate protection to part-time workers. Different kinds of provision are sometimes needed for different kinds of workers.

It is useful in the above regard to draw a distinction between legislation and policy, or what is sometimes also described as a distinction between “hard” and “soft” law. A code of conduct is an example of “soft” law. Sometimes a distinction is also drawn between a policy and strategy, or action plan.

Legislation can be regarded as giving effect to policy, which may or may not be formal (written). However, introducing legislation is often a long drawn out process, particularly where there are competing interests, as is the case with workers and employers. Legislation sometimes also has unintended consequences.

Although there is no substitute for legislation in terms of giving recognition to workers’ rights, it is less likely that legislation will have unintended consequences where a clear policy has been established, and there is no uncertainty about what it is the legislation seeks to achieve. It is generally also easier to change policies than it is to legislate. A strategy or action plan can be regarded as giving effect to a policy.

Soft law includes guidelines, codes of conduct and declarations, including UN General Comments. These can be taken into account by a national court but they are not directly enforceable.

Challenges

Employers in general, and TNCs in particular, prefer less rather than more regulation. They are therefore likely to be resistant to any law or policy that extends protection to more workers. On the other hand, workers in standard jobs and their trade unions are scared of losing what protection they have, particularly in the context of the global jobs crisis. Arguments that too many resources are allocated to rights at work are likely to provoke a negative reaction, and be counter-productive, where they are intended to cut existing entitlements.

There is no easy way to overcome these challenges, and what solutions can be found will depend on the circumstances in each country. To start with, however, different kinds of workers need to be organised, and able to voice their interests through their

own organisations. Only then can there be meaningful social dialogue with government, employers and others, regarding policies and laws aimed at realising a right to work and livelihoods for all.

Freedom of association and the right to organise are the basis on which organisations can be formed, but the mere fact that organisations exist does not mean they in fact voice the interests of their members, or that social dialogue will be meaningful. As with any other membership-based organisation, it is possible that trade unions may be hijacked by leaders pursuing their own interests, or the interests of a specific section of members, or they may be manipulated to pursue the government's main interests.

Non-governmental organisations can play an important role in this regard, in conjunction with government, by scrutinising how representative organisations in fact are, and by ensuring that any process of social dialogue is as open and as inclusive as possible.

3.2 Monitoring the right to work and livelihoods

There is a variety of policies and laws relevant to the right to work, as well as international standards. It is necessary to monitor how policies and legislation are implemented in practice, to understand how limited resources can best be applied to realise the right to work and livelihoods. Investigation (or fact-finding) can take place at the same time.

This Section includes a number of checklists for monitoring different aspects of the right to work.

Box 27: Using human rights indicators to monitor the right to work

Human rights indicators are used to monitor the way States fulfil their human rights obligations. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has published "*Human Rights Indicators: A Guide to measurement*". This provides indicators for monitoring the right to work in Table 8, page 95. This document is available at: www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf

Box 28: How to use checklists

Checklists should be used in collaboration with worker organisations and members of the community, following the advice in the Main Book, Part II, Section 5.

Note that:

- The checklists do not cover every situation nor do they cover every aspect of a situation;
- Not all issues and questions in the checklist will be relevant in all situations, and readers should make their own selection; and
- Sometimes it may be necessary to develop a new checklist to monitor a specific situation or problem, such as whether migrant workers are able to access rights at work in the same way that nationals of the country may.

Use Appendix 1 to find relevant extracts from international or regional human rights standards, or ILO conventions.



Checklist 1. Monitoring the right to work in a general sense and the freedom to work

The aim of this checklist is to gain an overview of national legislation and policies on the right to work. This will be useful for working on more specific aspects of the right to work in other checklists and action tools in this Section.

There is no blueprint that countries can follow in order to realise the right to work and livelihoods, and the factors to be taken into consideration in monitoring the right will depend on the circumstances of each country. However, these should include a consideration of the following:

- How coherent and credible is the national employment policy in giving effect to the right to work and livelihoods;
- Whether the policy was developed in a transparent and inclusive manner (whether or not employers' and workers' organisations and CSOs were involved); and
- How the policy deals with groups identified as being in need of special attention.

It is convenient to deal with issues relating to the freedom of work in the same checklist, since violations of the freedom will also affect the credibility of an employment policy. It is therefore necessary to identify:

- Instances in which individuals or communities are arbitrarily or unfairly deprived of work or their livelihood;
- Whether any form of slavery, servitude or forced labour exists, and where it is located;
- Whether there is child labour, and what forms it takes (see also Checklist 6); and
- Any other violations of the freedom to work.





Tasks

Check 

1. Initial preparation - Find out about the law and policies

Find and read:

- The relevant provisions of the constitution, and laws and policy relating to the right to work, the right to freely choose work, and prohibiting slavery or servitude, forced labour and child labour 
- Relevant international standards the State has adhered to (see Appendix 1 

Check

- The ILO's decent work country programme (see Side Box on page 61), other relevant news articles, academic papers, NGO reports and websites
- Laws and policies that give the ages for compulsory schooling and the minimum age for work, as well as any other laws or policies that impact on the right to work in a general sense
- Ethical trade codes relevant to products the country produces
- Global framework agreements with TNCs operating in the country (see Box 25)

2. Participatory research: monitoring the extent to which the government is carrying out its policies and identifying problem areas

Talk to workers in a specific area or industry, for example, factories, farms, the retail trade, construction, social services (for example nursing) to find out what problems people face, such as:

- Bad working conditions, poor wages, lack of union rights
- Any activity or practice that unjustifiably restricts the right of anyone to work or to a livelihood, and in particular persons belonging to a disadvantaged or marginalised group
- Child labour

With respect to the relevant international standards, national policy legislation and policy documents, find out:

- The steps the State has taken to realise the right to work and livelihoods as described in periodic reports to the CESCR and the Universal Periodic Review
- Whether the national employment policy mainstreams decent work (see Box 12)
- Whether the laws relating to the minimum age are enforced
- Whether the government complies with the ILO's decent work country programme and whether there is a system for evaluating how the programme is working
- Where ethical trade codes apply (see Box 25)
- Which are the government departments responsible for the laws and policies in question, at both national and regional level

For more information on the Universal Periodic Review, see the Main Book, Part II, Section 10.1.3.

3. Participatory research – Determining whether national employment policy is balanced

Policies are balanced when they properly address the circumstances for different categories of workers. Together with worker organisations and the community, try and find out:

- What proportion of the workforce are workers in an employment relationship?
- In which sectors (for example, retail) are these workers located?

Check

- What proportion of these workers are in standard jobs, and in what sectors are they located? If possible, provide a gender breakdown
- What proportion of these workers work part-time, and in what sectors are they located?
- What proportion of these workers are temporary (including seasonal work)?
- What proportion of temporary workers are placed by agencies, for example, temporary employment agencies?
- Are such agencies regarded as the employer of temporary workers they provide to a client in terms of national laws or policies (as in the case of Namibia and South Africa)?
- What proportion of the work force are own account workers?
- In which sectors are these own account workers located?
- What proportion of own account workers have employees of their own? To what extent do they rely on unpaid family labour?
- What proportion of own account workers are under contract to large enterprises or TNCs?
- In what sectors do ethical trade codes apply (see Box 25)?
- Are there migrant workers from other countries and in what sectors are they located?
- With reference to the different kinds of employment outlined above, what kinds of employment does the government promote or encourage?
- What resources are allocated to promoting own account workers or small enterprises or cooperatives in terms of such policy?
- What resources are allocated to safeguarding rights at work in terms of such policy?

4. Monitoring the State's obligation to respect and protect the right

Related to State officials (obligation to respect):

Answers to the following questions should contain details of the type of violation.

- Are there individuals or communities that have been deprived of their work or livelihood in a manner that might violate their right to work or a livelihood?
- Are there persons or individuals who are compelled to work for the State? (See Section 1.4.1)
- To what extent do laws or policies apply to all workers, and which categories of workers are excluded?
- Does the State respect equal access to job opportunities and career growth as an employer in the public sector?
- Have any laws been repealed or amended with the effect that workers' rights have been restricted or removed?
- Have any laws been passed that advanced workers' rights?

Related to Non-State actors (obligation to protect):

- Are there non-State actors that are depriving person(s) or communities of their work or livelihood through arbitrary or discriminatory actions or policies?
- Is there a problem of debt bondage, and where is it located?

Check

- Are non-State actors directly or indirectly complicit in the employment of child labour?
- Have non-State actors signed up to ethical trade codes in the sectors in which they operate?
- What is the State doing to regulate non-State actors, and rectify any violations by them? Are there adequate inspection and complaints systems in place? Can victims obtain effective remedies?

For more information on effective remedies, see the Main Book, Part I, Section 4.7.

5. Monitoring the State's obligation to fulfil the right

- Has the State adopted or implemented a national employment policy?
- Have other relevant policies been adopted and implemented, such as a specific child labour or migrant workers' policy?
- Does the policy clearly spell out the steps that it is obliged to take to implement this policy?
- Does the policy set out benchmarks or indicators to assess whether the policy has been implemented? Are these benchmarks or indicators attainable?
- Has there been an appropriate allocation of public funds to give effect to the national employment policy?
- Is there a compensation mechanism in the event of loss of employment?
- What employment services (public or private) have been established at the national and local levels?

6. Analysing results and taking action

In collaboration with worker organisations and community members:

- Identify and record any human rights violations
- Identify the main areas where government policy is being properly applied or where it is failing to protect workers' rights
- Identify the appropriate authorities that can receive complaints, look up their rules, and submit any complaints
- Develop an advocacy and lobbying strategy
- If remedies are not available locally or nationally, send information to the appropriate regional office of the ILO or to the CESCR

Addressing the specific needs of vulnerable groups – a survey

Apart from the above checklist, a special survey could be undertaken to find out what governments do to promote employment for specific groups.

Even where governments have not adopted a formal employment strategy and plan, the right to work provides a basis for evaluating what steps governments have taken to promote “full and productive employment”, and how effectively these steps are being implemented.

One way to find out what the government has done would be to carry out a survey in a community or commercial area and to gather the opinions of different groups, for example women, school leavers, small farmers, or members of a minority ethnic group to find out:

- What the local authorities have done to identify groups where unemployment is high;
- What jobs are available for low income groups;
- What policies the authorities have for increasing work opportunities;
- What resources have they allocated to the different groups and with what result;
- What resources are allocated to commercial companies; and
- What information do they provide about the availability of jobs or training opportunities.

Identify the specific problems that these groups have in finding work.



Checklist 2. Monitoring freedom of association, organisational rights and collective bargaining

These rights, and the different types of associations, were explained in Section 1.6.



