

# ZAMBIA 2016 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Zambia is a constitutional republic governed by a democratically elected president and a unicameral national assembly. On August 11, the country held elections under a new constitution for president, national assembly seats, and local government, as well as a referendum on an updated bill of rights. The incumbent, Patriotic Front (PF) President Edgar Chagwa Lungu, was re-elected by a tight margin. A contorted legal process saw the opposition candidate unsuccessfully challenge the election results. International and local observers deemed the election to have been conducted freely but cited a number of irregularities. The pre- and post-election periods were marred by limits on press freedom and political party intolerance resulting in sporadic violence across the country. Although the results were ultimately deemed a credible reflection of votes cast, media coverage, police actions, and legal restrictions heavily favored the ruling party and prevented the election from being genuinely fair.

Civilian authorities maintained effective control over the security forces.

The most significant human rights problems during the year were political violence; restrictions on freedoms of the press, assembly, association, and speech; and gender-based violence (GBV).

Other serious human rights problems included abuses by police; life-threatening prison conditions; politically motivated arbitrary arrest; prolonged pretrial detention; interference with privacy; government corruption; child abuse; trafficking in persons; discrimination against persons with disabilities and members of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community; and child labor.

The government took selective and halting steps to prosecute or punish officials who committed abuses, targeting mostly those who opposed the ruling party. Impunity remained a problem, as ruling party supporters were either not prosecuted for serious crimes or, if prosecuted, released after serving small fractions of prison sentences.

## **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

**a. Arbitrary Deprivation of Life and other Unlawful or Politically Motivated Killings**

There were several unconfirmed reports of extrajudicial killings by the government or its agents during the election period. The most prominent and widely reported incident occurred on July 9 when police allegedly shot and killed Mapenzi Chibulo, an opposition United Party for National Development (UPND) supporter, after security forces clashed with a group of opposition supporters protesting the cancellation of a planned UPND rally in Lusaka.

**b. Disappearance**

There were no reports of politically motivated disappearances.

**c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

Although the constitution prohibits subjecting any person to torture or to inhuman or degrading punishment, no laws address torture specifically. There were reports police used excessive force, including torture, and cruel, inhuman, or degrading treatment, when apprehending, interrogating, and detaining criminal suspects.

For example, on October 5, armed police officers assaulted Komboni Radio station director Lesa Kasoma Nyirenda as she attempted to enter the station, previously closed by the Independent Broadcasting Authority (IBA) on August 22. The IBA subsequently lifted the closure. Kasoma Nyirenda was arrested for assault after biting an officer on the hand as police reportedly attempted to strip her naked. Her trial had yet to commence by year's end. Vice President Inonge Wina issued a public apology to Kasoma Nyirenda in which she acknowledged police had acted inappropriately and used excessive force during the arrest.

The United Nations reported that as of December 20 it received one allegation of sexual exploitation and abuse (SEA) against Zambian peacekeepers for an alleged incident occurring during the year. The allegation involved military personnel deployed to the UN Multidimensional Integrated Stabilization Mission in the Central African Republic. In early December the Zambian Ministry of Defense sent a team of officers to the Central African Republic to investigate the allegation. On December 23, the ministry submitted a report containing the team's findings to the United Nations. The report stated that the team found no credible evidence to corroborate any claims of sexual assault or SEA involving Zambian peacekeepers.

The team found that the alleged victim of the crime denied ever having been assaulted and that both the medical doctor at the local hospital and the local gendarmerie commander stated they received no reports of SEA by Zambian peacekeepers during the period in question. The team of investigative officers recommended the case be closed.

### **Prison and Detention Center Conditions**

Prison conditions were harsh and life threatening due to overcrowding, frequent outbreaks of disease, food and potable water shortages, and poor sanitation and medical care.

Additionally, criminal justice system centralization, delayed Justice Sector Reform Commission results, understaffing, poor diet among inmates, outdated laws, harsh bail conditions, and court delays were identified as problems.

Physical Conditions: According to NGO Prisons Care and Counseling Association (PRISCCA), there were 90 prisons, of which 54 were traditional institutions and the remainder were open-air prison farms.

An inefficient judiciary and a failure to process detainees eligible for release on bond or bail contributed significantly to overcrowding. According to the Human Rights Commission (HRC), more than 80 percent of accused persons at the pretrial stage who were eligible for bail or bond were not processed.

According to data supplied by both PRISCCA and the commissioner general of prisons, an average of 19,000 prisoners were incarcerated in prisons designed to hold 8,150. Overcrowding was slightly reduced during the year due to increased sleeping capacity in new prisons opened in 2015. PRISCCA noted overcrowding was compounded by a slow-moving judicial system, outdated laws, and increased incarceration due to higher numbers of persons driven to crime by poverty. Other factors included limitations on judges' power to impose noncustodial sentencing, a retributive culture of police officers, and poor bail and bonding conditions. Indigent inmates lacked access to costly bail and legal representation through the Law Association of Zambia. Other organizations such as the Legal Aid Board and the National Prosecutions Authority were also difficult for inmates to access due to a lack of representation outside Lusaka.

The Prisons Act requires separation of different categories of prisoners, but only female prisoners were held separately; juveniles were often held together with

adult inmates and pretrial detainees with convicted inmates. Prisons also held an undetermined number of “circumstantial children,” who were either born in prison or living in prisons while their mothers served out sentences. According to PRISCCA, the constitution does not take into account the biological and health needs of incarcerated women or their children. Although a law on the care of circumstantial children exists, there were no prison facilities for breastfeeding or pregnant women. Incarcerated women, who had no alternative for childcare, could choose to have their infants and children under the age of four with them in prison. Prisons provided no food or medical services to children, and mothers had to share meager rations with their children in an environment lacking appropriate medical care, which often exposed children to disease.

Prisons did not adequately address the needs of persons with disabilities. Prisons generally had inadequate ventilation, temperature control, lighting, and basic and emergency medical care.

Many prisons had deficient medical facilities and meager food supplies, and a lack of potable water resulted in serious outbreaks of water- and food-borne diseases, including dysentery and cholera. Inmates received breakfast, mostly a cup of simple meal or porridge for which inmates must secure their own sugar, and lunch served in double portions. Failure to provide lunch and supper separately was attributed to a lack of electric stoves and pots.

The prison system remained understaffed with only two doctors--one of whom also performed managerial duties--to attend to 21 prison-based clinics. The Ministry of Health provided mobile hospital facilities to prisons. The supply of tuberculosis (TB) medication and other essential drugs was erratic, which NGOs attributed to inadequate funding. A failure to remove or quarantine sick inmates resulted in the spread of TB and other illnesses and the deaths of several prisoners. The HRC and PRISCCA expressed concern at the lack of isolation facilities for the sick and for persons with psychiatric problems. The incidence of TB remained very high due to congestion, lack of compulsory testing, and prisoner transfers.

Access to health care services for inmates, including HIV/AIDS and TB diagnoses, antiretroviral therapy (ART) and other treatments, improved since the establishment in 2015 of the Zambia Correctional Service (ZCS) Health Directorate. For example, 90 percent of inmates reportedly received counselling and testing for HIV. Sixty-five percent of those diagnosed with HIV had access to ART. HIV prevalence in prisons, however, was 27 percent, compared to 13 percent in the general population. The HIV rate was worsened by prisoners’

inability to maintain the strict diet needed for effective treatment, overcrowding, and a lack of adequate prevention and treatment services.

