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Country Report on Human Rights Practices 2018 - Zambia

EXECUTIVE SUMMARY

Zambia is a constitutional republic governed by a democratically elected president and a unicameral national assembly. In 2016 the country held elections under an amended constitution for president, national assembly seats, and local government, as well as a referendum on an enhanced bill of rights. The incumbent, Patriotic Front (PF) President Edgar Chagwa Lungu, was re-elected by a tight margin. A legal technicality saw the losing main opposition United Party for National Development (UPND) candidate, Hakainde Hichilema, unsuccessfully challenge the election results. International and local observers deemed the election as having been credible but cited a number of irregularities. The pre-election and postelection periods were marred by limits on press freedom and political party intolerance resulting in sporadic violence across the country. Although the results ultimately were 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.

Human rights issues included arbitrary killings and torture, which were prosecuted by authorities; excessive use of force by police; harsh and life-threatening prison conditions; arbitrary arrest; interference with privacy; criminal libel; restrictions on freedoms of assembly; high-level official corruption; criminalization, arrest, and prosecution of persons engaged in consensual same-sex sexual relationships.

The government continued to apply the law selectively to prosecute or punish individuals who committed abuses and mostly targeted those who opposed the ruling party. Additionally, 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 numerous reports of arbitrary and unlawful killings by police during the year. On October 5, police used excessive force in response to protests at the University of Zambia over delayed meal allowances; a police raid on a dormitory that housed some protesters resulted in the death of a fourth year student, Vespers Shimuzhila, who died of asphyxiation after police fired teargas into the building, and her room caught fire. Another student suffered serious injuries leaping from the third-floor room while 20 others were treated for minor injuries.

The government, through the attorney general, accepted responsibility for the killing in March 2017 of an Air Force officer, Mark Choongwa, by police officers while in police custody. Choongwa’s family sued the state and six police officers for damages. In March, Attorney General Likando Kalaluka informed the High Court the government had conceded and accepted liabilities. Four persons, including two police officers, were subsequently arrested and charged with manslaughter for Choongwa’s death; the trial was ongoing at year’s end. Following this case, the government subsequently resolved to stop recruiting police reservists who do not meet minimum high school qualification, the Ministry of Home Affairs reported.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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. According to the Human Rights Commission (HRC), police and military officers used excessive force--including torture and cruel, inhuman, or degrading treatment--to obtain information and confessions when apprehending, interrogating, and detaining criminal suspects. The killing of Lemmy Mapeke by two police officers from the Macha Police Post in Choma on March 16, while in their custody, drew significant public attention. Both the Ministry of Home Affairs and the HRC confirmed police used excessive force when arresting Mapeke. According to the HRC, Mapeke’s detention from March 10-16 was unlawful and not in accordance with the due process of the law. HRC investigations indicated that Mapeke died because of the “torture, cruel, inhuman, and degrading treatment” from the two named police officers. Authorities arrested the two officers who were charged with murder. The trial was ongoing at year’s end.

The HRC reported allegations of such abuse in every detention facility it monitored, but noted that it was difficult to prosecute perpetrators because no law exists that explicitly prohibits torture or the use of excessive force. Confessions obtained through torture are admissible in court.

On August 3, the Kapiri Mposhi Magistrates Court convicted two men for same-sex sexual conduct, a criminal act in which penalties for conviction are 15 years' to life imprisonment (see section 6). During the investigation of the case, police ordered the two defendants to subject themselves to a forced anal exam 10 days after the alleged incident took place. The examination, detailed in the court judgment, included a test of the “tone of the anus.” The test required the defendants to hold the doctor’s finger (due to the unavailability of instruments) within their anus to test its strength and likelihood of sodomy.

Prison and Detention Center Conditions

Physical conditions in prisons and detention centers remained harsh and life threatening due to overcrowding, frequent outbreaks of disease, food and potable water shortages, and poor sanitation and medical care.

Physical Conditions: According to the nongovernmental organization (NGO) Prisons Care and Counseling Association (PRISCCA), there were over 21,000 detainees (3,500 of whom were awaiting trial at year’s end) in 90 prison facilities with a capacity of 9,050 inmates. A slow-moving judicial system, outdated laws, and increased incarceration due to higher numbers of petty offenses contributed to prison congestion, according to the NGO. Other factors included limitations on magistrates’ powers to impose noncustodial sentences, a retributive police culture, 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. Vacant seats of High Court judges in six provinces caused delays in the confirmation of reformatory orders made by magistrates in these areas.

The law requires separation of different categories of prisoners, but only female prisoners were held separately. According to the HRC, conditions for female prisoners were modestly better during the year, primarily because of less crowded facilities. Juveniles were detained in the same holding cells with adult detainees. Prisons held an undetermined number of children who were born in prison or living in prisons while their mothers served sentences. Incarcerated women who had no alternative for childcare could choose to have their infants and children under age four with them in prison. According to PRISCCA correctional facilities designated for pretrial detainees included convicted inmates because there were only three reformatory schools for juveniles and three designated remand prisons for adult detainees.

Many prisons had deficient medical facilities and meager food supplies. Lack of potable water resulted in serious outbreaks of water- and food-borne diseases, including dysentery and cholera. *PRISCCA* reported that prison food was nutritionally inadequate. The prison system remained understaffed with only one full-time medical doctor and 84 qualified health-care providers serving the prison population. In November the president appointed Dr. Chisela Chileshe, the prison system’s only medical doctor, as commissioner general of the Zambia Correctional Service, leaving no full-time doctors

to attend to prisoners. The incidence of tuberculosis remained very high due to overcrowding, lack of compulsory testing, and prisoner transfers. The supply of tuberculosis medication and other essential drugs was erratic. A failure to remove or quarantine sick inmates resulted in the spread of tuberculosis 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. Although prisoners infected with HIV were able to access antiretroviral treatment services within prison health-care facilities, their special dietary needs and that of those on tuberculosis treatment were not met adequately. Prisons also failed to address adequately the needs of persons with disabilities. Inadequate ventilation, temperature control, lighting, and basic and emergency medical care remained problems.