Objectives

Where workers are organised they are able to be consulted about legislation and policies. They will also be the first to know whether legislation and policies intended to protect rights at work are effective. Worker organisations may also bargain for conditions of work tailored to their specific situation. It is therefore important to identify:

- Whether freedom of association exists for all workers;
- What rights exist for organised workers and their organisations (organisational rights), and if there is a right to strike; and
- Whether collective bargaining takes place, and at what levels.



Tasks

Check 

1. Initial preparation - Find out about laws and policies

Obtain and read:

- The relevant provisions of the constitution regarding freedom of association, and laws and policies relating to organisational rights for trade unions
- Laws and policies relating to violations of freedom of association, including victimisation (some countries have special procedures that apply where people are intimidated or harassed for exercising their freedom of association, or where their employment is terminated)
- Laws and policies relating to other kinds of organisations, including both associations operating as enterprises (cooperatives) and non-profit associations
- Laws and policies relating to collective bargaining
- Find out which government departments are entrusted with enforcing the laws
- Reports, news articles, academic papers, NGO reports and websites relating to the above
- Ethical trade codes

Identify aspects to monitor, such as:

- Violations of the freedom of association

Check

- Limitations on membership of worker organisations (trade unions, cooperatives etc.)
- Whether worker organisations are autonomous (for example, if they are funded by their members or, if they depend on the State or donors, whether or not they elect their own leadership, etc.)
- How accountable the worker organisations are to their members
- Whether worker organisations display solidarity with other workers, in particular vulnerable workers, and other worker organisations
- Whether ethical trade codes have relevant provisions, and if they monitored (for an example, see after this checklist)

2. Participatory research – Mapping the organisations in the target area

Together with worker organisations and community members, try to find out:

- Are there trade unions?
- Which categories of workers do trade unions represent (standard or non-standard) and in what sectors?
- What policies do they have toward:
 - Non-standard workers (part-time or temporary)?
 - Workers in the informal economy or own account workers?
- Are such workers recruited as members? If so, what structures within the trade union exist to cater for their needs?
- Do trade union officials have a right of access to their members at the workplace of their employer
- Are trade unions entitled to have members' subscriptions deducted by the employer?
- Do trade unions have a right to certain information from the employer, such as the end-destination of products they produce?
- Do trade unions bargain collectively with employers, and if so, at what level: plant level, the level of the company or at industry level?
- Do trade unions have an umbrella body, for example a federation?
- How autonomous/independent are the trade unions?
- Are there organisations representing own account workers? If so, what kind of organisations are they (for example, cooperatives or associations), and why?
- How autonomous are these organisations of own account workers?
- In what sectors are organisations of own account workers located? Do separate organisations exist to cater for workers in a specific sector?
- How influential are these organisations? Are they able to secure cheaper inputs for their members, for example fertiliser at a reduced price, or better prices for their members' goods or services? Does the government listen to what they say?
- Is there an umbrella organisation for own account workers (for example, a secondary or tertiary cooperative)?
- Do workers have access to savings and credit cooperatives (SACCOs), and does national legislation and policy facilitate membership of such cooperatives?

Check

3. Monitoring the State's obligation to respect and protect

Regarding the State:

- What kinds of workers are unable to form organisations (for example, police officials or migrant or seasonal workers)? What measures are being taken to enable them to do so?
- Are violations of the freedom of association investigated?
- Are the systems of registration of worker organisations fair?
- Is there a procedure whereby their organisational rights can be enforced? If so, is it accessible, and is it effective?
- What restrictions are there on the right to strike, and are they reasonable?

Regarding non-State actors:

- Is there evidence of non-State actors denying freedom of association or organisational rights in a coordinated way, or as a result of collective decisions? If so where and in what sectors is this taking place?

4. Monitoring the State's obligation to fulfil

- Are steps being taken to extend rights to workers that are currently unprotected, or not adequately protected?
- Have mechanisms (such as courts or a national human rights commission) been established to respond to violations of freedom of association?
- Are these mechanisms accessible and affordable?
- Are there educational and information programmes aimed at promoting organisations representing own account workers?
- Is there a cooperative development policy? Or any other policy promoting own account workers (in different sectors) to organise themselves?

5. Analysing results and taking action

In collaboration with worker organisations and community members:

- Identify and record any human rights violations
- Develop an advocacy and lobbying strategy

Box 29: Ethical Trade Code for the Kenyan cut-flower industry

An ethical trade code has been adopted for the cut-flower industry in Kenya. Employers accredited in terms of this code undertake, amongst other things, that:

1. Employment is freely chosen.
2. Regular employment is provided.
3. Child labour shall not be used.
4. No discrimination is practised.
5. Living wages are paid.
6. Working hours are not excessive.
7. Working conditions are safe and hygienic.
8. No harsh or inhumane treatment.
9. Freedom of association and right to collective bargaining are respected.
10. Management systems are responsible for compliance with this base code.

Source: www.unisa.ac.za/contents/colleges/col_econ_man_science/ccs/docs/Opondo.pdf



Checklist 3. Monitoring rights at work



Objective

The objective of this checklist is to identify the rights at work most in need of monitoring. In doing so, it will be necessary to take into account the capacity of worker organisations to monitor the sectors in which they operate, as well as the capacity of the State to monitor rights at work, and to avoid duplicating their efforts.



Tasks

Check 

1. Initial preparation - Find out about the law and policies

Obtain and read:

- The relevant provisions of the constitution, and laws and policies relating to health and safety at work, and the principle of equal pay for work of equal value
- Reports, news articles, academic papers, NGO reports and websites
- Ethical trade codes and collective bargaining agreements

Identify aspects to monitor, such as:

- The scope of collective agreements
- Health and safety of workers
- Inequality in the workplace, and the application of the principle of equal pay for work of equal value
- Find out which government departments are entrusted with enforcing the laws

2. Participatory research – Identifying patterns of consistent non-compliance

- Interview workers, or convene reference groups of workers, particularly vulnerable categories of workers, or those in need of special attention, for example women in temporary jobs
- Assess the capacity of the State to monitor compliance with rights at work (the role of labour inspectors)
- Assess the extent to which rights at work are enforced, and laws and policies are complied with

3. Monitoring the State's obligation to respect and protect

Regarding State officials (obligation to respect):

- What kinds of workers are excluded from laws and policies protecting rights at work? Think of marginalised groups like disabled people, migrants, etc. What is the justification for their exclusion?
- Which rights at work are guaranteed, and which not?
- What mechanisms exist to deal with non-compliance? Are they accessible, and are they effective?

Regarding Non-State actors (obligation to protect):

- Is there evidence of general or collective non-compliance by non-State actors in any area or sector? If so, what steps are being taken to address it?

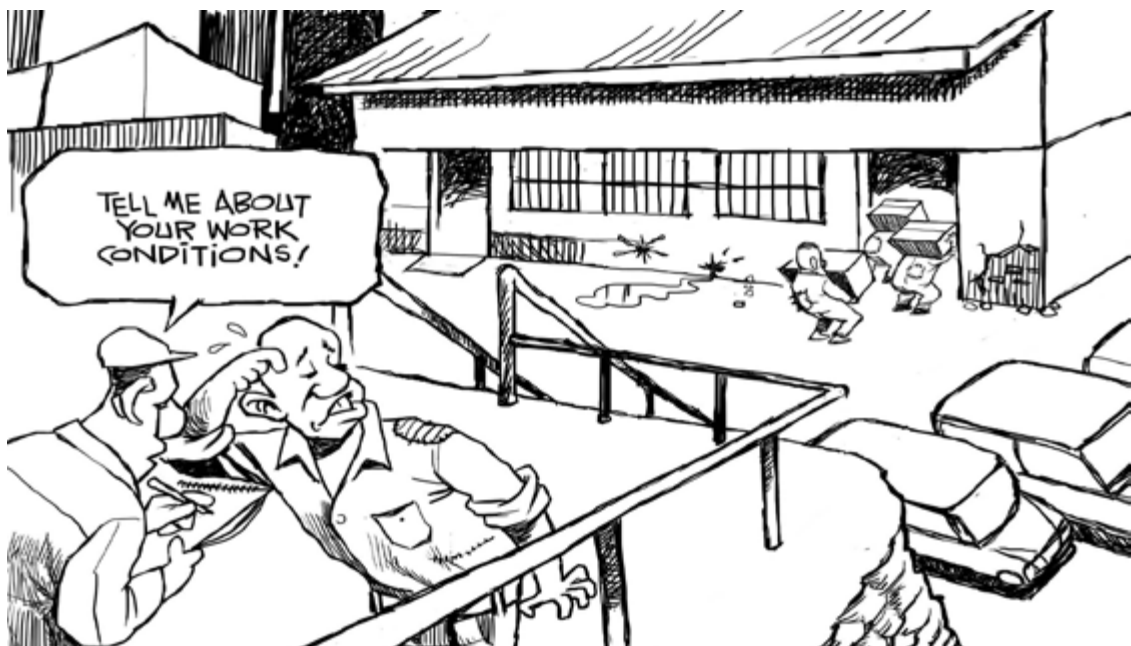
4. Monitoring the State's obligation to fulfil

What steps are being taken to extend rights at work to those workers that are not protected by existing laws and policies?

5. Analysing results and taking action

In collaboration with worker organisations and community members:

- Identify and record any human rights violations
- Bring them to the attention of the relevant government department or ministry
- Take action to raise people's awareness of the violations and suggest ways to end them
- If necessary take the case to the national human rights institution and, if appropriate, to the relevant regional or international authorities (see the Main Book, Part II, Sections 9 and 10)





Checklist 4. Technical and Vocational Education and Training



Objectives

- To assess the availability, accessibility and quality of Technical and Vocational Education and Training (TVET)
- To identify ways to improve access to good quality TVET



Tasks

Check

1. Initial preparations – information gathering

- Find out about TVET – its aims, scope and content (see Haki Zetu series, The Right to Education)
- Read government policies on employment and note in particular the provisions for job creation and the plans and budget allocations for TVET
- Try to find statistics on employment. These should be gender disaggregated

2. Participatory research

- In collaboration with members of the community, identify an area (village/town/district/ province) to focus on
- Interview members of the Education Department, head teachers and teachers of TVET to gather information about:
 - The number of secondary schools or colleges in the area
 - How many of these provide TVET
 - The syllabus (what subjects are covered)
 - The numbers of students (disaggregated by gender)
 - The courses offered and the qualifications that may be gained
 - Practice periods with public or private enterprises
 - Records of examination results
- Interview employers in the area and ask relevant questions including:
 - The nature of their business and the qualifications and other qualities or capabilities (for example critical thinking or problem solving skills) they expect job-seekers to have

Check

- What they know about TVET and about the availability of TVET in the area
- What relationships they have with TVET schools
- What recommendations would they make / have they made to the authorities with regard to TVET
- Their assessment of the government's policies on creating employment
- Interview young people who are in their final school year and those who have recently left school and ask:
 - Whether they know about/have received TVET
 - If not, do they want to receive TVET? What trade or job interests them? Do they know if training is available? If so, is it accessible and affordable?
 - If they have received TVET, what subjects did they study? Were they satisfied with the range and quality of subjects? What kind of jobs are they seeking? What will they do if their preferred jobs are not available?
 - Whether they have started seeking work and with what results
- Interview parents of secondary school pupils and ask:
 - Whether they know about TVET and what they know about it
 - What kinds of work do they expect their girl children and boy children to undertake
 - Note any comments or concerns parents have about the availability, accessibility (including affordability) and quality of the education their boy children and girl children have received

3. Analysing results and taking action

- In collaboration with community members, prepare a report on the results of the research and provide information on:
 - The availability of TVET in the area
 - The main kinds of employment in the area (office jobs, building trade etc.)
 - The number and type of respondents
 - Comments made about the availability, accessibility and quality of TVET
 - Comments or recommendations on the government's laws and policies for TVET and whether these are being implemented
 - Recommendations to the education authorities concerning the availability, accessibility and quality of TVET
- In collaboration with members of the community, present the report to the authorities and develop an advocacy and lobbying strategy
- The report could be made public – for example given to a journalist or discussed in a meeting of community members and government officials - after including any responses from the authorities



Checklist 5. Health and safety protection for informal workers



Objective

To assist CBOs and communities in the informal sector of the economy to develop health and safety protection systems.