Authorities denied prisoners access to condoms because the law criminalizes sodomy and prevailing public opinion weighed against providing condoms. Prison authorities, PRISCCA, and the Medical Association of Zambia advocated for prisoners' conjugal rights as a way to reduce prison HIV rates. Discriminatory attitudes toward the most at-risk populations (persons in prostitution and men who have sex with men) stifled the development of outreach and prevention services for these groups.

According to the 2013 National Audit of Prisons, female inmates had limited access to health services. Gynecological care, cervical cancer screening, prenatal services, and prevention of mother-to-child transmission programs were nonexistent. Female inmates relied on donations of underwear, sanitary pads, diapers for infants and toddlers, and soap. Kabwe Female Prison was the sole prison built for female occupancy; other prisons improvised to accommodate female inmates.

Administration: Recordkeeping was inadequate. PRISCCA attributed delays in appeals for convicted offenders to the judiciary's poor recordkeeping and misplaced and lost files. Although provided for by the penal code, alternatives to incarceration for nonviolent offenders were applied sparingly, generally to juvenile offenders. There were no ombudsmen to promote the interests of inmates. Prisoners and detainees generally could not submit complaints to judicial authorities or request investigation of credible allegations of inhuman conditions.

Independent Monitoring: The government permitted prison visits by both domestic and international NGOs, including religious institutions. Local NGOs visited prisons, advocated for better prison conditions, and published critical reports. The HRC campaigned to eradicate torture within the prison system.

Improvements: In November the ZCS incorporated new skills training programs for prisoners to prepare them for reintroduction into society.

#### **d. Arbitrary Arrest or Detention**

Although the constitution and law prohibit arbitrary arrest and detention, the HRC reported authorities frequently violated these prohibitions. Immigration Department officers raided religious and other places of assembly and detained

suspected undocumented migrants before thorough investigation. The HRC recorded some politically motivated arrests during and after the August 11 general elections. The UPND alleged 15 of its members were arrested under politically motivated pretences and charged with nonbailable offenses. The Zambian Police Service (ZPS) claimed these individuals were arrested while committing assault and theft. Many of them have yet to appear in court.

### **Role of the Police and Security Apparatus**

The ZPS reports to the Ministry of Home Affairs. Divided into regular and paramilitary units, the ZPS has primary responsibility for maintaining law and order. The Zambia Security and Intelligence Service (ZSIS), under the Office of the President, is responsible for external and internal intelligence. The Central Police Command in Lusaka oversees 10 provincial police divisions with jurisdiction over police stations in towns countrywide.

The army, air force, and national service are responsible for external security. The commander of each service reports to the minister of defense. By law defense forces have domestic security responsibilities only in cases of national emergency. In addition to security responsibilities, the Zambia National Service performs road maintenance and other public-works projects and runs state farms for displaced children.

Paramilitary units of the ZPS, customs officers, and border patrol personnel watch over lake, river, and other border areas. The Drug Enforcement Commission is responsible for enforcing the laws on illegal drugs, fraud, counterfeiting, and money laundering. The Drug Enforcement Commission, customs, and border patrol personnel operate under the Ministry of Home Affairs. Impunity was a problem. Senior police officials disciplined some officers for engaging in extortion of prisoners by suspending them or issuing written reprimands, but many abuses went unaddressed. Dismissals of officers for extortion were rare.

### **Arrest Procedures and Treatment of Detainees**

The constitution and law require authorities to obtain a warrant before arresting a person for most offenses. Police do not need a warrant, however, when they suspect a person has committed offenses such as treason, sedition, defamation of the president, or unlawful assembly. Police rarely obtained warrants before making arrests. For example, in September police entered the premises of MuviTV without a warrant to seize equipment and halt operations, following the

Independent Broadcasting Authorities' suspension of the station's operating license.

Although the law requires that detainees appear before a court within 24 hours of arrest and be informed of the charges against them, authorities routinely held detainees for much longer periods while prosecutors and police collected evidence before presenting cases to a court. The HRC noted this abuse remained common, particularly in rural districts, where subordinate courts operated in circuits. Since by law magistrate courts have no jurisdiction over cases that occur outside the district, detainees could be tried only when a circuit court judge was in the district. Problems with inadequate transportation, investigatory inefficiency, and political interference also delayed detainees being promptly charged and judged.

The Criminal Procedure Code provides for bail in case of any detention. The accused can only be granted bail upon providing a sufficient surety or sureties. Bail is not authorized in cases of murder, aggravated robbery, and violations of narcotics laws. Any bail inquiry must be conducted impartially, judicially, and in accordance with the law. Despite this requirement more than 6,000 inmates remained incarcerated without trial, creating a massive administrative backlog in bail and bond cases. Courts often required at least one employed person, often a government employee, to vouch for the detainee, which many see as a particularly onerous requirement for government opponents and the poor. According to the HRC, this requirement posed a challenge in rural areas, where most are informally employed. Authorities frequently refused or delayed bail in politically sensitive cases. For instance, following the September 9 arrest of opposition leader Nevers Mumba after he publicly challenged the outcome of the presidential election, the accused was held for three days before being granted bail.

Detainees were not allowed prompt access to a lawyer in many cases. Although the law obligates the government to provide an attorney to indigent persons who face serious charges, many indigent defendants received no legal counsel. The government's legal aid office and the Legal Resources Foundation provided some legal services to indigent arrestees.

Arbitrary Arrest: According to human rights groups, arbitrary or false arrest and detention remained problems. Police often arbitrarily summoned family members of criminal suspects for questioning, and authorities arrested criminal suspects based on uncorroborated accusations or as a pretext for extortion. Human rights groups reported police routinely detained citizens after midnight, a practice only legal during a state of emergency. For example, in several "compound" areas--

urban settlements characterized by high population density--police arrested residents after dark to clear the streets. The HRC noted that in politically motivated arrests, police detained suspects on Fridays to keep them in custody over the weekend. Police arbitrarily arrested opposition leaders and journalists. Police detained and questioned opposition United Party for National Development (UPND) leader Hakainde Hichilema and his Vice President, Godfrey Bwalya Mwamba, several times, as well as other UPND members and other opposition leaders who supported the UPND. On August 12, former Lusaka Province Minister Obvious Mwaliteta and UPND Copperbelt Provincial Chairperson Elias Matambo were arrested. The two were charged with aggravated robbery; the UPND claimed they were thwarting election rigging. In early December the director of public prosecution attempted to add previously undisclosed charges to the docket.

Pretrial Detention: Prolonged pretrial detention continued to be a problem. Thirty-two percent of prison inmates were in pretrial detention. On average detainees spend an estimated two years in pretrial detention, which often exceeded the length of the prison sentence corresponding to the alleged crime. Contributing factors included inability to meet bail requirements, trial delays, and adjournments due to absent prosecutors and their witnesses.

Detainee's Ability to Challenge Lawfulness of Detention before a Court:

Detainees had the ability to challenge in court the legal basis or arbitrary nature of their detention, but police often prevented detainees from filing challenges to prolong detention. For example, UPND Vice President Mwamba was detained on numerous occasions during the election campaign and prevented from challenging the legality of his arrest in court until he had spent several days in jail.

