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Brian Chama

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Economic Development at the Cost of Human Rights: China Nonferrous Metal Industry in Zambia

by Brian Chama*†

INTRODUCTION

The international human rights system is primarily based on the relationship between the state and its citizens. The overarching question is where the responsibility for human rights does and should lie in a world where the movement of human beings, goods, and capital are increasingly transnational in scope. The amount of responsibility that powerful actors like international corporations should have for protecting human rights is unclear. How this responsibility should be understood in relation to the responsibility of the state to protect its own people from human rights violations and also pursue strategies to hold international corporations accountable is also debated.

Established in 1983, China Nonferrous Metal Industry (NFC) is a Chinese-based transnational corporation that extracts minerals,¹ installs and supplies mining equipment, and has contracting projects in more than twenty countries.² NFC has been expanding its financial investments in many countries in recent years, investing huge sums of money in mineral explorations.³ In 1998, NFC took over the operation of the Chambishi Mine from the Zambian government,⁴ intending to resume mining operations, which were shut down in 1987 because of high operating costs. NFC commenced its operation of the Chambishi Mine on July 28, 2002⁵ and currently holds 85 percent of the shares in the mine.⁶ Since then, NFC has invested significant sums of money in Zambia, pledging U.S. \$1.2 billion in 2007 alone,⁷ taking advantage of the country's high copper mineral reserves and rising copper prices on the world market.⁸ According to the British Geological Survey of 2007, Zambia is ranked fourth in the world in copper production.⁹ NFC has also taken advantage of Zambia's favorable foreign investment policies¹⁰ and has employed a large labor force in the Chambishi Mine,¹¹ which has been racked by serious labor problems.

This article focuses on NFC's operation of Zambia's Chambishi Mine and related human rights violations. It will address the complex and sometimes contradictory relationship between corporate operations and human rights systems. It will



Map of districts in Copperbelt Province, Zambia.

also look at the Zambian government's policy aimed at attracting foreign investment and NFC's policy of corporate social responsibility. These issues will be addressed from political, moral, and legal perspectives in light of human rights obligations within a world of increasingly internationalized business.

ZAMBIA'S COMPETING POLICY GOALS AND OBLIGATIONS

The Zambian government must cultivate a favorable climate for foreign investment.¹² But, by avoiding direct confrontation with companies regarding treatment of their labor force, the Zambian government fails to protect its citizens from human rights abuses. The Zambian government is often placed in a difficult position because, while foreign businesses may exploit Zambian workers, they may also fund important development opportunities within the country. For instance, NFC has funded projects in Zambia aimed at improving ordinary citizens' standard of living and promoting HIV/AIDS prevention and human rights awareness.¹³ As a result of these kinds of aid programs, in addition to the much-needed revenue from copper production, the Zambian government has been reluctant to point out human rights violations within the company's operations. Meanwhile, NFC's corporate social responsibility and human rights awareness programs also beg the question of where responsibility for ensuring human rights ought to be placed and how this responsibility should be enforced.

* Brian Chama holds an M.A. in Human Rights Practice from Roehampton University in London United Kingdom, an M.A. in Communication for Development from the University of Zambia, and a B.A. in Philosophy from the Urban University in Rome, Italy. He is involved in the field of human rights and social justice and currently works with Survival International in the International Media Department focusing on African media and human rights.

† This article was edited by Christine Rhee, a J.D. candidate at the Washington College of Law and a Senior Articles Editor for the Human Rights Brief.

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LEGAL FRAMEWORK TO PROMOTE FOREIGN DIRECT INVESTMENT IN ZAMBIA

Under the *Zambian Development Agency Act (DAA)*, passed in May 2006, foreign investors may invest in any activity open to the private sector. The only activities prohibited to the private sector are arms production, security printing, and the manufacture of dangerous substances, for which case-by-case investment approval is required. Zambia is also a member of the *Multilateral Investment Guarantee Agency*, a positive sign for foreign investors.¹⁴

In addition to the DAA, a 1993 *Investment Act* promotes foreign direct investment in the domestic economy.¹⁵ Both this *Investment Act* and Article 16(1) of the *Zambian Constitution* provide for the protection of investment against compulsory acquisition, except for public purposes by an Act of Parliament and with prompt payment of compensation.¹⁶ In Zambia, any compensation payable pursuant to this section of the Constitution can be made promptly at market value and be fully transferable at the applicable exchange rate in the currency in which the investment was originally made. In addition, this compensation is generally exempted from deductions for taxes, levies, and other duties. Furthermore, since the *Foreign Exchange Control Act* was repealed in 1994, Zambia has implemented no other laws regulating the transfer of capital in or out of the country.¹⁷