Tasks

Check

1. Initial preparations

- Try to find out what plans the government has to extend health protection to informal workers, or to implement the SPIREWORK project (see Box 26)
- Identify an area, or a particular trade, where informal workers face serious health hazards
- Consult, or try to involve, a person qualified in environmental health in making a plan to identify the health hazards in the area or trade

2. Participatory research

- Carry out a mapping exercise
- Interview people about their area or trade and ask how it affects their health
- Also ask whether they have, or have thought about, forming an organisation to persuade the authorities to remove the health hazards and provide access to health treatment
- Write a report on the results of the mapping exercise

For more information on mapping, see the Main Book, Part II, Section 4.2.2.

3. Analysing results and taking action

In collaboration with worker organisations and community members:

- Identify and record any human rights violations
- Develop an advocacy and lobbying strategy
 - In addition to lobbying the authorities, work with members of the community who are interested in introducing or developing a health and safety committee

Check

- The committee could work with health professionals and human rights NGOs or CBOs to increase awareness of the health hazards among the people living in the area or engaged in specific trades
- Develop plans and programmes for self-help activities to remove the health hazards in a way that is safe to their own health
- Draw public attention to the health problems in the area or trade and what the community is doing to address the problems



Checklist 6. Monitoring child labour



Objectives

- To identify failures to meet State obligations to protect children from the worst forms of child labour;
- To make communities and the authorities aware of children's rights in this regard; and
- To persuade the authorities to take appropriate action.



Tasks

Check 

1. Initial preparations – finding and reading:

- The African Charter on the Rights and Welfare of the Child, particularly Articles 15 and 16
- ILO Convention No.182 (Worst Forms of Child Labour) and the Second Optional Protocol of the CRC on the sale of children, prostitution and child pornography
- The Constitution, relevant law, policies and budgets, reports and other relevant documents including, as appropriate, the Haki Zetu booklet on the Right to Education
- National regulations on compulsory education

2. Set up a monitoring team

- Set up a team of monitors who are aware of the principles of monitoring (see the Main Book, Part II, Section 6.3), who will do research and interviews. Note that children are people under 18 years of age.
- Take special precautions when interviewing children and assess whether they should be interviewed with or without a relative or other known adult present

3. Participatory research – identifying patterns of child labour and any instances of abuse

- Identify possible victims of the use of the worst forms of child labour. These include children who are:
 - Completely under the control of another person
 - Conscripted for use in armed conflict
 - Procured or offered for prostitution, for the production of pornography or for pornographic performances

Check

- Used, procured or offered for illicit activities, in particular for the production and trafficking of drugs
- Used for work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children
- Identify other victims of child labour, and what definitions you would use to identify the specific group you want to study (based on national and international criteria)
- Identify an area to cover (for example a village, an urban area, a farm, factory, or market place)
 - Assess the area for evidence of poverty, conflict, remoteness etc.
 - Find out, or estimate as accurately as possible, the number of children in the area/ household/village
- Carry out surveys (including interviews) to gather information about:
 - The number of working children in the area
 - Their ages
 - Their sex
 - At what age they started to work
 - Where are they employed/by whom?
 - Why are they working? (it could be to get money for themselves and not for buying food or contributing to the family budget)
 - Types of work they do
 - Time spent on each job
 - What money they earn (if anything)
 - Whether the child receives payment for the work or is the money given to the parents?
 - Do they receive other things, for example a room, food, clothing, schooling?
 - Do they attend school? (see the Haki Zetu booklet on the Right to Education, Section 3.6, for Checklists and other tools on school attendance)
 - Record any reports of violence or ill-treatment or punishment

For more information on surveys, see the Main Book, Part II, Section 5.

4. Analysing results and taking action

- Produce a report on the results of the survey and include recommendations for actions to be taken, such as:
 - Prosecution of unscrupulous employers
 - Introducing or extending poverty reduction strategies
 - Implementing measures to end school drop-out
- Discuss the report with other NGOs and appropriate government officials. If necessary or appropriate, send copies of the report to the national human rights commission or to regional or international agencies. Consider the possibility of writing a “shadow report”. See the Main Book, Part II, Section 10.1.2.



3.3 Other actions to realise the right to work and livelihoods

Any action with respect to the right to work and livelihoods should come through involving workers, worker organisations and communities, including through participatory monitoring and research and workshops. For more information in this regard, refer to the Main Book, Part II, Section 4.

3.3.1 Self-help activities and organisation

Self-help refers to initiatives by people to help themselves. There is a close relationship between self-help and organisation, because generally the best way for workers to help themselves is by forming organisations.

Often workers form organisations by themselves for various purposes, without the assistance of trade union officials or NGOs or government. Rotating savings schemes and burial societies are examples found in many African countries. However, outside assistance may be important in order to raise the level of the organisation.

To do this it is generally necessary to develop a constitution that specifies its objective, and establishes clear rules as how to become a member and how decisions in the organisation are taken.

It may also be necessary to register with the government. Both trade unions and cooperatives are forms of organisation that have their roots in self-help initiatives, but in most countries they are now required to register, and submit audited financial statements to government.

3.3.2 Promoting good practice and effective organisation

CBOs and NGOs can promote good practice in worker organisations by explaining the importance of ethical values such as human solidarity, self-reliance, honesty and accountability.

Organisations also need to be effective. To be effective they need to be meeting the objectives of their members. To do this, they need information about a range of things, including the sectors in which they operate, existing conditions at work, how similar work related problems are dealt with elsewhere and the like. CBOs and NGOs can facilitate access to information.

3.3.3 Participating in the development of policies

As already indicated, there are a number of policies relevant to the right to work and livelihoods, including national employment policies, industrial policies, small business support policies, cooperative development policies and the ILO's decent work country programmes.

If anyone is consulted about these policies, it is likely to be those sections of the workforce that are organised. Accordingly, those policies are more likely to reflect the interests of organised workers than unorganised workers.

CBOs and NGOs can play an important role by participating actively in the development of policies, and ensuring that policies cater for the needs of all workers.

3.3.4 Building alliances and lobbying government

Broad alliances between worker organisations such as trade unions, cooperatives and small farmers associations and CBOs and NGOs are important in order to achieve changes in legislation and policy at a national level, or to lobby government over a specific issue pertaining to the right to work, such as child labour.



3.3.5 Networking with organisations at national, regional and international levels

One aspect of raising the level of work organisations is to link them up with like organisations at a national and regional level, and internationally. Regional and international links will also increase the bargaining power of worker organisations with TNCs and large corporations.

Traditionally, worker organisations are represented at a regional and international level through national federations. In the case of trade unions these are federations of trade unions whereas in the case of cooperatives they are usually termed apex bodies.

Both the trade union movement and the cooperative movement have global confederations. In the case of the trade unions it is the International Trade Union, based in Brussels, Belgium. There is also an African regional office in Lomé, Togo. In the case of cooperatives it is the International Cooperative Alliance based in Geneva, Switzerland.

Box 30: African claim making institutions

In Africa, employment-related cases can be taken before the African Commission and the African Court of Justice. They can also be submitted to the Regional Economic Communities (RECs) that include courts of justice, including:

- The East African Community (EAC);

> *continued*

- The Economic Community of West African States (ECOWAS); and
- The Southern African Development Community (SADC).

These are described in more detail in the Main Book, Part II, Section 10.2.1.

In the international arena, complaints can be submitted to the CESC and the ILO. There are also global trade union federations (GUFs) in different sectors. As explained in Box 25, GUFs may enter into a global framework agreement.

Since the jobs crisis is global, and different countries face similar problems, regional and international links are also important to enable worker organisations to exchange experiences, and learn from each other's mistakes. Streetnet International represents another model of international organisation. This is an NGO which has established a global network of organisations representing street traders and workers in the informal economy. Other examples of relevant international and regional organisations are given in Appendix 2.

ACHPR	African Charter on Human and Peoples' Rights / African Commission on Human and Peoples' Rights
AU	African Union
CBO	Community-based organisation
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CESCR	UN Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of People with Disabilities
CSO	Civil society organisation
CSR	Corporate social responsibility
DRC	Democratic Republic of Congo
ESC (R)	Economic, Social and Cultural (Rights)
GFA	Global Framework Agreement
GUF	Global trade union federation
ICCPR	International Covenant on Civil and Political Rights
ICPRAMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICESCR	International Covenant on Economic, Social and Cultural Rights
IFI	International financial institution
ILO	International Labour Organisation
IMF	International Monetary Fund
MNC	Multinational corporation
NGO	Non-governmental organisation
OHCHR	Office of the United Nations High Commissioner for Human Rights (also known as the UN Human Rights office)
REC	Regional Economic Community
SACCO	Savings and credit cooperative
SADC	Southern African Development Community
SMEs	Small and medium scale enterprises
SMMEs	Small, medium and micro-enterprises
SPIREWORK	AU Social Protection plan for the Informal Economy and Rural Workers
TNC	Transnational corporation
TVET	Technical and Vocational Education and Training
UDHR	Universal Declaration of Human Rights
UN	United Nations

Terms in *italics* represent entries found elsewhere in the Glossary.

A

Association

An association is a group of persons who have joined together under some agreement or constitution or rules for the purpose of carrying out some common objective. There are many different kinds of associations that can be formed, including *cooperatives* and *trade unions*. It is the object that defines the kind of association.