### **e. Denial of Fair Public Trial**

The constitution and law provide for an independent judiciary; the government largely respected judicial independence. The ruling party intervened in criminal and civil cases in which it had an interest. For example, in late November Special Assistant to the President Amos Chanda criticized two High Court justices for overturning the election victories of PF parliamentary candidates.

### **Trial Procedures**

The constitution provides for the right to a fair hearing, but the judicial system is open to influence by the ruling party in cases in which it has an interest.



Defendants enjoy the right to a presumption of innocence, but they were not always informed promptly and in detail of the charges against them. Trials were public but usually delayed. Defendants enjoy the right to consult with an attorney of their choice, to have adequate time to prepare a defense, to present their own witnesses, and to confront or question witnesses against them, although they had limited access to government-held evidence. Indigent defendants were rarely provided an attorney at state expense. Interpretation services in local languages were available in most cases. There were no reports defendants were compelled to testify or confess guilt. Defendants had the right to appeal.

### **Political Prisoners and Detainees**

There were some reports of political prisoners or detainees, particularly around the election period. Members of the opposition UPND party claimed 15 of their supporters were arrested for political purposes and later charged with nonbailable offenses. The ZPS claimed these individuals were arrested while committing assaults and robberies.

### **Civil Judicial Procedures and Remedies**

Complainants may seek redress for human rights abuses from the High Court. Individuals or organizations may seek civil remedies for human rights violations and appeal court decisions to the African Court of Human and Peoples' Rights. In May 2015 a group of Barotse activists appealed to the court, seeking to compel the government to respond to a legal argument for the region's independence. The appeal was still pending.

#### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions, but the government frequently did not respect these prohibitions. The law requires a search or arrest warrant before police may enter a home, except during a state of emergency or when police suspect a person has committed an offense such as treason, sedition, defamation of the president, or unlawful assembly. Police routinely entered homes without a warrant even when a warrant was legally required. Domestic human rights groups reported authorities routinely detained, interrogated, and physically abused family members or associates of criminal suspects to obtain their cooperation in identifying or locating the suspects. In one of the more prominent examples,

police teargassed and raided the family house of the opposition UPND's vice presidential candidate on July 20, ostensibly to search for illegal weapons.

The law grants the Drug Enforcement Commission, ZSIS, and police authority to monitor communications using wiretaps with a warrant based on probable cause, and authorities generally respected this requirement. The government required cell phone service providers to register all subscribers' SIM cards. Critics contended the government's Zambia Information and Communications Technology Agency monitored telecommunications.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

Although the constitution and law provide for freedom of speech and press, the law contains some provisions the government used to restrict these freedoms.

Freedom of Speech and Expression: The government remained sensitive to criticism in general and by the political opposition in particular. It was quick to prosecute critics on the pretext of incitement of public disorder and hate speech. For example, on March 21, police arrested opposition Fourth Revolution party leader, Eric Chanda, for allegedly defaming President Lungu after he was quoted in May 2015 in *The Post* newspaper accusing the president of wasting taxpayer money at a holiday resort.

Press and Media Freedoms: The government published two of the country's three most widely circulated newspapers. One of the two privately owned newspapers opposed the ruling PF party while the other supported the government. Opposition political parties and civil society organizations contended government-run media failed to report objectively.

The Media Institute for Southern Africa characterized the year as challenging for media freedom, noting levels of intolerance and harassment of journalists had increased. Former information minister and chief government spokesperson, Chishimba Kambwili, frequently threatened the closure of private media houses for what he deemed unbalanced reporting. On April 13, Kambwili threatened to implement state regulation of media, citing failure by print media to regulate itself effectively. On August 10, the UPND sued the government-owned Zambia National Broadcasting Corporation (ZNBC) for rejecting a political campaign documentary that cast its party in a positive light and criticized the PF. The High

Court ruled ZNBC would have to air the documentary, but it had not aired it by year's end.

In addition to a multichannel government-controlled radio station that broadcasts nationwide, approximately 73 private radio stations broadcast, including community radio stations. These stations experienced increased political pressure throughout the year, including from nominally apolitical civil servants.

Although some local private stations broadcast call-in programs on which diverse and critical viewpoints were expressed freely, media bodies claimed journalists who appeared on such programs received threats from senior government officials and politicians. Police on occasion used force to interrupt radio broadcasts. For example, on July 16, police entered Radio Mano to stop an interview program with opposition Vice Presidential candidate Geoffrey Bwalya Mwamba. According to a later statement by police citing security concerns, the station had been told it could not host the opposition leader because President Lungu was in the province. In late November police arrested five Mano staff members for airing opposition content. They were released on bond 17 hours later.

On May 3, police raided Luswepo radio station to stop a live program featuring former deputy minister and then opposition member Miles Sampa, who had been publicly critical of the PF government. Although the ZNBC was the principal local content television station, privately owned Muvi Television also had wide coverage and viewership through satellite broadcasting. Although the ZNBC is required by law to provide equal coverage to opposition political parties, this did not take place, with the broadcaster covering the ruling party and the government almost exclusively.

The media space in both the pre- and post-election periods constricted as the government took steps to silence its critics. On June 22, agents of the Zambia Revenue Authority raided the premises of *The Post* newspaper, shuttered the business, and seized its assets over unpaid taxes. The newspaper's assets remained seized, and in November the Lusaka High Court placed the paper under liquidation. The editors continued to publish a much smaller version of the paper under a new name, *The Mast*.

On August 24, the Independent Broadcasting Authority (IBA) suspended the operating licenses of private media entities including Itezhi-Tezhi and Komboni radio stations and the television station MuviTV. According to the IBA, the suspension was due to misconduct by the entities that threatened national security.

The suspensions of Itezhi-Tezhi and MuvTV were lifted after each station's management apologized for poor editorial standards; on October 6, the IBA lifted Komboni's suspension.

Violence and Harassment: The government stated it tolerated negative articles in newspapers and magazines, but there were several reports that showed government, ruling party, and some opposition officials harassed journalists. Progovernment political activists and state agents often subjected journalists to physical attack, harassment, and intimidation. For instance, on March 21, online media reported Radio Mano, a community radio station, was forced to suspend operation due to threats of violence by PF cadres against its journalists. PF Deputy Spokesperson Frank Bwalya justified the harassment and defended what he saw as the right of a political party to complain if they felt inadequately covered. On May 3, two Swedish journalists investigating the improper use of Swedish government aid money provided to the Zambia National Farmers Union were arrested and charged with criminal trespass; charges were later dropped.

On October 5, armed police officers beat Komboni Radio Station Director Lesa Kasoma Nyirenda. The incident happened when police refused to grant Kasoma Nyirenda entry into the radio station premises despite her presenting a letter from the IBA lifting the station's August 22 suspension. According to Kasoma Nyirenda, in an attempt to stop the officers from stripping her naked, she bit one on the hand and was later charged with assault. On November 1, her trial began and continued at year's end.

Censorship or Content Restrictions: The government remained sensitive to media criticism and indirectly censored publications or penalized publishers. For instance, in March police arrested *The Post* managing editor, Joan Chirwa-Ngoma, and reporter, Mukosha Funga, after they published an article in which opposition party leader Eric Chanda was quoted criticizing the government. Chanda was ultimately charged with defamation of the president.

Libel/Slander Laws: Libel and slander laws were applied against government critics. In February 2015 M'membe and Rainbow Party President Wynter Kabimba were charged with defamation of former President Rupiah Banda for articles written about a since-abandoned corruption trial. Banda withdrew his complaint against M'membe and Kabimba on August 31.