As a signatory to the *World Trade Organization*,¹⁸ Zambia has adequate and effective compensation for the protection of foreign investments¹⁹ but is only nominally committed to non-discrimination in trade.²⁰ Zambia's *Investment Act* does not discriminate against international corporations and applies equally to local and foreign investments.²¹

In sum, the *Zambian government* has treated corporations favorably in order to attract investment of foreign capital into the country. International corporations like *NFC* are shielded in practice from regulatory bodies by the *Zambian government*, and as a result, many Chinese investors violate labor laws, worker safety regulations, and environmental standards with impunity — even while they provide some benefits to the country and local communities.²²

ZAMBIA'S HUMAN RIGHTS OBLIGATIONS

Zambia is a State Party to a number of international treaties that create a positive obligation for the country to protect its population from human rights violations. Although not binding, Articles 3, 23(2), 23(1), and 20(1) of the *Universal*

*Declaration of Human Rights*²³ enshrines the rights to life, equal work for equal pay, safe and healthy working conditions, and the right to form trade unions or strike. Zambia's duties under the *International Covenants on Economic, Social and Cultural Rights*²⁴ (ICESCR) and *Civil and Political Rights*²⁵ (ICCPR) reiterate these basic human rights. Additionally, Zambia's obligations under the *African Charter on Human and Peoples' Rights* include protection of these same rights²⁶ as well as another provision in Article 21(5) that "States [P]arties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their natural resources."²⁷ Lastly, through its membership with the *United Nations' International Labour Organisation* and subsequent ratification of specific conventions,²⁸ Zambia is compelled to abide by certain international labor standards that protect workers' rights. Through these international instruments, Zambia is legally bound to uphold its citizens' rights. Based on its record with *NFC*, however, Zambia has not fulfilled its duty to prevent foreign corporations from exploiting its people.

THE CASE OF NFC IN ZAMBIA

Many transnational corporations today make up significant portions of states' economies.²⁹ As a result, their ability to affect government policy is growing. International corporations have the financial clout to either promote or undermine human rights. In the case at hand, *NFC* has had a net negative impact on human rights in Zambia. Despite its significant financial mining investment in the country, which generates positive feedback, *NFC* has been harshly criticized for the way it treats its mine workers.³⁰

HUMAN RIGHTS VIOLATIONS

There have been persistent incidents of unrest regarding the labor conditions of *Zambian mine workers* since Zambia opened its doors to foreign direct investment in the 1990s.³¹ Many workers have complained that they work long hours in hazardous underground mines.³² *NFC* has been criticized for failing to adhere to commonly accepted labor regulations. According to *Teddy Chisala*, a mine workers' representative, *NFC* also fails to follow *Zambian labor laws*,³³ and union leaders say that *Chambishi mine workers* are paid significantly less than other workers in Zambia's mining sector.³⁴

Injuries and fatalities in *Zambian mines* have been increasing in recent years. The *Chamber of Mines*, an industry body,

reported fourteen fatalities in 2004, eleven in 2003, and fourteen in 2002.³⁵ According to the Mineworkers Union of Zambia, at least 71 people died in mining-related accidents in Zambia in 2005.³⁶ For example, in April 2005, 52 Zambian workers died in a factory explosion, which has been blamed on NFC's poor safety standards and lack of accountability.³⁷ The accident occurred at the Beijing General Research Institute of Mining and Metallurgy (BGRIMM), a joint venture between NFC and the Chinese government.³⁸ The mine workers were trapped in the manufacturing plant when the explosion occurred. None of the Chinese staff employed at the plant were injured.³⁹

In July 2006, four NFC mine workers were shot and wounded by the company's Chinese management in combination with police while protesting a wage dispute.⁴⁰ In 2007, police shot and killed five miners during violent protests over the working conditions at the Chambishi Mine.⁴¹ Then, in March 2008, the British Broadcasting Corporation (BBC) reported on the dismissal of five hundred mine workers from Chambishi.⁴² While negotiating for pay increases and better safety conditions, the workers clashed with Chinese foremen, and mine workers assaulted a Chinese manager.⁴³ Chinese workers took refuge by locking themselves in their offices.⁴⁴ Several buildings were burned in the violence and a protester was injured.⁴⁵ The workers rioted after negotiations to improve their working conditions were delayed.⁴⁶

These incidents demonstrate the Zambian government's failure to protect its citizens' right to life and prevent workers' abuses by allowing Chinese corporations to commit human rights abuses with impunity. The government has clearly neglected its positive obligation⁴⁷ to ensure the physical safety of its people and even, in the instance of police action in support of the company, been complicit in violating the right to life.