Female inmates' access to sexual and reproductive health services was limited, according to organizations providing services to the population. 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. 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.

Administration: A formal mechanism of investigations of allegations of mistreatment of prisoners existed through the Police Public Complaints Commission (PPCC). The PPCC exists to receive complaints and discipline erring police and prison officers, but human rights groups reported it did not effectively investigate complaints and consists of former officers who are often hesitant to prosecute their colleagues.

Independent Monitoring: The government permitted prison monitoring by independent local and international NGOs and religious institutions. Among notable organizations permitted during the year were missionaries from abroad and the BBC, which conducted and filmed an education program on children living in prison with their incarcerated mothers at Lusaka Central Correctional Facility.

Improvements: PRISCCA noted that there was a reduction in the complaints of physical abuse by prison authorities owing to the establishment of legal desks for complaints in prisons. There were notable improvements in the area of recreation. The construction of four new dormitories at Kansenshi Correctional Facility further increased the capacity by an additional 500 spaces. The government also procured uniforms for both prisoners and prison officials across the country. Other improvements included the provision of food for children incarcerated with their mothers and arrangements for detainees to exercise their right to vote.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention. It also provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. Although the government generally observed these requirements, there were frequent reports of arbitrary arrests and detentions.

Role of the Police and Security Apparatus

The Zambia Police Service (ZPS) and Zambia Correctional Service report 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 Zambia Defense Force--consisting of the Zambia Army, Zambia Air Force, and Zambia National Service--is responsible for external security. The commander of each service reports to the president through 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 and youth skills training programs.

Paramilitary units of the ZPS, customs officers, and border patrol personnel guard lake, river, and other border areas. The Drug Enforcement Commission (DEC) is responsible for enforcing the laws on illegal drugs, fraud, counterfeiting, and money laundering. The DEC, customs, and border patrol personnel operate under the Ministry of Home Affairs.

Civilian authorities maintained effective control over police and military services; however, impunity was a problem. Senior police officers 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. In practice, police rarely obtained warrants before making arrests regardless of the offense.

Although the law requires that detainees appear before a court within 24 to 48 hours of arrest and be informed of the charges against them, authorities routinely held detainees for as long as six months before trial, which often exceeded the length of the prison sentence corresponding to the conviction for the defendant's alleged crime. The HRC noted this abuse remained common, particularly in rural districts, where subordinate courts operated in circuits because detainees could be tried only when a circuit court judge was in the district.

Based on a presumption of innocence provided for in the constitution, the Criminal Procedure Code provides for bail in case of any detention. Before granting bail, however, courts often required at least one employed person, usually a government employee, to vouch for the detainee. Bail is not granted in cases of murder, aggravated robbery, violations of narcotics laws, and treason.

Authorities frequently refused or delayed bail in politically sensitive cases. For example, on April 24, police arrested and detained opposition New Labor Party leader, Fresher Siwale, and charged him after several days in detention for defamation of the president. Although the court later granted him bail, Siwale remained in detention for 31 days due to excessive conditions the court attached to his bail. The conditions required two working sureties from government institutions at a managerial level. His lawyer argued Siwale had remained in detention, as no civil servant was willing to sign the bail on his behalf because his case had political connotations. Subsequently, the court relaxed the bail conditions to require sureties working in a “reputable organization.”

Detainees generally did not have prompt access to a lawyer. Although the law obligates the government to provide an attorney to indigent persons who face serious charges, many indigent defendants were unaware of this right. The government’s legal aid office and the Legal Resources Foundation provided legal services to some indigent arrestees.

Arbitrary Arrest: According to human rights groups, arbitrary or false arrest and detention remained problematic. Police often 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 legal only during a state of emergency. On March 22, Roan Member of Parliament (MP), Chsihimba Kambwili, was arrested and placed in police custody for being “in possession of money reasonably suspected to be proceeds of crime.” He was denied bond on three separate occasions. The HRC challenged the state to grant Kambwili bond as a matter of right, stating prosecutors deliberately denied him bail for punitive political reasons.

Pretrial Detention: Prolonged pretrial detention continued to be a problem. In 2017, 32 percent of prison inmates were in pretrial detention. On average detainees spent an estimated six months in pretrial detention, which often exceeded the maximum length of the prison sentence corresponding to the detainee’s 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 prolonged detention.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary. While the government largely refrained from direct interference, judicial independence was limited by control of its budget through the Ministry of Justice and public comments from officials directed at the courts. For example, in November 2017 President Lungu warned judges against being “adventurous” in deciding political cases. The remarks were seen as a threat to Constitutional Court judges against making an adverse ruling in the impending judgment on his eligibility to stand for a third time as president in 2021. “I have information that some judges want to be adventurous and emulate those in Kenya. Don’t be copy-cats and think you will be a hero by plunging the nation into chaos. I am not intimidating you, but I am simply warning you,” the president said at a public gathering. On December 7, just over a year after the case was initially filed, the court ruled President Lungu’s January 2015 to September 2016 first term in office does not constitute a full term; as such the president is eligible to seek election for a third time in 2021.

Trial Procedures

The constitution provides for the right to a fair and public trial, but the judicial system was open to influence by the ruling party in cases in which it has an interest. Defendants enjoy the right to a presumption of innocence, to be informed promptly of charges against them, and to be present at a fair and timely trial. Nevertheless, defendants were not always informed promptly and in detail of the charges against them, and trials were 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. 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

While there were cases of politically motivated arrests and detentions, there were no new reports of political prisoners or detainees during the year.