National Security: The government cited national security to restrict media reporting. For instance, on January 19, police warned *The Post* managing editor,

Chirwa-Ngoma, over a story on election rigging, citing national security concerns. The IBA suspended the licenses of three private media outlets days after the August 11 election, based on undefined national security concerns.

### **Internet Freedom**

Although access generally was not restricted and individuals and groups could freely express their views via the internet, the government frequently threatened online media with closure. The government restricted access to antigovernment online publication *Zambian Watchdog* and other sites critical of the government. On May 6, the government blocked *Zambian Watchdog* from local and international internet service provider proxies. Its website and Facebook page went offline in September and remained offline at year's end, allegedly due to government blocking.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

The constitution and law provide for freedom of assembly; however, the government continued to restrict this right. Police and progovernment groups disrupted meetings, rallies, and other activities of opposition political parties and civil society organizations. On April 21, police disrupted a Judicial and Allied Workers Union of Zambia quadrennial conference two days after its opening. Police later claimed the group had failed to notify them of the meeting. On October 6, police arrested UPND President Hakainde Hichilema and Vice President Mwamba on charges of sedition and unlawful assembly. The men were accused of holding an unauthorized political rally and encouraging the crowd to reject the legitimacy of President Lungu's reelection. Hichilema and Mwamba were released on October 7 after posting bail; their trial was ongoing at year's end.

The Public Order Act requires political parties to notify police in advance of any rallies but does not require formal approval. In practice, however, police did not allow some gatherings to take place without granting a "permit." Opposition political parties frequently complained about the selective application of the law, noting that police allowed ruling party gatherings without notification or permits.

Police often prevented opposition groups from gathering on the grounds that police received notifications too late, had insufficient staff to provide security, or the gathering would coincide with presidential events in the same province. Although police claimed inadequate staff to provide security for gatherings, police responded in force to disrupt opposition gatherings and often allowed ruling party supporters to disrupt them. In April a UPND supporter died as a result of police disruption of a party gathering.

### **Freedom of Association**

The constitution provides for freedom of association, but the government placed some limits on this right. All organizations must formally apply for registration to the registrar of societies in the Ministry of Home Affairs. The registration process was long and allowed the registrar considerable discretion.

#### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

#### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The government has long cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern and continued to do so during the year.

Abuse of Migrants, Refugees, and Stateless Persons: Gender-based violence was a problem, and authorities failed to provide adequate physical protection. Violence against girls and women--including defilement, rape, marriages of girls under age 18, and prostitution--continued to be a major problem affecting female asylum seekers and refugees in camps and among those residing independently, especially in urban areas. Gender inequality, economic dependence on men, and impunity of perpetrators were among the factors contributing to abuse.

In-country Movement: The government intermittently limited in-country movement. Although police generally used roadblocks to control criminal activity, enforce customs and immigration controls, check drivers' documents, and inspect vehicles for safety compliance, there were reports police used roadblocks to limit participation in political gatherings, especially during parliamentary by-elections. Police routinely extorted money and goods from motorists at roadblocks.

## **Protection of Refugees**

Access to Asylum: As of July UNHCR reported there were 55,313 refugees and other persons of concern (asylum seekers and former Angolan and Rwandan refugees) mostly from Burundi, the Democratic Republic of the Congo, and Somalia. These individuals mostly resided in the Meheba and Mayukwayukwa refugee settlements, while other small populations of refugees were scattered across the country. The government was responsible for conducting refugee status determinations. According to UNHCR, although Zambian law provides for the granting of asylum, it also gives the minister of home affairs wide discretion to deport refugees without appeal.

On April 18, anti-immigrant riots broke out in several high-density areas of the capital following inaccurate rumors foreigners were responsible for a number of ritual killings. Shops owned by refugees were destroyed and many owners sought protection at police stations and churches.

Access to Basic Services: Although the government provided basic services, including housing and limited health-care services to refugees, the law does not accord equal access to education. The government, however, provided primary and secondary education in refugee settlements. UNHCR assisted the most vulnerable students with financial assistance for education materials and related costs for primary education and offered limited scholarships for secondary and tertiary education. Funding constraints continued to limit the number of refugee children in schools.

In the Meheba settlement, there were five government schools and nine schools run by local communities. In Mayukwayukwa there were two government and three community schools. The Ministry of Home Affairs' Community Services Department attempted to help vulnerable refugees by providing skills training, supplementary feeding programs, shelter for the elderly, foster care, and back-to-school programs for unaccompanied minors. UNHCR also worked with the government to promote self-reliance activities.

Refugees had access to law enforcement officers, mobile courts, and some legal services. They were required to obtain government permission to move or live outside refugee camps, which was frequently granted. Government policy limited refugees' legal employment options to refugee camps, unless refugees obtained specific government authorization to work outside camps.

Durable Solutions: The government and UNHCR pursued the integration of former Angolan and Rwandan refugees. In June 2015 the government approved a Rwandan refugee local integration plan involving transforming land in and next to the Meheba settlement into a mixed resettlement for former refugees and local Zambians. During the year 1,133 residency permits were issued to Angolan and 22 to Rwandan former refugees. A total of 1,361 farm plots were surveyed and demarcated; 1,142 households were allocated plots in the resettlement scheme; and 272 former refugee families moved into new homesteads in Meheba.

Temporary Protection: The government provided temporary protection to individuals who may not qualify as refugees, and the recognition rate of asylum claims was high. The recourse for those rejected was appeal to the Ministry of Home Affairs.

Provincial and district joint operations committees are responsible for establishing the identity of refugee-status seekers and their reasons for leaving their country of origin. According to the Department of Immigration, the government intercepted several groups from the Horn of Africa and other parts of Africa at the border and within the country. UNHCR interceded with the director of immigration to prevent forced deportations. The sole instance of forced removal in the recent past occurred in December 2015 when two Rwandan nationals were deported. The Immigration Department later stated these individuals had been deported because they were a danger to the country's "peace and order."

### **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. This year's general election included many young voters who registered through a massive, mobile program conducted by the Electoral Commission of Zambia.

#### **Elections and Political Participation**



Recent Elections: On August 11, the country held elections that included five separate ballots for president, members of parliament, mayors, and local councilors, as well as a referendum on a new Bill of Rights. PF incumbent candidate Edgar Lungu eked out a close victory, garnering 50.35 percent of the vote. His opponent, UPND President Hakainde Hichilema, received 48 percent, and seven other candidates each won less than 1 percent of the vote. The presidential election was conducted under a new electoral system that required a candidate to get more than 50 percent of votes to avoid a second round runoff. Election observers and monitors noted that, while voting was peaceful, there were concerns relating to the electoral environment. Public media coverage, police actions, and legal restrictions heavily favored the ruling party, preventing the elections from being genuinely free or fair.

The pre-election period was unusually violent and marred by clashes between PF and UPND supporters. The HRC noted this increased violence was largely due to political intolerance. On June 28, for example, PF and UPND supporters clashed in Matero constituency, resulting in the destruction of several buildings and a number of injuries. Police used teargas to disperse the crowds. Further outbreaks of violence caused the electoral commission to suspend election campaigning in Lusaka and Namwala on July 9. The PF and UPND blamed each other for the violence. The suspension was lifted on July 18.