CRITICS OF NFC'S OPERATIONS

Various critics have spoken out against NFC's labor practices: politicians and watchdog organizations, as well as the media. Significant criticism came from Michael Sata, the leader of the Patriotic Front, Zambia's main opposition political party.⁴⁸ Sata has openly condemned NFC's mining investment in Zambia

and has on several occasions threatened to expel the company if he is elected president, calling most Chinese investors in Zambia "exploiters who brought the country no benefit."⁴⁹

Another critical voice of foreign investor involvement in the Zambian mining industry has been the Bench Marks Foundation (BMF), an independent watchdog monitoring global corporate responsibility.⁵⁰ In its 2008 report, BMF reported that most Zambian citizens still lived in extreme poverty even with the growth of the domestic mining industry and the economy.⁵¹ The foundation's main criticisms were that mining companies have exploited many Zambian workers with wages below the mine's standard for permanent workers and that they operate at sub-standard levels of safety, health, and environmental conditions.⁵²

BMF's October 2008 report also investigated the role of foreign businesses' corporate social responsibility policies in Africa and urged the Southern African Development Community, a regional economic community including Zambia, to unify mining legislation to avoid creating havens for unscrupulous mining corporations.⁵³ The report further warned that in the rush of new mining investors, vulnerable African countries could fall prey to abuse and labor exploitation.⁵⁴ BMF also concluded that implementing and monitoring mining policies were problematic in Zambia due to a lack of skilled professionals and serious social problems.⁵⁵

Despite all the criticism generated from NFC's poor treatment of its workers, no one has classified NFC's actions as human rights violations. Sata's criticism of the NFC was politically motivated and BMF focused on NFC's corporate social responsibility rather than violations of fundamental human rights. Critics have yet to define these issues as violations of international human rights covenants and treaties which protect Zambian citizens' right to life, right to strike, equal pay for equal work, and safe working conditions.

THE ZAMBIAN GOVERNMENT'S POSITION AND ATTEMPTS AT REGULATORY REFORM

The Zambian government views NFC's mining investment as part of positive economic development.⁵⁶ NFC has given significant revenue to the Zambian government in terms of profit



A copper mine near Chingola, Zambia.

By BlueSato.

margins, but it has also sent profit abroad due to the country's flexible investment policies.⁵⁷

The Zambian government has not taken adequate steps to uphold human rights norms in its relationship with NFC. In fact, despite NFC's reported human rights violations and popular opposition to the mine's operation, Zambia recently gave the controversial Chinese company rights to another copper mine, choosing them over Vedanta Resources, another international corporation that runs the biggest copper mine in the country.⁵⁸

The Zambian government has generally been reluctant to openly criticize NFC for fear of discouraging potential investment from other multinational corporations. Poor working conditions for most Zambian mine workers have caused riots and demonstrations throughout the Zambian copper belt province,⁵⁹ signifying that this issue extends to other foreign mining corporations. For instance, in July 2006, authorities shut down another Chinese-owned business, Collum Coal Mine Industries, Ltd., in Sinazongwe in southern Zambia, for sub-standard working conditions and a failure to implement safety regulations.⁶⁰ Regional Minister Alice Simango, who visited the site, reported that "[t]he workers are kept like pigs and subjected to a dangerous environment. They are kicked and beaten as though they are not human beings."⁶¹

After the death of 52 NFC workers in 2005,⁶² the Zambian government finally decided to investigate. The government established a commission of inquiry and Zambian officials confiscated passports from senior Chinese mine managers pending the investigation.⁶³ The commission reported that many NFC workers were untrained, and safety rules and regulations were ignored in actual operation.⁶⁴ In April 2008,⁶⁵ in what seemed to be an effort to secure some benefits for the Zambian people, the Zambian government made changes to its fiscal policy relating to the mining sector,⁶⁶ forcing foreign mining companies to give back to the government or local communities.⁶⁷