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 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 remained pending at year’s end.

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, defaming the president, or unlawful assembly. Police routinely entered homes without a warrant even when one 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.

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 subscriber identity module (SIM) cards.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

Although the constitution and law provide for freedom of expression, including for the press, it has derogations that permit restrictions of these fundamental rights and freedoms in certain circumstances. In particular, Article 22(3) allows the restriction of freedom of expression in the interests of national defense, public safety, public order, and public health or for the purpose of protecting the reputations, rights, and freedoms of others and maintaining the authority and independence of the courts. Based on these provisions, the government can restrict these freedoms using subsidiary laws such as the Penal Code, Public Order Act, Preservation of Public Security Act, and Emergency Powers Act.

Freedom of Expression: The government remained sensitive to criticism in general, particularly by the political opposition and civil society, and restricted the ability of individuals to freely criticize it or discuss matters of general public interest. For example, in November, Gregory Chifire, director of the Southern Africa Network Against Corruption, was sentenced to six years’ imprisonment on four counts of contempt of court. The charges were leveled against him following a letter he wrote to the Chief Justice of the Supreme Court, Irene Mambilima, as well as articles he published in local print and online media in which he alleged corrupt practices within the judiciary. When he could not substantiate those claims in court, he was found guilty of contempt and received a penalty.

Press and Media Freedom: The government published two of the country’s four most widely circulated newspapers. One of the two privately owned newspapers opposed the ruling PF party, while the other supported it and the government. Opposition political parties and civil society organizations contended government-run media failed to report objectively. Although state media covered government-sponsored and nongovernmental events, coverage was not fair; state media failed to educate and inform citizens in an objective, balanced, and clear way, civil society organizations reported.

In addition to a multichannel government-controlled radio station that broadcasts nationwide, approximately 73 private and community radio stations broadcast. These radio stations experienced political pressure. Although some local private stations broadcast call-in and other talk 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. Independent, private media outlets also often received threats from the government for providing airtime to the opposition. For example, ruling party officials threatened to have Sun FM's Lusaka radio license application disqualified for broadcasting a November 2 interview with UPND leader, Hakainde Hichilema, who alleged that the government sold the Zambia Forestry and Forest Industries Corporation to Chinese business interests.

According to media watchdog organizations, independent media failed to operate freely due to restrictions imposed by government authorities. Police reportedly failed to follow up journalists' assault cases, while some media houses were threatened with closure for unfavorable or lack of coverage of the president. On several occasions police used force to interrupt broadcasts. For example, on April 13, police stormed KFM radio in Mansa and stopped a radio program in which Chishimba Kambwili, who is both a PF MP and a consultant for the opposition National Democratic Congress (NDC) party, was on air during a local government by-election.

Violence and Harassment: The government stated it tolerated negative articles in newspapers and magazines, but there were numerous reports that showed government, ruling party, and some opposition officials and supporters harassed, threatened, and physically and verbally attacked journalists. For example, on January 27, during a cholera outbreak in Lusaka in which the president deployed military wings to clean up street vendors in Lusaka's central business district, Michael Miyoba, a reporter from a private newspaper, was abducted and beaten by military officers. According to the Media Institute of Southern Africa (MISA) Zambia, the officers allegedly pulled his genitals as punishment to curtail media reports on their operations. In a case demonstrative of societal violence towards journalists, especially during election periods, on June 5, UPND cadres attacked seven journalists from various media houses, including *The Mast*, *News Diggers*, *Radio Phoenix*, and *Prime Television*, during the Chilanga parliamentary by-election.

Censorship or Content Restrictions: The government remained sensitive to media criticism and indirectly censored publications or penalized publishers. Numerous media watchdog organizations reported that the harassment and arrest of journalists, threats by the government to introduce punitive legislation against media personnel, restriction of their access to public places, and undue influence, among other restrictions, compromised media freedom and resulted in self-censorship.

Libel/Slander Laws: The government and individual public figures used laws against libel, slander, or defamation against critics to restrict public discussion. The government also often used sedition laws against those critical of the government. For example, on November 20, Copperbelt Province police issued a “warn and caution” statement to opposition UPND leader, Hakainde Hichilema, following his appearance in front of police for “investigations” related to his earlier discussion on live radio of a rumored

sale of a parastatal firm. The statement charges that the leader’s discussion on live radio amounted to the offense of sedition. Although not officially charged, the statement required the suspect to acknowledge the nature of the allegation, and left open the possibility for arrest later.

Internet Freedom

Although access generally was not restricted and individuals and groups could freely express their views via the internet, the government threatened individuals using online fora with arrest and online media with closure. For example, on several occasions the government restricted access to antigovernment online publication *Zambian Watchdog* and other sites critical of the government. MISA Zambia reported that the government monitored internet communications without legal authority and sought to restrict social media content. On March 19, police in Mansa summoned Radio Mano station manager Crispin Ntalasha for a Facebook post, which was seen as an indication of state surveillance of private citizens on social media. Later in June media reported that Zambia Information and Communications Technology Agency (ZICTA) warned WhatsApp group administrators in Zambia to register with ZICTA or face arrest and prosecution for noncompliance.

According to the International Telecommunication Union, 27.8 percent of the population used the internet in 2017.

Academic Freedom and Cultural Events

There were reports of government restrictions on academic freedom and cultural events. For example, on September 29, Kenyan Professor Patrick Lumumba was denied entry into the country and returned to Kenya. Professor Lumumba was invited by Eden University, a Lusaka-based private university, to give a public lecture on the topic: “Africa in the age of Chinese influence and global geo dynamics.” According to Government Spokesperson Dora Siliya, Lumumba was denied entry due to “security considerations.”