C

Code of conduct

A set of rules for the conduct of companies or professionals, of an advisory (non-binding) or binding nature, often made up by the sector itself. Most codes of conduct are non-binding, meaning there are no sanctions except reputational damage or at most expelling someone/a company from a professional association or network.

Collective bargaining

Collective bargaining takes place when one or more *employers* engage with one or more organisations representing *employees* to try and reach agreement on issues of mutual interest, such as *remuneration* and conditions of work. The right to bargain collectively is regarded as a fundamental right by the ILO.

Collective rights

Rights that are held by a group as opposed to individuals within the group, for example the collective right of *workers* to organise, or of indigenous peoples over their natural resources and indigenous knowledge.

Confederation

A confederation is an organisation made by loosely joining together smaller organisations which could include *federations*, and which remain autonomous to a larger extent than *federations*.

Cooperative

A cooperative is an association that operates as a business or enterprise, in accordance with cooperative values and principles. Cooperative values and principles are the principles adopted by the international cooperative movement.

Usually there is legislation that provides that a cooperative may register as a legal entity, and sue and be sued in its own name. In most countries it is the only kind of *association* that is permitted to operate as a business or enterprise.

An important difference between a company and a cooperative is that in a company a person votes according to the number of shares held, whereas in a primary cooperative each member has one vote. In a secondary cooperative (which is a cooperative whose members are cooperatives) voting is according to the number of members each cooperative has.

D

Debt bondage

A situation where people work or provide services as security for the repayment of a debt or other obligation. The services required to repay the debt may be undefined, and the services' duration may be undefined. Debt bondage can be passed on from generation to generation.

Disguised employment

Disguised employment is a term adopted by the ILO in its Employment Relationship Recommendation (2006). An example of a disguised employment relationship would be where *workers* enter into a contract with a firm stating they are independent contractors, whereas in fact they have always been regarded as *employees*, and their relationship with that firm is in fact one of employment. The recommendation proposes measures to combat disguised employment.

E

Employee

In general, an employee is someone who works for an *employer* in terms of an *employment relationship*. However “employee” is also likely to be a term defined in terms of labour legislation. Usually only those who comply with the definition of employees are protected by the legislation. Sometimes there are different definitions for different laws.

Employer

The ordinary sense of the term employer is someone who pays another to work for her or him, either on an indefinite basis or for a fixed term. It is not always clear who the employer is. There are, for example, situations in which an *employee* may be regarded as having more than one employer, or where an *employee* is seconded to work for someone else. In a situation of *triangular employment*, *workers* work for someone who is not the employer, or who is not regarded as the employer, although that person may in certain circumstances be liable for the responsibilities of the employer.

Employment relationship

Some people understand an employment relationship to have more or less the same meaning as contract of employment. More often than not, however, it is understood to have a broader meaning, including both *workers* with a contract of employment and *workers* who would not be regarded as *employees*, applying a strict contractual test. However, its meaning is not so broad as to cover *workers* who are clearly *self-employed*.

Ethical Trade Codes

Codes that are adopted by businesses to ensure that their trading practices do no harm. In 2011 the UN Human Rights Council endorsed the UN Guiding Principles on Business and Human Rights. These are based on a “Respect, Protect and Remedy” framework. Also, a central concept is “due diligence” which involves taking responsibility for how businesses deal with those working with or affected by them. This includes ensuring that anyone who is injured by the actions of a company has the right to an effective remedy.

F

Federation

A federation is an organisation made by loosely joining together smaller organisations which retain some autonomy (can also be used for States).

Forced labour

Compelling someone to work under threat of some sanction or penalty. Can take a number of different forms including *debt bondage*, trafficking and other forms of modern *slavery*.

Franchise/ franchisee

A business which has received a licence from another company (the franchisor) allowing the franchisee (the firm who receives the licence) to trade under the trademark of the franchisor. A world famous franchise is McDonald's – a fast food chain.

G

Global trade union federations

A global trade union federation (GUF) is an organisation to which national *trade unions* operating in particular sectors may belong.

I

Informal economy (informal sector)

The informal economy consists of independent, self-employed small-scale producers and distributors of goods and services, who generally do not pay tax and are not recognised as businesses. They are therefore not registered nor recorded in official statistics, and they are

beyond the reach of labour legislation. There is no simple way to measure whether or not economic activity is regulated, and “formal” and “informal” are therefore not precise concepts.

L

Labour

Labour is generally understood to mean to work for someone else voluntarily, in which case there is an expectation of payment. It therefore corresponds with *work* in an *employment relationship*.

Labour legislation

Labour legislation encompasses all laws that apply to the labour relationship. Usually labour legislation applies only to *employees*, that is to *workers* in an *employment relationship*.

Livelihood

A livelihood is a means of making a living. It encompasses people’s capabilities, assets, income and activities required to secure the necessities of life (definition of the International Federation of the Red Cross, see:

www.ifrc.org/en/what-we-do/disaster-management/from-crisis-to-recovery/what-is-a-livelihood/).

N

Non-standard employment

Non-standard employment is employment that does not comply with the norms of *standard employment*. There are various other terms that have more or less the same meaning as non-standard employment, such as “atypical” or “non-regular”, as well as contingent, precarious, or casual (or casualised) employment. The different terms reflect different conceptions of the issues non-standard employment give rise to.

O

Organised labour

Workers organised in *trade unions* or *labour associations* for the purpose of gaining improvements in working conditions.

Own account worker

A person who works for his or her own account rather than for someone else. It is an alternative term to *self-employment*.

P

Part-time employment

The ILO has defined a part-time worker as “an employed person whose normal hours of

work are less than those of comparable full-time workers.” (Convention 175 of 1994). Part-time employment is distinguished from temporary employment in that it is ongoing and therefore, in general, more secure, although it also depends on the period of temporary employment, and the number of hours of part-time work that are guaranteed.

Privatisation

Privatisation refers to the transfer of assets or enterprises belonging to the State to private ownership, or the transfer of functions performed by the State to private service providers.

Public works programme

Programme by government to give people jobs, by employing them to construct public works such as roads or other infrastructure, or to provide public services.

R

Remuneration

Payment, a salary, a reward or compensation.

Retail

The sale of small quantities of goods directly to customers, as opposed to “wholesale” where large quantities of goods are sold to retail companies for resale to customers.

Retrenchment

Dismissing *workers* for operational reasons, that is, for reasons which have to do with the profitability or viability of the operation. This is sometimes called a “no fault” dismissal.

S

Self Employment

Someone who is self-employed works for his or her *own account*. There is therefore no *employer*, and without an *employer* there can be no *employment relationship*.

Servitude

A condition in which one lacks liberty to determine one’s course of action or way of life; or simply, where one is forced to obey an owner or master; in this sense, it is similar to slavery and forced labour.

Severance pay

This refers to money an *employer* is required to pay to a *worker* who is *retrenched*, either in terms of a collective agreement or by law. Severance pay is usually calculated according to the number of years of service a *worker* has with that *employer*.

Slavery

The status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised (Art 1 Slavery Convention 1926).

Small and medium enterprises

Enterprises or firms are sometimes categorised according to their size in terms of various government policies, although there is no universally agreed way of doing so. One approach is to take into consideration the number of *workers* the enterprise employs. But according to this criterion, a firm that is small in one sector might be regarded as “medium” or even “large” in another. SME is an acronym for small and medium enterprises.

Social dialogue

The promotion of social dialogue is one of the objectives of the ILO’s concept of decent *work*. As defined by the ILO, social dialogue includes all types of negotiation, consultation or information sharing either between representatives of government, *employers* and organised *labour* (at a tripartite level) or between *employers* and organised *labour* (at a bipartite level). Social dialogue can take place at a national level, or a sectoral level, or at the *workplace*. It can be formal or informal.

Social economy (Solidarity economy)

Social economy refers to economic activities that are social in character, and that are not owned or controlled by either the private sector or the State. These activities take various forms in different countries. One way of categorising them is as not-for-profit organisations, and non-profit organisations.

Not-for-profit organisations (NPOs) are enterprises operating for the benefit of their members, who finance them. Although they aim to generate a surplus (funds), making a profit is not their main purpose. Mutual *associations* and *cooperatives* are examples of such enterprises. They are sometimes also referred to as “social enterprises”.

NPOs have charitable or educational objectives. They are often not funded by their members. Sometimes the term “voluntary sector” is used to describe these organisations.

Social protection / social security

This is a broad concept intended to encompass a variety of measures aimed to reduce vulnerability and economic insecurity. The promotion of social protection is one of the objectives of the ILO’s concept of decent *work*.

Standard Employment / Standard Employment Relationship

The term standard employment, or the standard employment relationship, describes employment in what is commonly called a “permanent” job, or “indefinite” employment, or “typical” employment. It is sometimes described as representing a norm or model to which employment should conform.

Although there are different views as to how standard employment should be defined, there

is general agreement that it must be employment for an indefinite period, and that it must be full-time. Other possible criteria are that the employee has only one *employer*, and works at the *workplace* of the *employer*.

T**Temporary employment**

Employment that is temporary, and for a specified term, also called a fixed term. The important difference between temporary and part-time employment is that temporary employment ends when the term expires. At the end of the term, the contract ends but the *worker* is not officially dismissed.

The only circumstance in which a *worker* might be regarded as dismissed at the end of his or her term is where there was an expectation that the contract would be renewed. Whether it can be argued such an expectation exists will depend on the circumstances, and the labour legislation of the country concerned.

In general, there are two ways in which the term of a temporary contract may be defined:

- A term that is defined by a task to be completed.
- A term that is defined in terms of a specified number of hours, days, weeks, months or years.

A number of countries in Latin America do not recognise a contract in which the term is defined by a task.

Trade union

A trade union is an *association* that represents *workers*. The union leaders bargain with the *employer* to achieve things like higher pay and better working conditions. In most countries trade unions are regulated by law, and required to register with the government. It will depend on national *labour legislation* and practice whether trade unions organise only *workers* in an *employment relationship* (*employees*), or all *workers*.

In some countries *associations* of self-employed *workers* call themselves “unions” because they see themselves as *workers*, and because they regard “unions” as organisations of *workers*.

Triangular employment relationship

A situation in which *employees* of a service provider perform *work* for a client, or what the ILO sometimes refers to as “user enterprise”. This gives rise to the question as to who is in fact accountable for the conditions under which they work, and their employment security, and is sometimes referred to as trilateral employment. For example, *workers* provided by a temporary employment agency (or labour broker) to a client are in a triangular employment situation.

U

Underemployment

A situation where people have a job but are not fully employed, for example a *part-time worker*; or where the *worker* has higher qualifications than the job requires.

Work

Work has a broader meaning than *labour*. It can mean working for someone else or working for yourself, and may refer to paid or unpaid work.

Worker

A worker is someone who works, whether in an *employment relationship* or for his or her *own account*, and may also be on paid or an unpaid basis.