NGOs and the opposition accused the government of misusing public resources in the period prior to elections. Contrary to law cabinet ministers remained in office after the May 12 dissolution of parliament; a number of NGOs challenged this action publicly and in the courts. On August 8, the newly formed constitutional court ruled the ministers had remained illegally in office and ordered them to vacate their offices and pay back salaries and allowances for the three-month period they were illegally accrued.

Political Parties and Political Participation: Historically, political parties operated without restriction or outside interference, and individuals could independently run for office. The ruling party, however, enjoyed the use of government resources for campaign purposes and had police harass opposition candidates and supporters. Opposition parties, particularly the UPND, faced police and legal harassment. Police arrested opposition officials, blocked public rallies, and dispersed participants in opposition political gatherings and public protests. In overturning the August election of ruling party members of parliament, two High Court rulings cited ruling party abuse of government resources.

Participation of Women and Minorities: There were no laws or cultural or traditional practices preventing women or members of minorities from voting, running for office, and serving as electoral monitors, or otherwise participating in political life on the same basis as men or nonminority citizens, and women and minorities did so. In practice, however, January amendments to the constitution required a high school education for all elected officials, which had the unintended effect of disqualifying many female candidates who might have run in the August 11 election. Few women occupied public decision-making positions. Less than 20 percent of the members of parliament elected on August 11 were women. The newly elected vice president is a woman.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for officials convicted of corruption, and the government attempted to enforce the law but did not do so consistently. Officials often engaged in corrupt practices with impunity. The government has a national anticorruption policy and a national anticorruption implementation plan that addresses matters such as resource mobilization, coordination of anticorruption programs in the public and private sectors, program monitoring and evaluation, and legal reform. According to the local Transparency International executive director, the National Anticorruption Policy (NACP) contributed to institutional coordination, harmonization of laws on corruption, and establishment of integrity committees. A lack of funds for the NACP and its implementation remained a challenge. Although the government collaborated with the international community and civil society organizations to improve capacity to investigate and prevent corruption, anticorruption NGOs observed less commitment than in previous years to fighting corruption among senior government officials and in the civil service.

Corruption: NGOs observed the government only targeted minor offenders and avoided prosecuting serving senior officials until they had left office or joined opposition political parties. On January 27, for example, a court sentenced former Electoral Commission of Zambia Deputy Director for Information Technology Mpundu Mfula to two years' imprisonment with hard labor for corruption involving the illegal acquisition of 887,000 kwacha (\$90,000). While corruption laws are deemed sufficient, the enforcement rate is low. According to Transparency International's local executive director, the average conviction rate for those accused of corruption was only 10 to 20 percent.

Financial Disclosure: The law requires income and asset disclosure by a small fraction of political officeholders and public servants. Some government departments and institutions, such as the Zambia Revenue Authority, maintained integrity committees to enhance asset disclosure mechanisms within the workplace. In several institutions asset disclosure requirements were vague or inadequately enforced. The Office of the Auditor General noted challenges including, inadequate financial and human resources, lack of support for forensic auditing, poor project monitoring of government projects, and inadequate transportation. It also noted, even for those to whom the law applied, enforcement and follow-up mechanisms were weak or nonexistent. The Office of the Auditor General reported auditing of declared assets remained a challenge. The Auditor General's Office mentioned as positive developments the establishment of the State Audit Commission, the passage of the State Audit Commission Act, a performance-based contract system for controlling officers, development of a new audit management system, enhanced auditing of local authorities, and increased accountability associated with the monitoring of government motor vehicle use.

Public Access to Information: The law does not provide for public access to government information. Nonetheless, the government provided information to media and other interested parties, including foreign media, on an informal basis. The government withheld information related to defense and the security forces from the public for reasons of national security. The country held a referendum on a new Bill of Rights, which did not pass, that would have included a provision for public access to information.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Government Human Rights Bodies: The HRC is an independent body established by the constitution to contribute to the promotion and protection of human rights. The HRC monitored human rights conditions, interceded on behalf of persons whose rights it believed the government denied, and spoke on behalf of detainees and prisoners. The HRC cited inadequate government funding for its mandate. On July 13, several new commissioners were installed.

The HRC identified the following issues of concern: political violence during the pre- and post-general election periods; misapplication of the Public Order Act; violations of freedoms of speech, expression, and assembly; government interference with state and private media; and an increase in human trafficking. According to this year's World Press Freedom Index, press freedom had diminished. The HRC and independent human rights committees across the country enjoyed the government's cooperation without substantial political interference. The government, however, did not adequately address the problems or concerns raised.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: The law criminalizes rape, and courts have discretion to sentence convicted rapists to life imprisonment at hard labor. Rape was nonetheless widespread. The government increasingly enforced the law and obtained rape convictions with higher penalties.

The 2010 Anti-Gender-based Violence Act criminalizes spousal rape, and the penal code criminalizes domestic violence between spouses and among family members living in one home. The law provides for prosecution of most GBV crimes, and penalties for conviction of assault range from a fine to 25 years in prison, depending on the severity of injury and whether a weapon was used. The law requires medical reports prepared by certified practitioners for the prosecution of cases of violence against women (and against men), but there were few certified medical practitioners in rural areas. The law provides for protection orders for victims of domestic and gender violence, and such orders were issued and enforced. Two fast-track courts in Kabwe and Lusaka were launched on January 22 and May 11, respectively, in an effort to expedite GBV cases.

Following a public outcry and intervention by civil society groups, the president withdrew the special ambassadorship of Clifford Dimba, a singer previously pardoned after serving one year of an 18-year sentence for statutory rape. The NGO Women in Law in Southern Africa (WLSA) observed that customary marriage values taught women sexual intercourse was a man's right and discouraged reporting spousal rape. The WLSA also observed that women who revealed sexual violations to authorities often faced societal stigma, which in turn diminished future reporting. Customary laws in certain chiefdoms allowed for spousal battery. Additionally, fear of violence, abandonment, and divorce

discouraged women from seeking HIV care and treatment services, especially where women were dependent on men for their livelihoods.

The ZPS Victims Support Unit was responsible for handling cases of domestic assault, wife beating, mistreatment of widows, and property expropriation (“grabbing”) by a deceased husband’s relatives. The 2015 annual survey on GBV recorded a 16.2 percent increase in reported cases from the previous year. Data on the extent of rape and domestic violence were limited.

During the year the Nongovernmental Organization Coordinating Council (NGOCC) and its member organizations engaged traditional marriage counselors on GBV and women’s rights. The Young Women’s Christian Association continued its “good husband” campaign and, in collaboration with other women’s movements, the “I Care about Her” campaign, to promote respect for women and end spousal abuse.

The WLSA reported women’s groups’ advocacy and sensitization resulted in increased reporting of GBV cases. Police, however, reported a marked rise in the number of withdrawn GBV complaints and encouraged women’s movements to sensitize women against seeking out-of-court reconciliation. Women often cited need for their incarcerated husband’s financial support in requesting withdrawal of complaints.

Other Harmful Traditional Practices: The NGOCC and several of its member organizations observed that the country’s dual system of customary and statutory law made it difficult to end injustices against women. For instance, polygyny is legally permitted under customary law. Women’s organizations stated the bride price had entrenched societal patriarchal dominance. The practice of “sexual cleansing,” in which a widow is compelled to have sexual relations with her late husband’s relatives as part of a cleansing ritual, declined significantly; some local leaders banned the practice. The penal code prohibits “sexual cleansing” of girls under age 16.