Similarly, on October 27, University of Zambia (UNZA) management canceled a planned lecture by PF Bahati Constituency MP and presidential contender Harry Kalaba. Kalaba, a former foreign affairs minister, who has made his 2021 presidential aspirations clear, was, on October 30, scheduled to discuss “Africa’s relations with the rest of the world” at UNZA Great East Road Campus. The cancellation came in the wake of an “overwhelming response” from members of the public confirming to attend the lecture, according to organizers of the event.

b. Freedoms of Peaceful Assembly and Association

Freedom of Peaceful Assembly

The constitution provides for freedom of peaceful assembly; however, the government restricted this right, and police and progovernment groups disrupted meetings, rallies, and other activities of opposition political parties and civil society organizations. In

dealing with demonstrators, police adopted heavy-handed practices such as surrounding the venue to prevent meetings from taking place, forcefully breaking up demonstrations, and arresting demonstrators.

The Public Order Act requires political parties and other groups to notify police in advance of any rallies but does not require formal approval or permit. In 1995 the Supreme Court declared provisions in the act that previously gave police the power to regulate assemblies, public meetings, or processions unconstitutional. The police, however, have continued to disregard this landmark ruling and continued to stop opposition and civil society groups from holding public gatherings. For example, on October 19, police in Ndola arrested a small group of civil society and church officials during a meeting and charged them with unlawful assembly. The meeting, which took place at the Ndola Central Baptist Church, was organized by the Center for Trade Policy and Development as a public discussion about the government’s 2019 national budget. Police justified the arrests on the premise the meeting had become “political” and the group had not notified them of the gathering.

Opposition political parties complained of selective application of the Public Order Act, noting police allowed ruling party gatherings without notification. Police also prevented opposition and civil society groups planning to protest government actions from gathering on the grounds that police received notifications too late, had insufficient staff to provide security, or the gathering would coincide with government events in the same province. For example, in the lead up to the July 26 Lusaka mayoral elections, police in the district of Kanyama blocked opposition UPND leader Hakainde Hichilema from holding a campaign rally in the area after the group had registered the event with the Electoral Commission, ostensibly because President Lungu would be visiting the area. 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.

Freedom of Association

The constitution provides for freedom of association. While the government generally respected the right to freedom of association, it placed some limits on this right through various mechanisms. For example, although it generally went unenforced, the NGO Act requires all organizations to apply for registration to the registrar of societies. The registration process is stringent, long, and gives the registrar considerable discretion. The law also places restrictions on funding from foreign sources. For this reason donors, including some UN agencies, required all organizations to register under the NGO Act before receiving funding. According to the Southern African Center for the Constructive Resolution of Disputes, uncertainties surrounding the implementation of the NGO Act and NGO policy affected the operations of civil society organizations.

Despite these restrictions the government liberally allowed civil society organizations to hold meetings in which they criticized it. For example, on March 6, the Oasis Forum, an association of civil society organizations, hosted a public discussion in Lusaka on a topic critical of the government.

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

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

The government 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.

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--was 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 restricted freedom of internal 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 such interventions to limit participation in political gatherings, especially during parliamentary and local government by-elections.

Protection of Refugees

Refoulement: On August 8, the government forcibly returned Tendai Biti, a Zimbabwean national and senior member of the opposition Movement for Democratic Change Alliance, to Zimbabwe. Biti fled to Zambia and applied for asylum at the Chirundu border post in the aftermath of the July 30 Zimbabwean general elections. Despite a High Court order and UNHCR interventions for his stay, immigration authorities detained him at the border and forcibly returned him to Zimbabwe on August 9. According to government officials, Biti’s application was denied because he was running away from a “legitimate” court process in Zimbabwe.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has a system for providing protection to refugees. According to UNHCR, although the law provides for the granting of asylum, it also gives the minister of home affairs wide discretion to deport refugees without appeal. The government was responsible for conducting refugee status determinations.

Freedom of Movement: Restrictions on the right to freedom of movement by refugees within the country include the requirement for a settlement-based refugee to obtain a 60-day gate pass from a refugee officer, specifying reasons for leaving the settlement. Refugees must also carry a valid refugee card or proof of registration as proof of identity. Additionally, the degraded road conditions to the refugee settlement areas severely limited access to markets for refugees seeking a sustainable livelihood.

Employment: The law requires refugees to obtain work permits before they can engage in employment, including self-employment activities. Issuance of employment permits is subject to normal immigration procedures, including the application of a government policy that requires the immigration department to ascertain that there is no Zambian national that can perform the job.

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. Secondary school for refugees living in urban areas was also allowed but required a study permit and the payment of school fees.

Refugees were required to obtain government permission to move or live outside refugee camps, which was frequently granted on a temporary basis. Government policy limited refugees’ legal employment options to refugee camps, unless refugees obtained specific government authorization to work outside camps.

Durable Solutions: The government promoted the safe, voluntary return, resettlement, and local integration of refugees and stateless persons. During the year the Ministry of Home Affairs reported that the government issued residence permits to over 3,000 Angolan and Rwandan refugees and offered them land in an ongoing local integration program. A further 4,000 refugees were resettled and offered naturalization. Financial and procedural challenges, however, constrained the full integration of naturalized Angolan and Rwandan former refugees. Delayed passport issuance for both Angolans and Rwandans by their respective nations’ diplomatic and consular representatives in the country and their authorities in their capitals also kept several thousand in legal limbo.

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. For example, in August the government provided temporary protection to Soriano Katumbi, a Congolese politician reportedly fleeing political persecution from progovernment militia in the Democratic Republic of the Congo (DRC).

Provincial and district joint operations committees are responsible for establishing the identity of asylum 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 last instance of forced removal occurred in 2015 involving the deportation of two Rwandan refugees by the minister of home affairs. In August the High Court quashed the deportation of the two and declared it invalid.