Workplace

The workplace means any premises or place where a person performs work in the course of his or her employment. In the case of *triangular employment*, this would be the workplace of the client or user enterprise. However sometimes *labour legislation* defines the workplace as the place or places where the *employees* of an *employer* work.

The reason the definition of a workplace is important is because this is where *workers* are able to associate with one another, and organise. It is also the most basic level at which *collective bargaining* can take place.



Appendices

Appendix 1: International and regional human rights instruments

Appendix 2. Relevant international and regional organisations

Appendix 3: Some sources and resources on the right to work and livelihoods



Appendix 1: International and regional human rights instruments

This tool enables readers to select appropriate quotations on the right to work and livelihood from international and regional human rights standards. These may be used in reports or recommendations to governments. Quoting the national law and regional or international standards shows that human rights workers are aware of State obligations and increases the impact of their work.

For further information about using regional and international standards see the Main Book, Part I, Section 3.3.

How to use the table below:

Look for the topic of interest in Column 1. Column 2 contains relevant Articles. It is best to look at the complete texts whenever possible: websites are given for this purpose.

The quotations have been selected from the following African and international human rights treaties and standards.

Human rights treaties

- The International Covenant on Economic, Social and Cultural Rights:
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>
- Convention on the Elimination of All Forms of Discrimination against Women:
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>
- Convention on the Rights of Persons with Disabilities:
www.un.org/disabilities/convention/conventionfull.shtml
- International Convention Related to the Status of Refugees:
www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfRefugees.aspx
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: <http://www2.ohchr.org/english/bodies/cmw/cmw.htm>
- The African Charter on Human and Peoples' Rights (ACHPR):
<http://www.achpr.org/instruments/achpr/>
- African Charter on the Rights and Welfare of the Child:
www.africa-union.org/child/home.htm or www1.umn.edu/humanrts/africa/afchild.htm
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa:
www.achpr.org/files/instruments/women-protocol/achpr_instr_proto_women_eng.pdf

- AU Convention for the Protection and Assistance of Internally Displaced Peoples in Africa:
<http://www.unhcr.org/4ae9bede9.html>
- ILO Conventions. The ILO has nearly 200 Conventions, all of which are available on its website at www.ilo.org/dyn/normlex/en/. The following are some which are referred to in this booklet:
 - ILO Convention 2 (Unemployment)
 - ILO Convention 29 (Forced or Compulsory Labour)
 - ILO Convention 81 (Labour Inspection)
 - ILO Convention 87 (Freedom of Association and Protection of the Right to Organise)
 - ILO Convention 98 (Right to Organise and Collective Bargaining)
 - ILO Convention 100 (Equal Remuneration)
 - ILO Convention 111 (Discrimination (Employment and Occupation))
 - ILO Convention 131 (Minimum Wage)
 - ILO Convention 138 (Minimum Age)
 - ILO Convention 182 (Worst Forms of Child Labour)
 - ILO Convention 189 (Decent Work for Domestic Workers)

Human rights standards, advice and interpretations

- General Comments of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights:
www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx
and: <http://www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx>
- General Recommendations of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW). No. 13 is on equal remuneration for work of equal value and No. 16 is on Unpaid women workers in rural and urban family enterprises: www.un.org/womenwatch/daw/cedaw/recommendations/index.html
- The ACHPR Draft Guidelines and Principles on Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights:
www.achpr.org/instruments/economic-social-cultural/
- The Decent Work Agenda in Africa:
www.ilo.org/public/english/standards/relm/rgmeet/11afrm/dg-thematic.pdf
- The African Youth Charter:
www.africa-union.org/root/ua/conferences/mai/hrst/charter%20english.pdf
- UN Guiding Principles on Business and Human Rights:
www.business-humanrights.org/Categories/Principles/UNGuidingPrinciplesonBusinessHumanRights
- Children's Rights and Business Principles:
www.business-humanrights.org/ChildrenPortal/CRBP

Table: Excerpts of relevant human rights instruments

Topic	Relevant Article(s)
<p>Right to work</p>	<p>UDHR, Article 23: Everyone has a right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.</p> <p>ACHPR, Article 18: Everyone has the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.</p> <p>ICESCR, Article 6: The States parties to the present Covenant recognise the right to work, which includes the right of everyone to gain a living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.</p> <p>ICESCR, Article 7: The States Parties to the present Covenant recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:</p> <p>(a) Remuneration which provides all workers, as a minimum, with:</p> <ul style="list-style-type: none"> (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant; <p>(b) Safe and healthy working conditions;</p> <p>(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;</p> <p>(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays</p> <p>ICESCR, Article 8:</p> <p>1. The States Parties to the present Covenant undertake to ensure:</p> <ul style="list-style-type: none"> (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organisation concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others; <p style="text-align: right;"><i>> continued</i></p>

Topic	Relevant Article(s)
<p>Right to work</p>	<p>(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organisations;</p> <p>(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;</p> <p>(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.</p> <p>2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.</p> <p>3. Nothing in this article shall authorise States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.</p>
<p>ILO Conventions</p>	<p>Minimum Wage Fixing Convention, 1970 (No. 131) Article 1: 1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to establish a system of minimum wages which covers all groups of wage earners whose terms of employment are such that coverage would be appropriate. 2. The competent authority in each country shall, in agreement or after full consultation with the representative organisations of employers and workers concerned, where such exist, determine the groups of wage earners to be covered.</p> <p>Right to Organise and Collective Bargaining Convention, 1949 (No. 98) Article 1 (1) Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment. Article 2 (1) Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.</p> <p style="text-align: right;"><i>> continued</i></p>

Topic	Relevant Article(s)
ILO Conventions	<p>Unemployment Convention, 1919 (No. 2)</p> <p>Article 2</p> <p>(1) Each Member which ratifies this Convention shall establish a system of free public employment agencies under the control of a central authority. Committees, which shall include representatives of employers and of workers, shall be appointed to advise on matters concerning the carrying on of these agencies.</p> <p>(2) Where both public and private free employment agencies exist, steps shall be taken to co-ordinate the operations of such agencies on a national scale.</p> <p>(3) The operations of the various national systems shall be co-ordinated by the International Labour Office in agreement with the countries concerned.</p>
	<p>Minimum Age Convention, 1973 (No. 138)</p> <p>Article 1</p> <p>Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.</p> <p>Article 2</p> <p>(1) Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.</p> <p>(2) Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.</p> <p>(3) The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.</p>
	<p>Equal Remuneration Convention, 1951 (No. 100)</p> <p>Article 1: For the purpose of this Convention:</p> <p>(b) the term equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex.</p> <p style="text-align: right;"><i>> continued</i></p>

Topic	Relevant Article(s)
<p>ILO Conventions</p>	<p>Article 2</p> <p>1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.</p> <p>2. This principle may be applied by means of:</p> <ul style="list-style-type: none"> (a) national laws or regulations; (b) legally established or recognised machinery for wage determination; (c) collective agreements between employers and workers; or (d) a combination of these various means.
<p>The Decent Work Agenda in Africa 2007-2015</p>	<p>This covers various topics including:</p> <ul style="list-style-type: none"> • Key challenges to Africa’s development towards 2015 and beyond; • Tackling unemployment, underemployment and poverty; and • The role of social protection in poverty-reducing development.
<p>Migrants</p>	<p>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</p> <p>Article 8</p> <p>Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognised in the present part of the Convention.</p> <p>Article 11</p> <p>(1) No migrant worker or member of his or her family shall be held in slavery or servitude.</p> <p>(2) No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.</p>
<p>Women</p>	<p>Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Article 11</p> <p>1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:</p> <ul style="list-style-type: none"> (a) The right to work as an inalienable right of all human beings;

> *continued*

Topic	Relevant Article(s)
	<p>(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;</p> <p>(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;</p> <p>(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;</p> <p>(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;</p> <p>(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.</p> <p>Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa Article 13: Economic and Social Welfare Rights States Parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities. In this respect, they shall:</p> <ul style="list-style-type: none"> • promote equality of access to employment; • promote the right to equal remuneration for jobs of equal value for women and men; • ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace; • guarantee women the freedom to choose their occupation, and protect them from exploitation by their employers violating and exploiting their fundamental rights as recognised and guaranteed by conventions, laws and regulations in force; • create conditions to promote and support the occupations and economic activities of women, in particular, within the informal sector.
<p>Children and Youth</p>	<p>The African Youth Charter Article 13 (Education and Skills Development) 4. States Parties shall [...]</p> <p>(e) Revitalise vocational education and training relevant to current and prospective employment opportunities and expand access by developing centres in rural and remote areas;</p> <p style="text-align: right;"><i>> continued</i></p>

Topic	Relevant Article(s)
<p>Children and Youth</p>	<p>(g) Avail multiple access points for education and skills development including opportunities outside of mainstream educational institutions e.g., workplace skills development, distance learning, adult literacy and national youth service programmes;</p> <p>Article 14 (Poverty Eradication and Socio-economic Integration of Youth)</p> <p>2. [States Parties shall] Recognise the right of young people to be free from hunger and shall take individual or collective measures to: [...]</p> <p>(b) Train young people to take up agricultural, mineral, commercial and industrial production using contemporary systems and promote the benefits of modern information and communication technology to gain access to existing and new markets;</p> <p>c) Provide grants of land to youth and youth organisations for socio-economic development purposes;</p> <p>d) Facilitate access to credit to promote youth participation in agricultural and other sustainable livelihood projects;</p> <p>Article 15 (Sustainable Livelihoods and Youth Employment)</p> <p>1. Every young person shall have the right to gainful employment.</p> <p>2. Every young person shall have the right to be protected from economic exploitation and from performing work that is likely to be hazardous to or interfere with the young person's education, or to be harmful to the young person's health or holistic development.</p> <p>3. States Parties shall address and ensure the availability of accurate data on youth employment, unemployment and underemployment so as to facilitate the prioritisation of the issue in National development programmes complemented by clear programmes to address unemployment;</p> <p>4. States Parties shall take all appropriate measures with a view to achieving full realisation of this right to gainful employment and shall in particular:</p> <p>a) Ensure equal access to employment and equal pay for equal work or equal value of work and offer protection against discrimination regardless of ethnicity, race, gender, disability, religion, political, social, cultural or economic background;</p> <p>b) Develop macroeconomic policies that focus on job creation particularly for youth and for young women;</p> <p>c) Develop measures to regulate the informal economy to prevent unfair labour practices where the majority of youth work;</p> <p style="text-align: right;"><i>> continued</i></p>