At the time, the Minister of Finance and National Planning Ng'andu Maganda observed that the development agreement between the Zambian government and the mining companies heavily favored international corporations.⁶⁸ With new policies, Maganda argued, the government would be able to improve Zambian education and health services and create investments that would produce more jobs.⁶⁹

In addition to changing its fiscal policy, the Zambian government strengthened its environmental protection laws in reaction to careless mining programs that had caused serious environmental problems.⁷⁰ In one instance, the government shut down Chiman Manufacturing Limited for exceeding the allowable air pollution limits in surrounding areas.⁷¹ Kabwe, the city where the Chiman Manufacturing factory was located, is now one of the most polluted areas in the world.⁷² Chiman Manufacturing was also charged with failing to provide for the personal safety of its employees.⁷³

The government has also taken steps to protect workers' rights, with mixed results. In response to labor unrest, the Zambian government rebuked Chinese investors and asked Kabwe-based Chinese managers at Zambia-China Mulungushi Textiles, Ltd. to stop locking its workers in its factory at night in 2004.⁷⁴ In southern Zambia, authorities shut down Collum Coal



By Arne Wilson.

An open pit copper mine in Zambia.

Mining Industries Ltd. for forcing its miners to work underground without proper safety gear.⁷⁵ In Sunfeng Mineral and Mining (Z) Limited, employees were given protective clothing in advance of an inspection by the Principle Labour Officer. As soon as the inspector left, all employees were required to return the protective clothing and continue working without it.⁷⁶

While Zambian mine workers have certain legal protections against employers, including the right to strike, this right is subject to so many procedural requirements that it is nearly impossible for workers to actually hold a legal strike.⁷⁷ Under the Zambian Industrial and Labour Relations Act, workers on strike can be arrested without a warrant if police officers believe strikers are likely to damage property or if they believe striking workers work in an industry that provides an essential service, a category that includes certain mining operations.⁷⁸ Union rights organizations have unsuccessfully lobbied for many years to get the government to amend this restrictive law.⁷⁹

NFC'S RESPONSE

In response to government action and negative media attention,⁸⁰ NFC launched a social responsibility plan in 2007 to improve its image and reputation in Zambia⁸¹ by investing in local community development. Specifically, NFC invested in a seventy-bed hospital, offering services to its employees and the general public.⁸² The company has also supported communities in partnership with local authorities to build roads and sports facilities in Chambishi, Kitwe, and Kalulushi.⁸³ Still, however, NFC has failed to demonstrate any investment in its workers' safety and well-being.

NFC's social responsibility plan is an attempt to demonstrate that, despite its shortcomings, the company has made efforts to give back to the local Zambian community. NFC promises that changes are underway. Yet, NFC has been operating in the Chambishi Mine for over eight years and the situation has remained the same for much of that time.⁸⁴ Policies are still "on the way" for a wide range of issues.⁸⁵ For instance, NFC has taken some steps to educate Zambians on the AIDS epidemic in Africa.⁸⁶ Some HIV/AIDS peer educators were trained at an explosives plant belonging to NFC's subsidiary BGRIMM, but

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they were all killed in an industrial accident. No new educators have been trained.⁸⁷

It is unclear whether NFC's initiation of these development policies is just to appease critics and save the company's reputation. Considering that the company has thus far failed to successfully implement its social responsibility plan, it seems NFC is waiting for the Zambian government to develop a better regulatory structure before instituting more policies.

RECOMMENDATIONS

Both Zambia and NFC need to take more responsibility with regard to the treatment of Zambian workers. Multinational corporations should promote and encourage policies that are fair to Zambian citizens. The government should also institute and enforce punitive consequences for corporations that either violate basic human rights principles or act in a way that is detrimental to the needs and the wellbeing of local communities. Both the Zambian state and transnational corporations have a responsibility to uphold transparency before beginning new investment operations, explaining to the local people that investment may result in job losses, changes to the environment, and loss of property or land.

The government should encourage Zambian ownership of shares in international companies to encourage local ownership and reduce local resentment towards foreign investors. Locals should be given the chance to freely express their opinions on potential investment plans. In turn, the government should protect the local community's right to freely express their opposition and consider that when negotiating agreements with foreign businesses. The national and international media should also continue to call for fair investment deals in Africa and other developing regions and continue tracking and publicizing the impact of exploitative international corporations.