Sexual Harassment: Sexual harassment was common, but the government took some steps to prosecute harassment during the year. The penal code contains provisions under which some forms of sexual harassment of women may be prosecuted. The NGOCC stated it received many reports of sexual harassment in the workplace but expressed concern that stringent evidence requirements in courts of law prevented victims from litigating. The NGOCC and its members also noted families of perpetrators often pressured victims to withdraw complaints, especially

if they were members of the same family. This practice hampered prosecution of offenders.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children, free from discrimination, coercion, or violence. Lack of access to information and services, however, remained a problem. Many women lacked access to contraception and skilled attendance during childbirth, including essential prenatal, obstetric, and postpartum care. The UN Population Division estimated 46.2 percent of girls and women between the ages of 15 and 49 used a modern method of contraception in 2015, compared with 33 percent in 2007. The percentage of childbirths assisted by a skilled provider increased from 47 percent in 2007 to 64 percent in 2013-14. Teenage pregnancy, reported to be 151 per 1,000 girls and women between the ages of 15 and 19, remained a concern. The median age of the first sexual encounter for girls and women was age 17, and the median age of having the first child was 19 years old, indicating limited contraceptive use among teenagers.

According to WHO the maternal mortality ratio was 224 deaths per 100,000 live births in 2015. The Ministry of Health attributed 13 percent of maternal mortality cases to unsafe abortions, mostly among adolescent girls. The major direct causes of maternal mortality were complications arising during pregnancy and birth, such as hemorrhage, septicemia (blood poisoning), obstructed labor, hypertensive conditions, and unsafe abortion. Barriers that continued to limit access to reproductive health services included limited information, inadequate staffing of rural clinics, lack of infrastructure and transport, cost, religious reasons, and misperceptions surrounding contraceptive use. These barriers were greatest among the poorest women and girls and those living in remote areas, contributing to significant inequalities in access to maternal and reproductive care.

Discrimination: In contrast to customary law, the constitution and statutory law provide for the same legal status and rights for women as for men, including under family, labor, property, and nationality laws. Nevertheless, the government did not adequately enforce the law, and women experienced discrimination in employment (see section 7.d.), education, inheritance, and ownership of land and other property.

Women's advocacy groups noted women lacked adequate access to credit to acquire land or property. Lack of collateral meant women in most cases remained dependent on their husbands or male members of their family to cosign for loans. Local customary law generally discriminates against women. It subordinates women with respect to property ownership, inheritance, and marriage. Land

ownership was restricted for women: when a woman's husband dies, only her son or the husband's side of the family may inherit his property.

## **Children**

Birth Registration: Citizenship is derived from one's parents or, with the exception of refugees, by birth within the country's territory. Although registration was required promptly after birth, this was not possible in some rural areas. Failure to register births did not result in the denial of public services, such as education or health care, to children.

Education: Although government policy provides for tuition-free education through grade seven, education was not compulsory, and many children did not attend school. Contrary to government policy, many teachers and school administrators required students to purchase uniforms or pay a fee before allowing them to attend classes, preventing some children from attending school. The numbers of girls and boys in primary school were approximately equal, but fewer girls attended secondary school.

Child Abuse: Although the law prohibits sexual harassment of children, child abuse and violence against children were common problems. The punishment for conviction of causing bodily harm to a child is imprisonment for five to 10 years, and the law was generally enforced.

Early and Forced Marriage: The legal age of marriage is 16 years old for boys and girls with parental consent and 21 years old without consent. There is no minimum age under customary law. According to the ZDHS, 45 percent of married women between the ages of 25 and 49 years old were married by age 18. Prevalence was highest in rural areas. The government, parliamentarians, civil society organizations, and donors worked together to fight early and forced marriages. The Ministries of Chiefs and Traditional Affairs and Gender and Child Development, in collaboration with traditional leaders, NGOs, diplomatic missions, and other concerned persons, increasingly spoke out against early and forced marriages. Some leaders nullified forced and early marriages and placed the girls removed from such marriages in school. In April the government adopted a national action plan to end child marriage. The action plan sets a five-year goal of reducing child marriage rates by 40 percent with an ultimate target to build "a Zambia free from child marriage by 2030."

Sexual Exploitation of Children: The minimum age for consensual sexual relations is 16 years old. The law provides penalties of up to life imprisonment for conviction of statutory rape or defilement, which the law defines as the unlawful carnal knowledge of a child under age 16. The minimum penalty for conviction of defilement is 15 years in prison.

The law criminalizes child prostitution and child pornography and provides for penalties of up to life imprisonment for perpetrators. The law provides that child prostitutes 12 years old and above may be charged and prosecuted. Authorities did not enforce the laws, and child prostitution was common. Boys and girls were recruited into prostitution by women who formerly engaged in prostitution. These children were subsequently exploited by truck drivers in towns along the Zimbabwean and Tanzanian borders and by miners in Solwezi. Young boys were sometimes taken to Zimbabwe for prostitution, while girls were often exploited in forced prostitution in South Africa.

Displaced Children: Children were displaced and institutionalized. Orphaned children faced greater risks of child abuse, sexual abuse, and child labor. The *2013 Zambia Orphanhood and Fosterhood Report* stated 13 percent of the 6.6 million children ages newborn to 17 were orphans, a 2 percent decline from the figure reported in the 2007 ZDHS. It attributed the high numbers of orphans to the loss of parents from HIV-related illnesses, malaria, and tuberculosis. According to the UN Children's Fund, 800,000 orphans were affected by HIV and AIDS. It estimated 13,000 street children and 20,000 child-headed households were at risk of exposure to violence, abuse, and exploitation.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

There were fewer than 50 persons in the Jewish community, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).



## Persons with Disabilities

The law prohibits discrimination in general, but no law specifically prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, air travel and other transportation, access to health care, and the provision of other government services.

The 2012 Persons with Disabilities Act mandates the Ministry of Gender and Child Development to oversee the government's implementation of policies that address general and specific needs of persons with disabilities in education, health care, access to physical infrastructure, and electoral participation. The Zambia Agency for Persons with Disabilities oversaw the act's implementation.

An umbrella organization, the Zambia Federation of Disability Organizations, whose primary role was advocacy and raising awareness, led the disability rights movement. According to the 2014 Human Rights Watch (HRW) report *Barriers to HIV Services and Treatment for Persons with Disabilities in Zambia*, there was a lack of data on persons with disabilities--including how many adults and children were living with disabilities--and information on their specific housing, education, and health-care needs. The lack of consolidated data was a major impediment to the inclusion of persons with disabilities in government programming and policy. According to HRW limited understanding of how many persons in the country lived with disabilities suggested they were more vulnerable to contracting HIV/AIDS and were more likely to lack access to health care. According to the report, persons with disabilities had limited access to education and correspondingly low literacy levels. While the government did not restrict persons with physical or mental disabilities from voting or otherwise participating in most civic affairs, it prohibited those with mental disabilities from holding public office. Persons with disabilities also faced significant societal discrimination in employment and education.

The Ministries of General Education and of Community Development have responsibility for ensuring the welfare of persons with disabilities. By law the government must provide reasonable accommodation for all persons with disabilities seeking education and provide that "any physical facility at any public educational institution is accessible." Public buildings, schools, and hospitals rarely had facilities to accommodate such persons, however. Five schools were designated for children with disabilities. Some children with physical disabilities attended mainstream schools.