Topic	Relevant Article(s)
<p>Children and Youth</p>	<ul style="list-style-type: none"> d) Foster greater linkages between the labour market and the education and training system to ensure that curricula are aligned to the needs of the labour market and that youth are being trained in fields where employment opportunities are available or are growing; e) Implement appropriately-timed career guidance for youth as part of the schooling and post-schooling education system; f) Promote youth entrepreneurship by including entrepreneurship training in the school curricula, providing access to credit, business development skills training, mentorship opportunities and better information on market opportunities; g) Institute incentive schemes for employers to invest in the skills development of employed and unemployed youth; h) Institute national youth service programmes to engender community participation and skills development for entry into the labour market.
	<p>The African Charter on the Rights and Welfare of the Child</p> <p>Article 2: Definition of a Child For tile purposes of this Charter, a child means every human being below the age of 18 years.</p> <p>Article 4: Best Interests of the Child</p> <ol style="list-style-type: none"> 1. In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration. 2. In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, and opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law. <p>Article 15: Child Labour</p> <ol style="list-style-type: none"> 1. Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development. 2. States Parties to the present Charter take all appropriate legislative and administrative measures to ensure the full implementation of this Article which covers both the formal and informal sectors of employment and having regard to the relevant provisions of the <p style="text-align: right;"><i>> continued</i></p>

Topic	Relevant Article(s)
	<p>International Labour Organisation's instruments relating to children, States Parties shall in particular:</p> <ul style="list-style-type: none"> (a) provide through legislation, minimum wages for admission to every employment; (b) provide for appropriate regulation of hours and conditions of employment; (c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of this Article; (d) promote the dissemination of information on the hazards of child labour to all sectors of the community.
<p>Domestic Workers</p>	<p>Domestic Workers Convention, 2011 (No. 189)</p> <p>Article 1</p> <p>For the purpose of this Convention:</p> <ul style="list-style-type: none"> (a) the term domestic work means work performed in or for a household or households; (b) the term domestic worker means any person engaged in domestic work within an employment relationship; (c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker. <p>Article 3</p> <p>2. Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realise the fundamental principles and rights at work, namely:</p> <ul style="list-style-type: none"> (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation.



Appendix 2: Relevant international and regional organisations

Organisation and contact information	Description
<p>African Inter-Governmental Organisations (IGOs)</p> <p>Including the New Partnership for Africa's Development (NEPAD), the African Commission on Human and People's Rights, the African Court, Regional Economic Communities such as SADCC, ECOWAS and EAC, and their respective courts.</p>	<p>See Appendices 6a and 6b in the Haki Zetu Main Book.</p>
<p>Africa Labour Research Network (ALRN)</p> <p>ALRN, c/o LEDRIZ, P.O. Box HR 9894 78 East Road, Belgravia, Avondale Harare, Zimbabwe Tel: + 263 4 308 846 Email: admin@ledriz.co.zw Website: www.alrn.net</p>	<p>ALRN consists of labour-related research institutes and research departments of trade union federations in Africa. ALRN was formed in 2001 and the 5 founding members were Ghana, South Africa, Zimbabwe, Namibia and Zambia. Over the years membership has grown from 5 to 12 members. Some prominent members are LEDRIZ (Zimbabwe), LPRI (Ghana), LaRRI (Namibia), NALEDI and LRS (both South Africa).</p>
<p>Anti-Slavery International</p> <p>Thomas Clarkson House The Stableyard Broomgrove Road London SW9 9TL United Kingdom Tel: +44 20 7501 8920 Fax: +44 20 7738 4110 Email: info@antislavery.org www.antislavery.org</p>	<p>Anti-Slavery International, founded in 1839, is “the world’s oldest human rights organization and the only charity in the United Kingdom to work exclusively against slavery”. It works at local, national and international levels to eliminate all forms of slavery around the world by:</p> <ul style="list-style-type: none"> • Supporting research to assess the scale of slavery in order to identify measures to end it; • Working with local organisations to raise public awareness of slavery; • Educating the public about the realities of slavery and campaigning for its end; • Lobbying governments and intergovernmental agencies to make slavery a priority issue and to develop and implement plans to eliminate slavery. <p style="text-align: right;"><i>> continued</i></p>

Organisation and contact information	Description
<p>Building and Wood Worker's International (BWI) 54 route des Acacias CH-1227 Carouge GE Switzerland Tel.: + 41 22 827 37 77 Fax: + 41 22 827 37 70 Email: info@bwint.org Website: www.bwint.org</p>	<p>BWI is a global union federation (GUF) which represents and connects workers in the sectors of building and construction, and wood and forestry. It campaigns and operates programmes to bring together trade unions representing workers in these industries. It also seeks to assist workers in the informal sectors to come together to collectively improve their situation. It works to strengthen the position of women both in their trade unions and communities.</p> <p>BWI assists workers to develop a stronger voice so that they can play an active part in a dialogue with decision-makers, multinational and local employers and other stakeholders, and so that workers can enjoy a better working life, rewarded appropriately, and in a working environment which is safe and free from the risk of injury and industrial disease.</p>
<p>Child Labor Coalition (CLC) National Consumers' League 1701 K St. NW, Suite 1200 Washington DC 20006 USA Email: reidm@nclnet.org Website: www.stopchildlabor.org</p>	<p>The Child Labor Coalition (CLC) is an American coalition for the exchange of information about child labour; provide a forum and a unified voice on protecting working minors and ending child labor exploitation; and develop informational and educational outreach to the public and private sectors to combat child labor abuses and promote progressive initiatives and legislation.</p>
<p>Child Rights International Network (CRIN) Unit W125-127 (West Building) Westminster Business Square 1-45 Durham Street London, SE11 5JH United Kingdom Tel: +44 20 7401 2257 Email: info@crin.org Website: www.crin.org</p>	<p>CRIN is a global children's rights advocacy network. It connects to more than 2,000 organisations working on children's rights in all parts of the world and provides access to a large resource database, also on child labour.</p>
<p>East African Trade Union Confederation (EATUC) TUCTA Building, 3rd Floor Azimio Street, Arusha, Tanzania Phone: +255 27 2546093</p>	<p>EATUC is composed of the Central Organisation of Trade Unions Kenya (COTU-K), the National Organisation of Trade Unions Uganda (NOTU), Zanzibar Trade Union Congress (ZATUC) and the Trade Union Congress of Tanzania (TUCTA), the National Trade Union Federations from Burundi (COSYBU) and Rwanda (CESTRAR).</p>

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Organisation and contact information	Description
Fax: +255 27 2546093 Email: info@eatuc.info Website: www.eatuc.info	EATUC enjoys an observer status within the EAC (East African Community) structures
<p>Education International (EI) 5 boulevard du Roi Albert II B-1210 Brussels, Belgium Tel: +32 2 224 06 11 Fax: -32 2 224 06 06 Email: headoffice@ei-ie.org www.ei-ie.org/en/</p> <p>Africa Regional Office: 24 Tanbu Street, East Legon, DTD 216, Madina, Accra, Republic of Ghana Tel: +233 30 2 501 200 Fax: +233 30 2 506 681 Email: eirafoffice@ei-ie.org</p>	Education International is a GUF representing organisations of teachers and other education employees across the globe. It represents 30 million education employees in about 400 organisations in 170 countries and territories, across the globe. EI promotes the principle that quality education, funded publicly, should be available to every student in every country; promotes and represents the interests of teachers and other education employees on the international level; assists the development of independent democratic organisations to represent teachers and other education employees and builds solidarity and cooperation between them; advocates for equity in society; works with other global federations of unions and other kindred organisations to promote and achieve solidarity.
<p>Ethical Trading Initiative (ETI) 8 Coldbath Square London EC1R 5HL United Kingdom Tel: +44 20 7841 4350 Website: www.ethicaltrade.org</p>	An alliance of some 80 companies, trade unions and voluntary organisations, who aim to take responsibility for improving the working conditions of workers in their supply chain. All members have signed up to an ETI Base Code (see www.ethicaltrade.org/resources/key-etiresources/eti-base-code)
<p>Fair food International Baarsjesweg 224 1058 AA Amsterdam The Netherlands Tel: +31 627241132</p>	Fairfood International is an international non-profit organisation advocating for a sustainable and fair global food system. Fairfood does research, engages with companies, raises public awareness, and develops the capacity of local partners.
<p>Fair Labor Association (FLA) 1111 19th St. NW, Suite 401 Washington, DC 20036 Tel: +1 202 898 1000 Website: www.fairlabor.org FLA also has offices in China, Switzerland and Turkey.</p>	FLA is a collaborative effort of universities, civil society organizations and socially responsible companies dedicated to protecting workers' rights around the world. FLA brings these groups together to find effective solutions to labour issues; to help companies improve compliance systems; assesses companies; and addresses serious labour rights violations.

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Organisation and contact information	Description
<p>Fair Wear Foundation P.O. Box 69253 1060 CH Amsterdam The Netherlands Tel: +31 20 408 4255 Email: info@fairwear.org</p>	<p>Fair Wear Foundation (FWF) is an independent, non-profit organisation that works with companies and factories to improve labour conditions for garment workers. Member companies are based in Europe, with outlets in more than 80 countries around the world, while their garments are produced in 15 countries in Asia, Europe and Africa. Members of FWF must comply with a Code of Labour Practices. FWF keeps track of the improvements made by the companies it works with.</p>
<p>Industry All – Global Union 54 bis, route des Acacias, Case Postale 1516 1227 Geneva Switzerland Tel: +41 22 308 5050 Email: info@industriall-union.org</p> <p>Africa Regional Office North City House Office S0808 (8th Floor) 28 Melle Street Braamfontein Johannesburg South Africa Tel: + 27 11 242 86 80 Email: africa@industriall-union.org</p>	<p>IndustriALL Global Union represents 50 million workers in 140 countries in the mining, energy and manufacturing sectors. It is a new GUF, established in 2012, bringing together former federations for metal workers, chemical, energy, mine and textiles garment and leather workers. IndustriALL challenges the power of multinational companies and negotiates with them on a global level. IndustriALL strives to: build stronger unions, organize and increase union membership, fight for trade union rights, fight against precarious work (including contract and agency labour), build union power to confront global capital, promote industrial policy and sustainability, promote social justice and globalization, ensure equal rights and women's participation, create safe workplaces, and improve democracy and inclusiveness.</p>
<p>International Co-operatives Alliance (ICA) 150 Route de Ferney, PO Box 2100, 1211 Geneva 2, Switzerland Tel: +41 22 929 88 38 Fax: +41 22 798 41 22 Email: ica@ica.coop Website: http://ica.coop/en African members can be viewed at http://ica.coop/en/ica-members/africa</p>	<p>The International Co-operative Alliance unites co-operatives worldwide – it has 269 member organisations around the world from 94 different countries (as of 30 September 2013). It promotes co-operative values and principles, providing individuals and communities with an instrument of self-help and influence over their development. The ICA advocates the interests and success of co-operatives, disseminates best practices and know-how, strengthens their capacity building and monitors their performance and progress over time.</p> <p style="text-align: right;"><i>> continued</i></p>