Finally, the government needs to enshrine workers' rights within the Bill of Rights in the Zambian Constitution. Specifically, it needs to approve Provision 66(2) of the Draft Constitution that states that a worker has the right to a fair remuneration, equal work for equal pay, and work under safe and healthy conditions.⁸⁸ With these reforms, the Zambian government also needs to bring "casualisation" of labor to an end in the

country by closing a loophole in the Employment Act that allows companies to rehire casual workers on short-term contracts to continuously fill positions.⁸⁹

CONCLUSION

Transnational corporations like NFC are constantly changing the state of human rights systems in developing countries like Zambia. NFC often seems to have more financial power than the Zambian government. Still, the company has funded projects and has donated significant sums of money in partnership with government-led development. The Zambian government has greatly benefited from NFC's work and is consequently reluctant to criticize the company.⁹⁰ As a result, while the Zambian government threatens poor companies and small non-governmental organizations with closure for human rights abuses, it casts a blind eye when corporations like NFC are accused of labor abuses.

The Zambian government has been hesitant to point out the human rights violations within NFC's operations, instead viewing NFC as a partner in development. The promotion and protection of human rights codified by the Universal Declaration of Human Rights⁹¹ and the African Charter on Human and Peoples' Rights⁹² are integral parts of governments' and multinational corporations' obligations to act in good faith towards each other as members of an international community. Zambia has signed international human rights conventions⁹³ like the ICESCR, the ICCPR, and the African Charter, and has acceded and ratified conventions to protect its citizens' human rights. Pursuant to these conventions, the Zambian government is obligated to protect its citizens' rights by preventing transnational corporations from exploiting workers within its borders. Failure to protect its citizens from exploitation by international businesses is a violation of its treaty commitments. Cooperation with NFC's work in Zambia in the name of national development is a clear example of how transnational corporations can undermine human rights.

To fulfill these obligations, the Zambian government must ensure that the poor and the voiceless are treated with dignity. Zero tolerance for human rights abuses is a way to guarantee this aspiration.

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ENDNOTES: Economic Development at the Cost of Human Rights: China Nonferrous Metal Industry in Zambia

¹ China Nonferrous Metal Industry's Foreign Engineering and Construction Co., Ltd., History of NFC, <http://www.nfc.com.cn/col105/col106/col116/index.htm?id=116> (last visited Jan. 16, 2010) [hereinafter China Nonferrous Metal].

² *Id.*

³ *Id.*; Mines and Communities, *CNMC to buy controlling stake in Zambia's Luanshya Copper Mines*, <http://www.minesandcommunities.org/article.php?a=9366> (last visited Jan. 16, 2010) [hereinafter *CNMC*]; Glory Mushingwe, *Labor Day in Zambia: "Our Workers have been turned into Slaves in their Own Country!"*, THE WIP, June 12, 2007, http://www.thewip.net/contributors/2007/06/labor_day_in_zambia_our_worker.html [hereinafter Mushingwe].

⁴ China Nonferrous Metal, *supra* note 1.

⁵ China Nonferrous Metal Industry's Foreign Engineering and Construction Co., Ltd., Chambishi Copper Mine of Zambia, <http://www.nfc.com.cn/col105/col107/col123/article.htm?id=324> (last visited Jan. 16, 2010).

⁶ Mines and Communities, *Zambian govt unlikely to raise stake in Chinese-controlled copper mine*, <http://www.minesandcommunities.org/article.php?a=9366> (last visited Jan. 16, 2010); China Nonferrous Metal, *supra* note 1.

⁷ Orla Guerin, *Zambia miners 'see little reward'*, BBC NEWS, July 4, 2007, available at <http://news.bbc.co.uk/2/hi/africa/6267754.stm> [hereinafter Guerin].

⁸ *CNMC*, *supra* note 3.

⁹ BRITISH GEOLOGICAL SURVEY NATURAL ENVIRONMENT RESEARCH COUNCIL, COMMODITY PROFILE: COPPER (June 2007), available at <http://www.bgs.ac.uk/downloads/start.cfm?id=1410>.

¹⁰ Michael Chilufya Sata, Chinese Investment in Africa and Implications for International Relations, Consolidation of Democracy and Respect for Human Rights: The Case of Zambia (unpublished paper presented at Harvard University Belfer Center Conference, China-Africa: the Ying and the Yang, Oct. 24, 2007), available at: <http://www.scribd.com/doc/13050037/Chinese-Investment-in-Africa-and-Implications-for-International-Relations-Consolidation-of-Democracy-and-Respect-for-Human-Rights-The-Case-of-Zambia> [hereinafter Sata].