## **National/Racial/Ethnic Minorities**

There are seven major ethnic/language groups--Bemba, Kaonde, Lozi, Lunda, Luvale, Ngoni, and Tonga--and 66 smaller ethnic groups, many of which are related to the larger tribes. The government generally permitted autonomy for ethnic minorities and encouraged the practice of local customary law. Some political parties maintained political and historical connections to tribal groups and promoted their interests. The general election was marred by rhetoric that contributed to a divide between tribal groups and affected voting patterns.

The government grants special recognition to traditional leaders but does not recognize the 1964 Barotseland Agreement that granted the Lozi political autonomy and was signed by the United Kingdom, Northern Rhodesia, and the Barotse Royal Establishment immediately prior to the country's independence. Some Lozi groups demanded official recognition of the Barotseland Agreement and others full secession from Zambia.

## **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law criminalizes consensual same-sex sexual activity, and penalties for conviction of engaging in "acts against the order of nature" are 15 years' to life imprisonment. Conviction of the lesser charge of gross indecency carries penalties of up to 14 years' imprisonment. The government enforced laws against same-sex sexual activity and did not address societal discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons.

Societal violence against persons based on gender, sex, and sexual orientation continued. LGBTI persons in particular were at risk of societal violence due to prevailing prejudices, misperceptions of the law, lack of legal protections, and inability to access health services. Some politicians, media figures, and religious leaders expressed opposition to basic protection and rights for LGBTI persons in arguing against same-sex marriage.

Rather than submit cases for trial, police on several occasions arrested suspected LGBTI persons on bogus charges, forcing them to spend at least one night in jail. In most cases police demanded bribes before releasing the individuals. Police increasingly charged transgender persons with "impersonation" and subjected them to verbal abuse and harassment while in detention. The charges generally could

not be successfully prosecuted, and detainees were released. Neighbors reportedly attempted to blackmail LGBTI persons by threatening to report them to police. In October 2015 police in Mongu arrested a transgender woman after a taxi driver claimed he had been tricked into having sex with her without knowing she was transgender. Although the transgender woman claimed the driver raped her, she was not provided with legal representation. She was convicted of sodomy-related charges in November 2015 and sentenced to a prison term of 15 years in September. The conviction had yet to be appealed by year's end.

Several groups quietly promoted LGBTI rights and provided services to LGBTI individuals, principally in the health sector. The groups held private social gatherings but did not participate in open demonstrations or marches in view of societal stigma against LGBTI persons. According to LGBTI advocacy groups, societal violence occurred, as did discrimination in employment, housing, and access to education and health care. LGBTI groups reported frequent harassment of LGBTI persons and their families, including threats via text message and e-mail, vandalism, stalking, and outright violence. Activists stated several LGBTI persons committed suicide.

### **HIV and AIDS Social Stigma**

The government actively discouraged discrimination against persons with HIV/AIDS. Most employers adopted nondiscriminatory HIV/AIDS workplace policies. Training of the public sector including the judiciary on the rights of persons with HIV/AIDS increased public awareness and acceptance, but societal and employment discrimination against such individuals persisted. The government made some headway in changing entrenched attitudes of discrimination against persons with HIV/AIDS. In August the country's first openly HIV-positive person was elected to parliament.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers, except for police, military personnel, and certain other categories of workers, to form and join independent unions, conduct legal strikes, and bargain collectively. Statutory restrictions regulate these rights. The law also requires the registration of a trade union with the Ministry of Labor and Social Security, which may take up to six months. The ministry has the power to refuse official registration on arbitrary, unjustified, or ambiguous

grounds. No organization may be registered unless it has at least 25 members, and, with some exceptions, no trade union may be registered if it claims to represent a class of employees already represented by an existing trade union. Unions may be deregistered under certain circumstances, but the law provides for notice, reconsideration, and right of appeal to an industrial relations court. The government has discretionary power to exclude certain categories of workers from unionizing, including prison staff, judges, court registrars, magistrates, and local court justices. Trade union officers may be disqualified if they fail to prove to the Ministry of Labor and Social Security's labor commissioner that they did not contribute to the revocation of their trade union registration. The government supports the merger of the two main union bodies, the Zambia Congress Trade Union and the Federation Free Trade Union of Zambia. An Amalgamation of Trade Unions is provided for under law.

Trade Union operations are guided by their constitutions and respective provisions under the Industrial and Labor Relations Act. The government, through the Ministry of Labor and Social Security, brokers labor disputes between employers and employees. In cases involving the unjustified dismissal of employees, the ministry settles disputes through social dialogue, and any unresolved cases are sent to the Industrial Relations Court.

The law provides for collective bargaining, but for certain complaints it allows either party to refer a labor dispute to court or arbitration. The law also allows for a maximum period of one year for a court to consider the complaint and issue its ruling. Collective agreements must be lodged with the commissioner and approved by the minister before becoming binding on the signatory parties.

The government reformed some labor laws, through the amendment of the Employment Act, to increase government agencies' capacity to address overall labor issues in the informal sector. Additionally, the government established a call center to allow the public access to information relating to labor matters. With the exception of workers engaged in a broadly defined range of essential services, the law provides for the right to strike if recourse to all legal options is first exhausted.

The law defines essential services as any activity relating to the generation, supply, or distribution of electricity; the supply and distribution of water and sewage removal; fire departments; and the mining sector. Employees in the Zambian Defense Forces and judiciary as well as police, prison, and ZSIS personnel are also considered essential. The process of exhausting the legal alternatives to a strike is lengthy. The law also requires a union to notify employers 10 days in advance of

strike action, and limits the maximum duration of a strike to 14 days. If the dispute remains unresolved, it is referred to the court. The government may stop a strike if the court finds it is not “in the public interest.” Workers who engage in illegal strikes may be dismissed by employers. An employee or trade union that takes part in a strike that has not been authorized by a valid strike ballot is liable to a fine of up to 50,000 kwacha (\$5,056) (for a trade union) or 20,000 kwacha (\$2,022) for an employee.

The law prohibits antiunion discrimination and employer interference in union functions, and it provides for reinstatement and other remedies for workers fired for union activity. Except for workers in the “essential services” and those in the above-mentioned categories, no other groups of workers were excluded from relevant legal protections. Recent changes to labor laws--including the December 2015 Employment Act (Amendment)--extend labor protections to the informal sector.

There were no reports to determine whether penalties of fines or up to 10 years in prison for violations were sufficient to deter violations. Administrative judicial procedures were subject to lengthy delays and appeals. Unions suffered from political interference and were no longer seen as influential.

The government, however, did not effectively enforce the law and the Ministry of Labor cited three main challenges: unaligned pieces of legislation, lack of financial capacity to implement programs, and lack of trained officers to enforce legislation.

Freedom of association and the right to collective bargaining were not always enforced. Most unions chose to strike illegally either to circumvent lengthy procedural requirements or when other avenues were exhausted. While the law provides that workers engaging in illegal strikes may be dismissed, there were no reports during the year of such dismissals. NGOs advocated for worker rights throughout the year and did not face government restrictions.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. The law authorizes the government to call upon citizens to perform labor in specific instances, such as during national emergencies or disasters. The government also may require citizens to perform labor associated with traditional civil or communal obligations.

Penalties for conviction of forced labor violations range from 25 to 35 years' imprisonment. Data were insufficient to determine whether these penalties were sufficient to deter violations. There were no prosecutions for forced labor during the year.