Organisation and contact information	Description
<p>International Labour Organisation 4 route des Morillons CH-1211 Genève 22 Switzerland Tel: +41 22 799 6111 Email: ilo@ilo.org Website: www.ilo.org</p> <p>ILO Regional Office for Africa Africa Hall, 5th Floor, Menelik II Avenue Addis Ababa, Ethiopia P.O.Box 2788, 2532 Tel: +251 11 544 4480 Fax: +251 11 551 3633 Email: addisababa@ilo.org</p> <p>For a description, see Box 2</p>	<p>The ILO has country offices (CO) in:</p> <ul style="list-style-type: none"> • CO–Abidjan: ILO Country Office for Côte d'Ivoire • CO–Abuja: ILO Office for Nigeria, Gambia, Ghana, Liberia and Sierra Leone • CO–Addis Ababa: ILO Country Office for Ethiopia and Somalia • CO–Algiers: ILO Country Office for Algeria, Libyan Arab Jamahiriya, Morocco and Tunisia • CO–Antananarivo: ILO Country Office for Madagascar, Comoros, Djibouti, Mauritius and Seychelles • CO–Dar es Salaam: ILO Country Office for the United Republic of Tanzania, Kenya, Rwanda and Uganda • CO–Harare: ILO Country Office for Zimbabwe • CO–Kinshasa: ILO Country Office for the Democratic Republic of the Congo, Burundi, Central African Republic, Chad, Congo, Equatorial Guinea and Gabon • CO–Lusaka: ILO Country Office for Zambia, Malawi and Mozambique • DWT/CO–Cairo: ILO DWT (Decent Work Team) for North Africa and ILO Country Office for Egypt, Eritrea and Sudan • DWT/CO–Dakar: ILO DWT for West Africa and ILO Country Office for Senegal, Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Guinea, Guinea–Bissau, Mali, Mauritania, Niger and Togo • DWT/CO–Pretoria: ILO DWT for Eastern and Southern Africa and ILO Country Office for South Africa, Botswana, Lesotho, Namibia and Swaziland • DWT/CO–Yaoundé: ILO DWT for Central Africa and ILO Country Office for Cameroon, Angola and Sao Tome and Principe
<p>International Labor Rights Forum (ILRF) 1634 I St NW #1001 Washington, DC 20006 USA Tel: (202) 347 4100 Website: www.laborrights.org</p>	<p>An American coalition to fight for the rights of all workers in international trade. ILRF engages in campaigns against child labour, and for the rights of women workers. In addition, the ILRF seeks to challenge sweatshop conditions globally, promote ethical alternatives, advocate for labour rights in US trade policy, and campaigns to fight violence against trade union leaders and to protect the right of workers globally to organise and collectively bargain.</p> <p style="text-align: right;"><i>> continued</i></p>

Organisation and contact information	Description
<p>International Trade Union Confederation (ITUC) Boulevard du Roi Albert II, 5, Bte 1 1210 Brussels Belgium Phone: +32 2 224 0211 Fax: +32 2 201 5815 Email : info@ituc-csi.org Website: www.ituc-csi.org</p>	<p>The International Trade Union Confederation (ITUC) presents itself as the global voice for working people in all sectors. The ITUC's primary mission is the promotion and defense of workers' rights and interests, through international cooperation between trade unions, global campaigning and advocacy within the major global institutions. Its main areas of activity include the following: trade union and human rights; economy, society and the workplace; equality and non-discrimination; and international solidarity.</p> <p>The ITUC adheres to the principles of trade union democracy and independence.</p> <p>The ITUC regional organisations are the Asia-Pacific Regional Organisation (ITUC-AP), the African Regional Organisation (ITUC-AF) and the American Regional Organisation (TUCA). It cooperates with the European Trade Union Confederation, including through the Pan-European Regional Council.</p>
<p>ISEAL alliance The Wenlock Centre 50-52 Wharf Road London N1 7EU United Kingdom Tel: +44 20 3246 0066 Email: info@isealalliance.org Website: www.isealalliance.org</p>	<p>ISEAL is a non-governmental organisation whose mission is to strengthen sustainability standards systems for the benefit of people and the environment. Its membership consists of multi-stakeholder sustainability standards and accreditation bodies, such as Fair Trade International, UTZ Certified, the Marine Stewardship Council (MSC), and the Forest Stewardship Council.</p>
<p>ITUC-Africa / CSI-Afrique African regional organisation of the International Trade Union Confederation Route internationale d'Atakpamé, Centre FOPADESC Agoè-Zongo Lomé, Togo Tel: +228 22 25 07 10 Email : info@ituc-africa.org Website: www.ituc-africa.org President: Mody Guiro General Secretary: Kwasi Adu-Amankwah</p>	<p>A pan-African trade union organisation created in November 2007, following the merger of two former African trade union organisations, namely ICFTU-Afro and DOAWTU.</p> <p>ITUC-Africa has 16 million declared members and 94 affiliated trade union centres in 48 African countries.</p> <p style="text-align: right;"><i>> continued</i></p>

Organisation and contact information	Description
<p>IUF (International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations) Rampe du Pont-Rouge, 8 CH-1213, Petit-Lancy Switzerland Tel: + 41 22 793 22 33 Fax: + 41 22 793 22 38 Email: iuf@iuf.org Website: www.iuf.org</p>	<p>The IUF is a GUF representing workers employed in agriculture and plantations, the preparation and manufacture of food and beverages, hotels, restaurants and catering services, and tobacco processing. The IUF is currently composed of 394 trade unions in 126 countries representing a combined representational membership of over 12 million workers (including a financial membership of 2.6 million). It is based in Geneva, Switzerland. From its founding in 1920, international labour solidarity has been the IUF's guiding principle. This principle is implemented through building solidarity (strengthening member unions) at every stage of the food chain, international organizing and collective bargaining with transnational companies (TNCs), and global action to defend human, democratic, and trade union rights.</p>
<p>Mines and Communities (MAC) Website: www.minesandcommunities.org</p>	<p>The MAC website seeks to expose the social, economic, and environmental impacts of mining, particularly as they affect Indigenous and land-based peoples. It contains links to news articles, also about workers' conditions.</p>
<p>Public Services International (PSI) 45 avenue Voltaire BP 9 01211 Ferney-Voltaire Cedex, France Tel: +33450406464 Fax: +33450407320 Email: psi@world-psi.org Website: www.world-psi.org</p> <p>PSI Regional Office for Africa and Arab Countries: 36 Ave du RPT, B.P. 8473 Tokoin Casablanca Lomé, Togo Tel: +228 22231260/1 Fax: +228 22212852 Email: psi.africa@world-psi.org</p>	<p>Public Services International is a GUF dedicated to promoting quality public services in every part of the world. It brings together more than 20 million workers, represented by 650 unions in 148 countries and territories. The members, two-thirds of whom are women, work in social services, health care, municipal and community services, central government, and public utilities such as water and electricity. The federation supports local and regional campaigns, and works closely with affiliated unions to promote free collective bargaining, to protect workers' rights, and to fight for gender equality, equity and dignity for all.</p>

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Organisation and contact information	Description
<p>Southern African Trade Union Coordination Council (SATUCC) Plot 5071 Kabelo Way Extension 10 P.O. Box 601557 Gaborone, Botswana Tel: +267 390 1449/3160401 Fax: +267 318 4453 Email: info@satucc.org</p>	<p>SATUCC is a confederation of all major trade union federations in the Southern African Development Community (SADC). In 2013 SATUCC had 18 affiliates in 13 SADC member States.</p>
<p>Streetnet International P.O.Box 61139, Bishopsgate, Durban 4008, South Africa Tel: +27 31 307 4038 Fax: +27 31 306 7490 Email: info@streetnet.org.za Website: www.streetnet.org.za South & East Africa - ZCIEA Tel: 00263 772361905 Email: zcieaZIM@gmail.com West & Central Africa - FENASEIN/UGSEIN Tel: 00227 96986539 Email: ugsein@yahoo.fr, fenasein@yahoo.fr</p>	<p>StreetNet International is a worldwide alliance of membership-based organisations (unions, co-operatives or associations) directly organising street vendors, market vendors and/or hawkers. The aim of StreetNet is to promote the exchange of information and ideas on critical issues facing street vendors, market vendors and hawkers (mobile vendors) and on practical organising and advocacy strategies.</p>
<p>Stop Child Labour c/o HIVOS Postbus 85565 2508 CG Den Haag The Netherlands Website: www.stopchildlabour.org</p>	<p>“Stop Child Labour – School, the Best Place to Work” is an international campaign of Alliance2015, coordinated by Hivos, The Netherlands. The campaign supports organisations in Asia, Africa and Latin America who work on the principle that ‘no child should work; every child must be in school’. In Europe, the campaign calls on consumers, companies, governments and international organisations to be part of the solution. In doing so, the campaign works towards increasing and strengthening so so called ‘Child Labour Free Zones’.</p>
<p>UNI Global Union (UNI) 8-10 Avenue Reverdil CH-1260 NYON Switzerland Tel: +41 22 365 21 00 Fax + 41 22 365 21 21 Website: www.uniglobalunion.org</p>	<p>UNI Global Union represents more than 20 million workers from over 900 trade unions in the fastest growing sectors in the world – skills and services. UNI and its affiliates in all regions are driven by the responsibility to ensure that jobs in these sectors are decent and workers’ rights are protected, including the</p>

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Organisation and contact information	Description
<p>UNI Africa: Résidence Latrille Boulevard Latrille Deux Plateaux Batiment O Appart 169 01 BP 6811 Abidjan 01 Côte d'Ivoire Tel: +225 2252 6700 Fax: +225 2242 5087</p>	<p>right to join a union and collective bargaining. UNI's Breaking Through strategy is about changing the rules of the game in the global labour market and ensuring justice and equality for working people. UNI is working with its affiliates to organise the global service sector workforce at a time of unprecedented precarious work, and record youth unemployment.</p>
<p>Women in Informal Employment: Globalizing and Organizing (WIEGO) WIEGO Secretariat Harvard University 79 John F. Kennedy Street Cambridge, MA 02138 USA Tel: 1 617 496 7037</p>	<p>WIEGO is a global action-research-policy network that seeks to improve the status of the working poor in the informal economy, especially women. The WIEGO network consists of individuals and institutions from</p> <ol style="list-style-type: none"> (1) membership-based organisations (MBOs) of informal workers such as cooperatives, unions and associations; (2) researchers and statisticians who carry out research, data collection, or data analysis on the informal economy;
<p>Women in Informal Employment: Globalizing and Organizing (WIEGO) Limited 521 Royal Exchange Manchester M2 7EN United Kingdom Tel: 44 161 819 1200 Website: www.wiego.org</p>	<p>(3) professionals from development agencies (inter-governmental, governmental, and non-governmental) who provide services to or shape policies towards the informal workforce. WIEGO aims to strengthen the voice of informal workers, a.o. helping them to gain representation in policymaking and rule-setting bodies, and to increase their visibility by doing research. In 2013, the WIEGO network had 173 members – 33 institutional and 140 individual members – from 40 countries.</p>
<p>Women Working Worldwide (WWW) c/o WIEGO Limited (see above) 521 Royal Exchange, Manchester, M2 7EN United Kingdom Website: www.women-ww.org</p>	<p>WWW partners with grassroots organisations, to support and encourage women workers in international production chains supplying European markets to claim their rights, improve their conditions, seek solutions to women's issues and be rewarded equitably for their work.</p>