¹¹ "Currently [as of May 2009] NFC Chambishi mines employs 169 Chinese nationals and 2,000 Zambians." AFRICAN LABOUR RESEARCH NETWORK, CHINESE INVESTMENTS IN AFRICA: A LABOUR PERSPECTIVE 181 (Anthony Yaw Baah & Herbert Jauch eds., 2009), available at <http://www.sask.fi/@Bin/298928/China-Africa+Report+2009-final.pdf> [hereinafter CHINESE INVESTMENTS IN AFRICA: A LABOUR PERSPECTIVE].

¹² Sata, *supra* note 10.

¹³ CHINESE INVESTMENTS IN AFRICA: A LABOUR PERSPECTIVE, *supra* note 11.

¹⁴ CUTS CENTRE FOR COMPETITION, INVESTMENT & ECONOMIC REGULATION, INVESTMENT POLICY IN ZAMBIA-PERFORMANCE AND PERCEPTIONS 36 (2003), available at http://www.cuts-international.org/CR_zamAB.pdf.

¹⁵ *Id.* at 10.

¹⁶ *Id.*

¹⁷ UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, INVESTMENT POLICY REVIEW ZAMBIA 19 (2006)(unedited advance copy), available at http://www.unctad.org/en/docs/iteipczambia_en.pdf.

¹⁸ *Id.*

¹⁹ Chola Abel Mwitwa, Director of Aftercare & Business Development Services, Zambia Investment Centre, Presentation at the NEPAD-OECD Africa Investment Initiative on Mobilising Private Investment in Support of Development, *Policy Reform for Investment: The case of Zambia* (Dec. 12-13, 2006), available at: <http://www.oecd.org/dataoecd/61/8/37987613.pdf>.

²⁰ *Id.*

²¹ *Id.*

²² Sata, *supra* note 10.

²³ Universal Declaration of Human Rights, arts. 3, 20(1), 23(1), 23(2), G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948) [hereinafter UDHR].

²⁴ International Covenant on Economic, Social and Cultural Rights, arts. 7(a)(i), 7(b), 8(d), 993 U.N.T.S. 3 (1966) [hereinafter ICESCR].

²⁵ International Covenant on Civil and Political Rights, arts. 6(1), 22(1), 999 U.N.T.S. 171 (1976) [hereinafter ICCPR].

²⁶ African Charter on Human and Peoples' Rights, arts. 4, 15, 11, 1520 U.N.T.S. (1981) [hereinafter African Charter].

²⁷ *Id.* art. 21(5).

²⁸ Zambia specifically ratified the Convention concerning Freedom of Association and Protection of the Right to Organize and the Equal Remuneration Convention on February 20, 1997 and August 15, 1972, respectively. Convention (No. 87) concerning freedom of association and protection of the right to organize, 68 U.N.T.S. 18 (1950); Convention (No. 100) concerning equal remuneration for men and women workers for work of equal value, 165 U.N.T.S. 304 (1953).

²⁹ Guerin, *supra* note 7.

³⁰ *Id.*

³¹ Mushingwe, *supra* note 3.

³² *Id.*

³³ *Chinese beaten up in Zambia mines*, BBC NEWS, Mar. 4, 2008, available at <http://news.bbc.co.uk/2/hi/africa/7277006.stm> [hereinafter *Chinese beaten up*].

³⁴ Shapi Shacinda, *Chinese labor policies mar African welcome*, INTERNATIONAL BUSINESS TIMES, Aug. 9, 2006, available at <http://www.ibtimes.com/articles/20060809/china-africa-mining-investment.htm> [hereinafter Shacinda].

³⁵ Mines and Communities, *Zambia's Miners Paying the Price*, <http://www.minesandcommunities.org/article.php?a=501&highlight=zambian,miners,paying,the,price> (last visited Jan. 17, 2010).

³⁶ *Id.*

³⁷ Kelvin Kachingwe, *Zambia: Opposition to Chinese Firm Running Copper Mine*, GLOBAL ISSUES, June 2, 2009, available at <http://articles.latimes.com/2006/oct/06/world/fg-chizambia6> [hereinafter Kachingwe].

Endnotes continued on page 77