The government did not effectively enforce the law. While the government investigated cases involving a small number of victims, it lacked the resources to investigate more organized trafficking operations potentially involving forced labor in the mining, construction, and agricultural sectors. Gangs of illegal miners called "jerabos" at times forced children into illegal mining and loading stolen copper ore onto trucks in Copperbelt Province. Women and children from rural areas were exploited in urban domestic servitude and subjected to forced labor in the agricultural, textile, construction sectors, and in small businesses such as bakeries. While orphans and street children were the most vulnerable, children sent to live in urban areas were also vulnerable to forced labor.

Women and children from Zimbabwe, Malawi, and Mozambique were forced into labor or prostitution after arriving in the country. Chinese, Indian, and Lebanese nationals were exploited in forced labor in textile factories, road construction, and bakeries. There were reports of abuses in labor-intensive work, including domestic service, hospitality, and construction.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the employment of children at any commercial, agricultural, or domestic worksite or engaging a child in the worst forms of child labor as defined in international conventions. According to the Employment of Young Persons and Children Act, the minimum age for employment is 15 years old, and for hazardous work, the minimum age is 18 years old. Restrictions on child labor prohibit work that harms a child's health and development or that prejudices a child's attendance at school. The law also prohibits the procurement or offering of a child for illicit activities.

The Ministry of Labor and Social Security chaired the National Steering Committee on Child Labor, which was responsible for the implementation and enforcement of child labor laws and regulations. Penalties for conviction of violations include a fine or up to 25 years' imprisonment, or both. An offender can

only be penalized or fined through a court of law. There was insufficient information available on whether these penalties deterred violations.

In cooperation with NGO partners, the government continued to remove children from abusive situations. There were no statistics regarding numbers of children withdrawn from abusive situations. Vulnerable children, mainly orphans, were placed in formal and transitional classes, while others were given vocational skills training. Local governments maintained district child labor committees to perform outreach, plan activities for vulnerable and working children, increase awareness of child labor laws and the harmful effects of child labor, mobilize communities to eliminate the worst forms of child labor, and monitor the implementation of child labor programs at the district and village levels.

Labor inspectors may enter homes and agricultural fields to check for violations of general labor laws, noting violations of child labor laws in the process, if discovered. While the government continued to provide awareness and training activities for officials charged with enforcing child labor laws, the Ministry of Labor and Social Security reported resource constraints prevented it from providing all required training. The government participated in several projects to combat child labor.

The government did not effectively enforce the law outside of the industrial sector. Resources, inspections, and remediation were inadequate. Education is not compulsory, and children who are not enrolled are vulnerable to child labor. Child labor was a problem in agriculture, domestic service, construction, farming, transportation, prostitution, quarrying, mining, and other sectors where children under the age of 15 years old often were employed.

While the labor commissioner effectively enforced minimum age requirements in the industrial sector, where there was little demand for child labor, the government seldom enforced minimum age standards in the informal sector, particularly in mining, agriculture, and domestic service. Because more than 92 percent of child labor occurred in the agricultural sector, most often with the consent of families, inspectors from the Ministry of Labor and Social Security focused on counseling and educating families that employed children. Authorities did not refer any cases of child labor for prosecution during the year. Due to the scarcity of transportation, labor inspectors frequently found it difficult to conduct inspections in rural areas. The production of crops such as cotton, tobacco, maize, coffee, and sunflowers exposed children to dangerous pesticides, fertilizers, snake and other

animal bites, and injuries from carting heavy loads and using dangerous tools and machinery.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The labor law prohibits discrimination in employment or occupation based on race, sex, disability, political opinion, social origin, religion, and language but did not prohibit discrimination based on sexual orientation or gender identity. Various organizations also had policies that protected individuals with HIV/AIDS. Penalties for conviction of violations included a fine or 25 years' imprisonment, or both. There was insufficient information on whether these penalties deterred violations.

Generally, the government effectively enforced the law. There were reports, however, of discrimination from minority groups. Migrant workers are not protected by the law and faced discrimination in wages and working conditions.

Discrimination in employment and occupation occurred with respect to disability, sexual orientation, and gender identity. LGBTI persons were at times dismissed from employment or not hired because of their sexual orientation or gender identity. Women's wages lagged behind men's and training opportunities were less available for women. Women were much less likely to occupy managerial positions. Persons with disabilities faced significant societal discrimination in employment, education, and access.

Migrant workers, if documented, enjoy the same legal protections, wages, and working conditions as citizens.

#### **e. Acceptable Conditions of Work**

The law allows the Ministry of Labor and Social Security authority to set wages by sector. Otherwise, the category of employment determines the minimum wage and conditions of employment. Minimum wage categories range from 700 kwacha (\$79) to 1,445 kwacha (\$162) per month. Every employer negotiates with employees their standard minimum wage. For unionized workers, wage scales and maximum workweek hours were established through collective bargaining. During the year, however, the minister of labor and social security refused to allow



collective bargaining demanding less than minimum wage requirements. Almost all unionized workers received salaries considerably higher than the nonunionized minimum wage. Most minimum wage earners supplemented their incomes through second jobs, subsistence farming, or reliance on extended family.

According to the law, the normal workweek should not exceed 48 hours. The standard workweek is 40 hours for office workers and 45 hours for factory workers. There are limits on excessive compulsory overtime, depending on the category of work. The law provides for overtime pay. Employers must pay employees who work more than 48 hours in one week (45 hours in some categories) for overtime hours at a rate of 1.5 times the hourly rate. Workers receive double the rate of their hourly pay for work done on a Sunday or public holiday. The law requires that workers earn two days of annual leave per month without limit.

The law regulates minimum occupational safety and health standards in industry. City and district councils were responsible for implementation; the Ministry of Labor headed enforcement, but rarely collected penalties. Parts of the workforce, including foreign and migrant workers, are not covered by labor laws or other provisions regarding acceptable conditions of work and do not receive minimum wage.

The Ministry of Labor and Social Security is responsible for establishing and enforcing laws related to acceptable conditions of work. The inspector of factories under the minister of labor handled factory safety. The ministry conducted labor inspections during the year and gave ultimatums to businesses to correct significant violations of labor laws.

The ministry's 108 inspectors received and resolved some complaints, but staffing shortages and turnover limited its effectiveness. Penalties for conviction of violations range from fines and up to 25 years' imprisonment, but available data were inadequate to determine whether these penalties deterred violations.

The work hour law and the safety and health standards were not effectively enforced in all sectors, including in the informal sector. Miners continued to face poor health and safety conditions and threats by managers if they tried to assert their rights. Miners developed serious lung disease, such as silicosis, reportedly due to poor ventilation and constant exposure to dust and chemicals.

Mine accidents continued to decline but still occurred frequently, often resulting in serious injuries and deaths. For example, on August 5, Glencore's Mopani Copper Mines halted production at all its operations after four miners were killed in two separate accidents. Operations have since resumed.

The government engaged mining companies and took some steps to improve working conditions in the mines. Through its social welfare programs, the government provided social security protection to some categories of vulnerable persons in the informal economy.

By law workers may remove themselves from situations that endanger health or safety without jeopardy to their employment, but authorities did not effectively protect employees in these situations. Despite legal protections, workers did not exercise the right to remove themselves from work situations that endangered their safety or health, and workers who protested working conditions often jeopardized their employment.