Stateless Persons

According to UNHCR the country has no provision for maintaining statistical information regarding stateless persons. The Ministry of Home Affairs reported there was a relatively small number of undocumented habitual residents--mainly hunters and gatherers--who have since been integrated into local rural communities following the destruction of their natural habitat due to development activities. The government is in the process of issuing them with national identity documents. UNHCR reported one case of a stateless person claiming to be South African who arrived from the DRC in 1997. The South African High Commission in Zambia refused to issue the person a passport because it could not ascertain his claim to citizenship. Subsequently, immigration authorities detained the person on several occasions for lack of documentation because his stay in the country was not yet regularized.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. In August 2017 the Constitutional Court declared as unconstitutional provisions of the Electoral Process Act that prevented convicted prisoners from voting, and affirmed prisoners' right to vote. The electoral commission accepted the ruling and stated it would provide for voting stations in prisons. The government began the process to review the law in line with the ruling.

Elections and Political Participation

Recent Elections: The most recent national elections were held in 2016. They included five separate ballots for president, members of parliament, mayors, and local councilors, as well as a referendum on a revised bill of rights. The incumbent PF candidate, Edgar Lungu, won a close victory, garnering 50.4 percent of the vote. His closest opponent, UPND leader Hichilema, received 47.6 percent, and seven other candidates combined received 2 percent of the vote. The presidential election was conducted under a revised electoral system that required a candidate to receive 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.

Political Parties and Political Participation: Since the advent of multiparty democracy in 1991, political parties largely operated without restriction or outside interference, and individuals could independently run for office. In recent years the government has

pursued a number of activities that undermined opposition parties to include targeted arrests of opposition party leaders and members, denied registrations for new parties, and general harassment. For example, the ruling party enjoyed the use of government resources for campaign purposes and utilized police to harass opposition parties, such as the UPND and NDC. Police arrested opposition officials, blocked public rallies, and dispersed participants in opposition political gatherings and public protests. The lack of continuous voter registration disenfranchised young persons aged 18 and above in local government and by-elections. The most notable restriction on political parties was the deregistration on June 6 of the opposition Democratic Party (DP), linked to former minister of foreign affairs Harry Kalaba. The chief registrar of societies cancelled the DP’s registration reportedly for being “a nonexistent society,” and the minister of home affairs upheld the decision. On September 6, the Lusaka High Court reversed the decision and ordered the government to issue DP a duplicate certificate, thus restoring DP’s legal status.

Additionally, uncertainties surrounding the implementation of the NGO Act and NGO policy not only affected the operations of civil society organizations but also limited their ability to monitor electoral and political processes. Reports of forced retirement of civil servants based on their political affiliation and ethnicity continued. According to the Non-Governmental Coordinating Council (NGOCC), during the year hundreds of civil servants were retired for political reasons, disguised as “retired in national interest.” For example, a Lusaka district education standards officer under the Ministry of General Education was forcibly retired in “national interest” because she is married to an opposition political party president, NGOCC reported.

Participation of Women and Minorities: There were no laws 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. Observers, however, reported that traditional and cultural factors prevented women from participating in political life on the same basis as men. For example, the constitution requires a high school education for all elected officials, which had the effect of disqualifying many female candidates, who often could not complete studies due to traditional or cultural factors such as early marriages and the prevailing patriarchal system, from running for office.

Less than 20 percent of the members of parliament were women, and few women occupied public decision-making positions. The 2016 constitutional amendments and adoption of policies and programs to promote the participation of women and other minorities resulted in the appointment of more women to leadership positions. Since then a number of women have been appointed to leadership positions, particularly in the judiciary and on corporate boards such as those of the National Pensions Scheme Authority and Zambia Electricity Supply Corporation. The number of women in parliament increased to 30 from 28, of a total 166 members of parliament. According to the NGOCC, women’s participation in political life at the local governmental level was 9 percent. This level of participation remained low despite the country’s commitment to 50-50 gender parity articulated in regional and international protocols, NGOCC reported.

According to Women and Law in Southern Africa (WLSA), the selective implementation of the Public Order Act by police not only affected political parties, but also undermined women’s ability to participate fully in elections and political life. Intimidation and political and electoral violence, as well as a lack of resources, also prevented women from participating in political life more broadly, WLSA reported. The patriarchal system further undermined women’s participation in decision making due to societal expectations and norms for the traditional role of women.

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 (NACP) 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. The NACP contributed to institutional coordination, harmonization of laws on corruption, and establishment of integrity committees, but lack of funds for the NACP and its implementation remained a challenge. The policy was under review at year’s end. Although the government collaborated with the international community and civil society organizations to improve capacity to investigate and prevent corruption, anticorruption NGOs observed the enforcement rate among senior government officials and in the civil service was low.

According to Transparency International Zambia (TIZ), the average conviction rate for those prosecuted for corruption was 10 to 20 percent. The government did not effectively implement penal laws against corrupt officials, but selectively applied anticorruption law to target opposition leaders or officials that fell afoul with it. TIZ further reported that officials frequently engaged in corrupt practices with impunity.

Corruption: There were numerous cases of serious corruption involving government officials. Reports of credible allegations of high-profile corruption cases prompted the United Kingdom government, for example, to suspend government-to-government funding to relevant ministries in September over corruption concerns in the administration of a social cash transfer scheme funded by the United Kingdom Department for International Development (DFID) and other development agencies. British High Commissioner, Fergus Cochrane-Dyett, confirmed officials in the Ministry of Community Development and Social Services and the Zambia Postal Services Corporation (ZPSC) had embezzled \$4.7 million dollars meant for poor families under a social welfare program. Following these allegations, President Lungu on September 18 ordered an immediate investigation into the alleged embezzlement and prosecution of culprits and dismissed Community Development Minister Emerine Kabanshi, who had oversight of the social cash transfer program, as well as a number of MCDSS directors. The government further suspended the entire ZPSC senior management, including Post Master-General McPherson Chanda, as well as senior Ministry of General Education officials over separate allegations of corruption related to DFID funding of programs administered by them.