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United Nations experts and working groups:

- UN Committee on Economic, Social and Cultural Rights (CESCR)
www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx
- UN Special Rapporteur on the rights to freedom of peaceful assembly and of association
www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/SRFreedomAssemblyAssociationIndex.aspx
- UN Working Group on the issue of human rights and transnational corporations and other business enterprises
www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx
- UN Committee on Migrant Workers
www.ohchr.org/EN/HRBodies/CMW/Pages/CMWIndex.aspx
- UN Special Rapporteur on the human rights of migrants
www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/SRMigrantsIndex.aspx
- UN Special Rapporteur on contemporary forms of slavery
www.ohchr.org/EN/Issues/Slavery/SRSlavery/Pages/SRSlaveryIndex.aspx



Appendix 3: Some sources and resources on the right to work and livelihoods

Organisation	Resource	Where to find it
Amnesty International	<p>On ESC rights in general: www.amnesty.org/en/economic-social-and-cultural-rights</p> <p>On Haki Zetu series: www.amnesty.nl/haki-zetu-esc-rights-in-practice-1</p> <p>On Business & Human Rights: www.amnesty.org/en/business-and-human-rights</p> <p>1998 publication: <i>Human Rights Principles For Companies</i>: www.amnesty.org/en/library/asset/ACT70/001/1998/en/8d6c82f3-e81c-11dd-9deb-2b812946e43c/act700011998en.pdf</p>	
Association for Women's Rights in Development (AWID)	The Right to Work webpage	www.awid.org/Library/The-Right-to-Work
CAIRN.INFO	<i>Types of forced labour and slaverylike abuse in Africa today</i> , Mike Dottridge (in French and English)	www.cairn.info/revue-cahiers-d-etudes-africaines-2005-3-p-689.htm
Centre for Human Rights, University of Pretoria	African Human Rights Case Law Database	http://www1.chr.up.ac.za/index.php/browse-by-subject/597-work.html
Center for Economic and Social Rights (CESR)	<i>Work and Labor pages</i> <i>Human Rights and the Global Economic Crisis; Consequences, Causes and Responses. A study on the impact on livelihoods of the global economic crisis. 2009</i>	www.cesr.org/section.php?id=7 www.cesr.org/downloads/CESRHuman%20Rights%20and%20the%20Global%20Economic%20Crisis.pdf
CETIM – Centre Europe-Tiers Monde	<p>Publishes reports (Dossiers) on various issues including: the consequences of actions by international institutions; and critiques on regional economic agreements.</p> <p>They have a specific booklet on The Right to Work and one on The Right to Social Security</p>	www.cetim.ch/en/index.php ; www.cetim.ch/en/publications_droitau travail.php?currentyear=&pid=

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Organisation	Resource	Where to find it
Child Rights International Network (CRIN)	<i>Child Labour: Combating trafficking in children for labour exploitation: A resource kit for policy-makers and practitioners.</i>	www.crin.org
Ditshwanelo, the Botswana Centre for Human Rights	Research and publications on domestic workers	www.ditshwanelo.org/bw/domestic.html
Human Rights Project Urban Justice Center, USA	Measuring the Rights to Work and to a Livelihood	www.hrpujc.org/documents/WorkersRightsStandards.pdf
ILO / UN International Year of Youth, 2011	Fact sheet: <i>Youth employment</i> (2010/11)	http://social.un.org/youthyear/docs/youth-employment.pdf
International Labour Organisation (ILO)	A wide range of documents, statistics and guidelines, amongst which: <ul style="list-style-type: none"> • The ILO database of national labour, social security and related human rights legislation maintained by the ILO's International Labour Standards Department • ILO Standards • <i>Steps toward determining hazardous child labour</i> - toolkit 	www.ilo.org www.ilo.org/dyn/natlex/natlex_browse.home www.ilo.org/global/standards/lang-en/index.htm www.ilo.org/ipeinfo/product/viewProduct.do?productId=5544
Oxfam	e.g. <i>Checking Up on Labour Rights: A basic assessment tool for the labour policies and practices of international companies;</i> <i>The Factory Floor Guide to Corporate Accountability: Seeking redress for labour rights violations in global supply chains;</i> <i>Trading Away Our Rights: Women working in global supply chains.</i>	Search "labour" in http://policypractice.oxfam.org.uk/publications
PWESCR: Programme on Women's Economic, Social and Cultural Rights	<i>Locating Women's Livelihoods in the Human Rights Framework, discussion paper, July 2011;</i> <i>Women and the Right to Livelihoods, World Social Forum, 2009</i>	Downloadable from: www.pwescr.org/publication.html

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Organisation	Resource	Where to find it
Save the Children Denmark	<i>Child Labour Toolkit; Responsible Approaches to Child Labour in the Textile and Garment Industry; Toolkit to address child labour in the agricultural sector in Egypt.</i>	http://hvr.dk/Files/NW/PDF/Ydelsler/CSR/13236_RB_Child-Labour-Toolkit_web.pdf ; www.savethechildren.org.uk/sites/default/files/docs/EGYPTToolKitchapters_final_version.pdf
UK Overseas Development Institute (ODI)	2001 Publication: <i>Claim our Rights: livelihood security, human rights and sustainable development</i>	http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/1816.pdf
UN Office of the High Commissioner for Human Rights (OHCHR)	CESCR General Comments and Business and Human Rights webpage	www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx and www.ohchr.org/EN/Issues/Business/Pages/BusinessIndex.aspx
Various (on disabled workers' rights)	<i>"People with Disabilities and the Role of Social Workers in Lesotho"</i> <i>Access to Employment for All in West Africa: Let's Make it Work IV</i> (Video in French and English)	www.socwork.net/sws/article/view/25/69 www.youtube.com/
World Bank	<i>Doing Business in the East African Community 2013; Smarter regulations for small and medium size enterprises</i>	www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Special-Reports/DB13-EAC.pdf

1. ILO Symposium for Employers on the Future of Work. Geneva, 5-6 December 2013. Available online: www.ilo.org/public/english/dialogue/actemp/downloads/events/2013/symp/concept_note_en.pdf.
2. UN Economic Commission for Africa (ECA), *MDG Report 2013* (see esp. table 1.1 on page 2). Available online at: www.uneca.org/sites/default/files/publications/mdgreport2013_eng.pdf
3. “ILO Global Employment Trends 2012: Preventing a deeper job crisis.” See: www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_171571.pdf
4. Available online: www.ilo.org/brussels/economic-crises/lang--en/index.htm
5. The right to a livelihood has been recognised by the courts in India. In the Olga Tellis case (*Olga Tellis v Bombay Municipal Council* (AIR) 1986 SC 180) the Supreme Court observed that “An ... important facet of that right is the right to livelihood because, no person can live without the means of living, that is, the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective and meaningfulness, but it would make life impossible to live. And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as a part of the right to life. That which alone makes it possible to live, leave aside what makes life liveable, must be deemed to be an integral component of the right to life.”
6. ILO. *The Decent Work Agenda in Africa: 2007-2015. Report of the Director General to the Eleventh African Regional Meeting, Addis Ababa*. 2007. At page 6 it states: “Perhaps as few as one in ten rural and urban workers have jobs in the formal economy.”
7. The ratification status of the ICESCR by all countries in the world can be checked online: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en.
8. See endnote 5.
9. Based on national laws, some professions can only be practised when the practitioner is officially certified with the proper certificates.

10. See also the report of the Special Rapporteur on Freedom of Association at:
www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf
11. 11 African countries have ratified this convention. See: www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312300:NO
12. See the ILO NATLEX database:
www.ilo.org/dyn/natlex/country_profiles.home?p_lang=en
13. ILO: Country Profiles on Occupational Safety and Health. Available online:
www.ilo.org/safework/countries/lang-en/index.htm
14. Ratified by all African states except two – Liberia and Somalia. See: www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11310:0::NO:11310:P11310_INSTRUMENT_ID:312245:NO
15. See also CEDAW's General Recommendation No. 13 (eighth session, 1989) which advocates, amongst other things, to "*encourage the efforts of the parties to collective agreements, where they apply, to ensure the application of the principle of equal remuneration for work of equal value.*"
16. Ratified by 12 African states: see www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312303:NO
17. See online: www.africaneconomicoutlook.org/en/in-depth/developing-technical-vocational-skills-in-africa/tvsd-in-specific-contexts/youth-unemployment/
18. See endnote 7.
19. The constitutions were accessed in August 2013 at www.kituoachakatiba.org.
20. ILO Newsletter Country Office for Botswana, Namibia, Lesotho, Swaziland and South Africa. May 2012. Available online:
www.ilo.org/public/english/region/afpro/pretoria/pdf/newsletters/may2012.pdf

Everyone has the right to live in dignity, free from fear and free from want, meaning: living without the threat of being physically or mentally ill-treated or of being deprived of basic necessities such as shelter, food, water, health care and education.

People all over the world are deprived of their economic, social and cultural (ESC) rights. Also, for many Africans, the right to live in dignity remains out of their reach.

Within the United Nations and in the African Union, States have defined people's rights and States' duties in human rights treaties or conventions. They are the standards that States must uphold. They are also the instruments that people and organisations can use to demand respect, protection and fulfilment of their human rights.

Around the world, communities are taking a stronger stand against neglect and marginalisation and are demanding their rights. People living in slums, exploited plantation workers or those deprived of education or medical care are organising themselves, with or without help from NGOs. Many of them are exercising their ESC rights without realising that their struggle is about human rights.

This handbook series, *HAKI ZETU – ESC rights in Practice*, is for local civil society groups in Africa. While human rights are the same for everyone in the world, civil society groups in each region face specific challenges. This series was developed in collaboration with a committee of African civil society organisations and written by African and international experts. Much of the advice given in these handbooks reflects the strategies and actions that African NGOs and CBOs have undertaken to make rights a reality.

The human rights framework is a powerful tool that communities and civil society groups can use to persuade their governments to live up to their commitments. The Haki Zetu main book and the subsidiary booklets on specific rights give step by step advice on how civil society groups can use the African and international instruments in their work with communities at local level to realise their ESC rights.



AMNESTY
INTERNATIONAL