Financial Disclosure: The law only provides for income and asset disclosure by a small fraction of political officeholders and public servants. Although the Anticorruption Act requires certain officers of the Anticorruption Commission (ACC) to disclose their assets and liabilities prior to taking office, it does not apply to other public officials. Under the Electoral Process Act, only presidential and vice-presidential candidates are required to declare their assets and liabilities. Conviction for false declaration is punishable by seven years’ imprisonment without the option of a fine. Some government institutions such as the Zambia Revenue Authority maintained integrity committees to enhance asset disclosure mechanisms within the workplace. In several other institutions, asset disclosure requirements were vague or inadequately enforced.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 and independent human rights committees across the country enjoyed the government’s cooperation without substantial political interference.

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

Women

Rape and Domestic Violence: The law criminalizes rape and other sexual offenses, and courts have discretion to sentence convicted rapists to life imprisonment with hard labor.

The Antigender-based Violence Act criminalizes spousal rape, and the penal code criminalizes domestic violence between spouses and among family members living in the same home. The law provides for prosecution of most crimes of gender-based violence, and penalties for conviction range from a fine to 25 years’ imprisonment, depending on the severity of injury and whether a weapon was used. The law provides for protection orders for victims of domestic and gender-based violence, and such orders were issued and enforced. Despite this legal framework, rape remained widespread. Although the law criminalizes rape of men or women, including spousal rape, and domestic violence, the government did not always effectively enforce the law.

For example, the police took no action regarding a gender-based violence case in which a traditional leader allegedly assaulted his wife over time, despite multiple reports from the victim. In another example, a man raped an unconscious woman, filming the act, and posting it on social media. While the man was later arrested, the case remained in the court system at year’s end due to lack of evidence because the legal system does not yet recognize digital media as a form of evidence in court. To address the problem of gender-based violence, NGOCC and its member organizations engaged traditional marriage counselors on gender-based violence and women’s rights. The Young Women’s Christian Association also 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 to end spousal abuse. Other efforts to combat and reduce gender-based violence included the establishment of shelters and a helpline for victims of gender-based violence, curriculum development for training of police officers in the handling of cases of gender-based violence, roadshows to sensitize the public to gender-based violence, and instruction on how to file complaints and present evidence against perpetrators.

A gender-based violence information management system was developed within the government Central Statistics Office to strengthen monitoring and reporting of cases of gender-based violence. The system will allow for effective and comprehensive reporting of gender-based violence and improved support, including legal services, social, economic, and overall national planning.

Female Genital Mutilation/Cutting (FGM/C): Although the law prohibits FGM/C for women and girls, FGM/C was common. Human rights-focused NGOs reported that the practice of pulling of the labia, a type of FGM/C intended to elongate the labia, is widely practiced. There were, however, indications the incidence rate was declining, especially in urban areas.

Other Harmful Traditional Practices: Human rights-focused NGOs observed that the country’s dual system of customary and statutory law made it difficult to end injustices against women. 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, continued to decline. The penal code prohibits “sexual cleansing” of girls under age 16. During the year, 91 senior chiefs denounced negative traditional gender norms and practices. For example, Paramount Chief Gawa Undi of the Chewa people covering the eastern part of the country, Malawi, and parts of Mozambique banned all negative traditional practices and urged all his subjects to take action or report to the police anyone practicing sexual cleansing, early child marriage, or wife inheritance.

Sexual Harassment: Sexual harassment was common, but the government took few 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 families of perpetrators often pressured victims to withdraw complaints, especially if they were members of the same family, which hampered

prosecution of offenders. In one example, a victim of sexual harassment at a local department store ended in the employee losing her job after publicizing her abuse at the workplace involving one of the managers.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization. For additional information, see Appendix C.

Discrimination: In contrast to customary law, the constitution and other laws provide for the same legal status and rights for women as for men, including under family, labor, property, and nationality laws. The government did not adequately enforce the law, and women experienced discrimination. For example, customary land tenure and patriarchal systems discriminate against women seeking to own land. This situation restricts women’s access to credit as they lack collateral, which land ownership provides.

Children

Birth Registration: Citizenship is derived from one’s parents or, with the exception of refugees, by birth within the country’s territory. Birth registration was neither denied nor provided on a discriminatory basis. Failure to register births did not result in the denial of public services, such as education or health care, to children, and there were no differences in birth registration policies and procedures between girls and boys. Both state and nonstate institutions accepted alternative documents to access other basic services. For additional information, see Appendix C.

Education: Although the Education Act and education policy provides for free and compulsory education for children of “school-going age,” the act neither sets a specific age nor defines what is meant by “school going age.” This may leave children particularly vulnerable to child labor (see section 7.b.). The numbers of girls and boys in primary school were approximately equal, but fewer girls attended secondary school. According to UNICEF girls tended to leave school at younger ages than did boys because of early marriage or unplanned pregnancies.

Child Abuse: The punishment for conviction of causing bodily harm to a child is five to 10 years’ imprisonment, and the law was generally enforced. Beyond efforts to eliminate child marriage, there were no specific initiatives to combat child abuse.

Early and Forced Marriage: The legal age of marriage is 16 for boys and girls with parental consent and 21 without consent. There is no minimum age under customary law. According to the *Zambia Demographic and Health Survey 2013-14*, 31 percent of women ages 20-24 were married before 18. According to UNICEF child marriage is largely between peers rather than forced.

The government, parliamentarians, civil society organizations, and donors worked together to fight early and forced marriages. The Ministries of Chiefs and Traditional Affairs; Gender; and Youth, Sport, 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 2016 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.” For additional information, see Appendix C.

Sexual Exploitation of Children: The minimum age for consensual sexual relations is 16. 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 a conviction of defilement is 15 years’ imprisonment.

The law criminalizes child prostitution and child pornography and provides for penalties of up to life imprisonment for convicted perpetrators. The law provides for prosecution of child prostitutes age 12 years and older, but authorities did not enforce the law, and child prostitution was common. According to UNICEF transactional sexual exploitation of young girls--that is, sex in exchange for food, clothes, or money among extremely vulnerable girls--was prevalent.

Displaced Children: UNICEF reported that of the 10,592 refugees registered at the newly established Mantapala resettlement in Luapula Province, 6,250 were children. According to UNHCR, among the refugee population in Zambia, approximately 1,500 unaccompanied and separated children were registered, and the government provided them with appropriate services.

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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/providers/legal-reports-and-data.html> (<https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/providers/legal-reports-and-data.html>).

Anti-Semitism

There were fewer than 500 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 against persons with physical, sensory, intellectual, or mental disabilities in employment, education, transportation, access to health care, and the provision of other government services. According to the Zambia Agency for Persons with Disabilities (ZAPD), the government effectively enforced the law. ZAPD reported that the police and other government institutions helped in preventing violence against persons with disabilities. For example, the police investigated and apprehended perpetrators of violence against a woman with albinism in Muchinga Province who had her right hand amputated and left hand wounded, reportedly by ritual killers. Police also apprehended a man in Chipata district who shot his disabled son in 2017. In both instances court proceedings were still pending at year's end.

The Ministry of Community Development and Social Services oversees the government's implementation of policies that address general and specific needs of persons with disabilities in education, health care, accessibility to physical infrastructure, and electoral participation.

A lack of consolidated data was a major impediment to the inclusion of persons with disabilities in government programming and policy. 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, progress in providing for their participation remained slow. Persons with mental disabilities could not hold public office. Persons with disabilities also faced significant societal discrimination in employment and education.

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. Five schools were designated for children with disabilities. Some children with physical disabilities attended mainstream schools, but long distances to school restricted them from accessing education. According to ZAPD, there were three types of education systems accessible to children with disabilities: segregated education (special schools), integrated education (special units), and inclusive education. The majority of children with disabilities attended special schools, while the rest attended special units. There were 150 schools practicing inclusive education in selected provinces during the year.

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. Regionalism and tribalism that marred the 2016 general election contributed to divisions among tribal groups.

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 while others demanded independence. In an effort to address tensions over the agreement, in April the government and Lozi traditional leadership concluded consultations to resume talks on the restoration of the 1964 agreement.

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. During the Universal Periodic Review held in November 2017 in Geneva, the government rejected calls to recognize and protect lesbian, gay, bisexual, transgender, and intersex (LGBTI) rights. The government enforced laws against same-sex sexual activity and did not address societal discrimination against LGBTI persons. For example, on August 3, the Kapiri Mposhi Magistrates Court convicted two men for having “unnatural” sexual intercourse and subjected them to a forced anal exam during the investigation (see section 1. c.). The two men were arrested and charged for same-sex sexual conduct in August and were, by the year’s end, awaiting sentencing by the High Court.

Societal violence against persons based on gender, sex, and sexual orientation occurred. 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-care services. Some politicians, media figures, and religious leaders expressed opposition to basic protection and rights for LGBTI persons in arguing against same-sex marriage.

According to LGBTI advocacy groups, societal violence against LGBTI persons 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 email, vandalism, stalking, and outright violence. Freedom of expression or peaceful assembly on LGBTI issues was nonexistent. In August police reportedly harassed an LGBTI community member at a local church because the person identified as a transgender woman. Police officers forcibly stripped and questioned her to ascertain her sex.

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 2016 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 most workers to form and join independent unions, conduct legal strikes, and bargain collectively. Statutory restrictions regulate these rights; the government has discretionary power to exclude certain categories of workers from unionizing, including prison staff, judges, court registrars, magistrates, and local court justices. 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 or ambiguous grounds.

No organization may be registered as a trade union unless its application to register is signed by not less than 50 supporters or such lesser number as may be prescribed by the minister, 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, through the Ministry of Labor and Social Security, brokers labor disputes between employers and employees. The law provides the right of employees not to be prevented, dismissed, penalized, victimized, or discriminated against or deterred from exercising their rights conferred on them under the law, and it provides remedies for dismissals for union activities. Casualization and unjustifiable termination of employment contracts is illegal; the law defines a casual employee as an employee whose terms of employment contract provide for his or her payment at the end of each day and is engaged for a period of not more than six months.

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 also provides a platform for employers, workers, and government to dialogue on matters of mutual interest through the Tripartite Consultative Labor Council.

The law provides for collective bargaining. In certain cases, however, either party may refer a labor dispute to a court or for arbitration; the International Labor Organization (ILO) raised concerns the law did not require the consent of both parties involved in the dispute for 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 filed with the commissioner and approved by the minister before becoming binding on the signatory parties.

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 defense force 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 (\$4,250) for a trade union or 20,000 kwacha (\$1,700) 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 “essential services” and those in the above-mentioned categories, no other groups of workers were excluded from relevant legal protections. Administrative judicial procedures were subject to lengthy delays and appeals.

Government enforcement of laws providing for freedom of association and collective bargaining was not effective. Penalties for employers were not sufficient and could not be effectively enforced to deter violations. Other challenges that constrained effective enforcement included 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 respected. Unions suffered from political interference and fracturing and were no longer seen as influential. Most unions chose to strike illegally, either to circumvent lengthy procedural requirements for approval or when other legal avenues were exhausted. There were reports of antiunion discrimination; for example, the ILO noted there were allegations of antiunion dismissals in the mining industry as well as harassment of unionized university staff members and reportedly systematic nonrenewal of contracts for academic staff from certain ethnic groups. Disputes arising from such actions were often settled by workers’ representatives and employers, with the government acting as an arbiter. NGOs advocated for worker rights throughout the year without government restriction.

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, mining, and construction sectors, and other small businesses. While orphans and street children were the most vulnerable, children sent to live in urban areas were also vulnerable to forced labor.

During the year the DRC, Ethiopia, Rwanda, and Somalia were source countries of victims of forced labor. Additionally, with the continued increase in Chinese investment in the construction and mining sectors, there were increased reports of Chinese nationals being brought into the country, both legally and illegally, and working under forced labor conditions.

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 under age 15 at any commercial, agricultural, or domestic worksite or engaging a child in the worst forms of child labor. While the Employment of Young Persons and Children Act sets the minimum age for hazardous work at 18, it is not clear regarding the definition of a child. Various pieces of legislation define a child differently, which has implications on employment and education of children. Restrictions on child labor prohibit work that harms a child's health and development or that prevents a child's attendance at school; government regulations list 31 types of hazardous work prohibited to children and young persons. The law also prohibits the procurement or offering of a child for illicit activities.

The government did not effectively enforce the law outside of the industrial sector. Resources, inspections, and remediation were inadequate. Secondary education is not compulsory, and children who are not enrolled are vulnerable to child labor.

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 artisanal mining, agriculture, and domestic service. Although the government reported it had a National Child Labor Steering Committee, which oversaw child labor activities and was

comprised of government ministries, the Zambian Federation for Employers, the Zambia Congress for Trade Unions, civil society, and other stakeholders, the committee was not active during the year. The government collaborated with local and international organizations to implement programs combatting child labor. Because more than 92 percent of child labor occurred in the agricultural sector, most often on family farms or with the consent of families, inspectors from the Ministry of Labor and Social Security focused on counseling and educating families that employed children. In some cases such work also exposed children to hazardous conditions. 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.

Child labor was a problem in agriculture, forestry, fisheries, domestic service, construction, farming, transportation, commercial sexual exploitation (see section 6, Children), quarrying, mining, and other sectors where children under age 15 often were employed. According to UNICEF there was a high prevalence of child labor, mostly in domestic and agricultural sectors and mainly in rural areas. UNICEF noted discrepancies between the right to education and child labor laws in the country. Although the law sets the minimum age of employment at 15, the Employment of Young Persons and Children Act states children ages 13 and 14 may be lawfully engaged in employment, as long as the work involved is not harmful to their health or development or prejudicial to their education. The Employment Act also permits the employment of children under age 15 receiving full-time education during school vacations, those who have failed to secure admission to a suitable school, or those whose enrollment has been cancelled or terminated by the school authorities or for good cause by a parent.

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 law prohibits employment discrimination on several basis (for example, sex, disability) but does not specifically prohibit such discrimination based on sexual orientation or gender identity. Various organizations had policies that protected individuals with HIV/AIDS. The NGOCC noted that although the Employment Act provides for maternity leave, the requirement a worker be continuously employed for two years before being eligible for such leave was discriminatory. The law prohibits termination or imposition of any other penalty or disadvantage an employee due to pregnancy.

Generally, the government effectively enforced the law. There were reports, however, of discrimination against minority groups. Undocumented 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 and education.

e. Acceptable Conditions of Work

The law allows the Ministry of Labor and Social Security authority to set wages by sector; the category of employment determines the minimum wage and conditions of employment. The revised minimum wage categories announced by the ministry during the year ranged from 1,050 kwacha (\$89) to 2,481 kwacha (\$211) per month for “protected employees,” such as general workers with low bargaining power, which at the low end was slightly above World Bank poverty estimates for a lower-middle income country.

Wage laws were effectively enforced, and the law prescribes penalties for violations of labor laws. Every employer negotiates with employees their standard minimum wage. For unionized workers, wage scales and maximum workweek hours were established through collective bargaining. Almost all unionized workers received salaries considerably higher than the nonunionized minimum wage.

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. Both the Workers Compensation Fund Control Board (WCFCB) and the Ministry of Labor and Social Security stated that existing government occupational safety and health (OSH) standards were appropriate for the main industries. The law places on both workers and experts the duty to identify unsafe situations in a work environment. The WCFCB conducted joint safety inspections with the Ministry of Labor to prevent violations. During the year the inspections targeted retail workers, mines, construction companies, and some manufacturing companies, as well as mining contractor firms. These inspections generally showed that manufacturing entities had no health and safety policies, workers did not have adequate personal safety equipment and in many cases endured extended working hours, leading to fatigue. According to the WCFCB a risk assessment on dangerous work activities and pre-employment medical examinations of new employees--especially in Chinese-run mining operations--was nonexistent. The WCFCB also separately conducted 59 site safety inspections, which aimed to help employers and employees manage risks at their work places.

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

The government engaged with mining companies and took some steps to improve working conditions in the mines. 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.

Violations of wage, overtime, or OSH standards were most common in the construction and mining sectors--particularly in Chinese-owned companies--and among domestic workers. Major industrial accidents during the year occurred in the mining, transport, agriculture, and commercial sectors. According to the Central Statistical Office, approximately 27 percent of the labor force was employed in the formal sector, and approximately 60 percent, or approximately 2.2 million people, were in informal employment. The National Pension Scheme Authority implemented a program that extended social security to workers in the informal sector in five priority sectors: domestic workers, bus and taxi drivers, saw millers, marketers and traders, and small-scale farmers in the first phase of the project.

According to the WCFCB, the highest number of accidents occurred in the agriculture, forestry, building and construction, and mining sectors. On June 20, 10 small-scale miners known as jerabos died in an accident at a copper slag dumpsite popularly known as “Black Mountain” in Copperbelt Province. The WCFCB noted 62 of 788 accidents recorded during the year were fatal.

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Annual report on human rights in 2018



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