



Freedom in the World 2015 - Zambia

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2015 Scores

Status: Partly Free

Freedom Rating (1 = best, 7 = worst): 3.5

Civil Liberties (1 = best, 7 = worst): 4

Political Rights (1 = best, 7 = worst): 3

OVERVIEW

President Michael Sata, 77, died on October 28, 2014, at a London hospital, becoming the second Zambian president to die in office since 2008 and confirming long-standing rumors that he was seriously ill. Although Sata had appointed Defense and Justice Minister Edgar Lungu, who was also the secretary general of the ruling Patriotic Front (PF) party, acting president when he left the country October 19 for medical treatment, Vice President Guy Scott assumed the presidency upon Sata's death. This was in accordance with the constitution, though initially there was some contention in the party surrounding Scott's elevation. An election for Sata's successor was scheduled for January 20, 2015; the ballot is required to be held within 90 days of the incumbent's death. Scott, whose parents were born in Britain, is constitutionally barred from running for president. The president's death deepened existing divisions in the PF over the selection of a successor to the longtime party leader, and tensions between Scott and Lungu precipitated public rifts in the PF. By late December, however, these rifts were healed, at least publicly, and Scott and most PF leaders fell in behind Lungu's candidacy.

Sata died just four days after Zambia marked 50 years of independence from the United Kingdom. In what was seen as an attempt to appease critics, the PF-led government released to the public the long-delayed draft of a new constitution on the day before the Golden Jubilee celebrations. The draft contained certain popular provisions, such as a requirement that presidential candidates gain more than 50 percent of the vote to win and that the vice president be an elected running mate to the president. In November, a coalition of civil society groups and church organizations that had been monitoring the constitution-making process gave its approval to the draft. However, the road map for the finalization process remained unclear, and observers questioned whether a promised national referendum would ever be held.

Much of 2014 was dominated by speculation about the state of Sata's health; he was out of the country or absent from public view for most of the year. Little progress was made on long-

promised PF initiatives such as improving the economy, rooting out corruption, and media-sector reforms. The use of repressive laws and policies against government critics continued throughout much of the year, although this subsided somewhat after Sata's death, as the PF's focus turned inward.

POLITICAL RIGHTS AND CIVIL LIBERTIES

Political Rights: 26 / 40 (+1)

A. Electoral Process: 8 / 12

The president and the unicameral National Assembly are elected to serve concurrent five-year terms. The National Assembly includes 150 elected members, as well as up to 8 members appointed by the president. In the September 2011 presidential election, Sata defeated incumbent Rupiah Banda of the Movement for Multiparty Democracy (MMD) 43 percent to 36 percent. Sata then appointed Scott vice president. In concurrent parliamentary elections, the PF won a plurality, taking 61 seats, followed by the MMD with 55 seats and the United Party for National Development (UPND) with 29. Although the elections were characterized by fierce campaigning, the misuse of state resources by the MMD, and isolated rioting, the voting was deemed free and credible by international observers. The winner of the January 2015 presidential by-election will serve the remainder of Sata's five-year term.

By-elections in 2012-13, triggered in part by a PF strategy of enticing opposition legislators to switch parties with offers of government posts (a party switch automatically triggers a by-election), altered the balance of power in the National Assembly in favor of the PF. Several of the campaigns were characterized by violence between party cadres, as well as blatant misuse of state resources and the media by the PF to win votes and discredit the opposition. The PF had somewhat less success with this tactic in 2014, winning three of six by-elections. By the end of 2014, the PF held 74 elected seats, while the MMD had 37 and the UPND 32.

B. Political Pluralism and Participation: 12 / 16 (+2)

The major political parties are the PF, the MMD, and the UPND. Since its 2011 election loss, the MMD – which had governed Zambia for the previous 20 years – has been weakened considerably due to infighting and PF efforts to coopt its members. The loss of seats in recent by-elections meant that no opposition party currently met the 53-seat threshold to be recognized as the official opposition in parliament.

Throughout 2014, the PF was plagued by internal discord, as demonstrated by the August firing by Sata of then justice minister and PF secretary general Wynter Kabimba, previously considered a favorite to succeed Sata. The infighting escalated in the wake of Sata's death, as Scott attempted to fire Lungu as PF secretary general, sparking street demonstrations and riots by Lungu's supporters among the PF rank and file. Lungu was reinstated soon afterward. Among the many disputes, Lungu asserted that the PF central committee was empowered to name the party's presidential candidate, while Scott maintained that only a PF general conference, comprising thousands of party delegates, could select the candidate. Ten people officially entered the race to be the party's presidential candidate.

A general conference went forward in late November, but it too split into factions, with one electing Lungu as PF presidential candidate unopposed on November 30, and another on December 1 choosing Deputy Commerce Minister Miles Sampa. On December 3, the High Court declared Lungu the victor and PF candidate.

In late November, the MMD executive committee endorsed former president Banda, Sata's predecessor, over MMD party president Nevers Mumba as its presidential candidate, sparking renewed discord within the former ruling party. However, the Supreme Court ruled in mid-December that Mumba was the MMD's official candidate. In late November, Hakainde Hichilema, who had placed third in the previous three presidential elections, announced the start of his campaign as the candidate of the UPND.

The two main opposition parties, as well as smaller parties, had been weakened in recent years by harassment and intimidation from the PF government, including use of the colonial-era Public Order Act to prevent them from holding meetings and rallies. In January 2014, Hichilema was summoned to a Lusaka police station to answer a charge of spreading false information. Police reportedly used batons and tear gas against UPND supporters who had come to the station to support Hichilema. Intimidation and harassment of the opposition lessened somewhat toward the end of 2014 with Sata's death and the split in the PF, as the ruling party turned its attention to the fight among internal factions.

C. Functioning of Government: 6 / 12 (-1)

The state of Sata's health had been the subject of speculation since 2012, and rumors increased in 2014 when the president made several foreign trips, including a mysterious "working vacation" in Israel. He missed several key events during the year, including the high-profile African Leaders Summit in Washington, D.C., in August. However, the government consistently denied that he was ill, describing such reports as "outlandish and unsubstantiated." When he left the country, Sata turned power over to various cabinet ministers rather than Scott. Opposition parties and analysts alleged that the apparent secrecy surrounding Sata's health and his activities made it difficult for the public to know who was running the government.

Corruption is believed to be widespread. The PF government has taken some steps to fight graft; in 2012, the National Assembly reinserted the key "abuse of office" clause of the Anti-Corruption Act, which had been removed by the MMD-dominated legislature in 2010. The clause allows for the prosecution of public officials for violations such as abuse of authority or misuse of public funds. However, many prosecutions and court decisions under the PF have allegedly been politically motivated.

In March 2013, the National Assembly voted to lift former president Banda's immunity from prosecution. Among other charges, he was accused of abuse of power in connection with a \$2.5 million oil deal with a Nigerian company from which he allegedly benefited during his 2008-11 presidency. Banda denied the charges, which remained pending at the end of 2014, and alleged that the case was partly retribution for a case against the director of public prosecutions, Mutembo Nchito, and another close Sata ally, *Post* newspaper owner Fred M'membe, that had begun while Banda was president. In that case, Nchito and M'membe were ordered in 2012 to repay at least \$2.5 million to the Development Bank of Zambia, having borrowed it in an effort to finance Zambian Airways, which collapsed in 2009. A retrial was ongoing in the High Court as of the end of 2014, and Nchito and M'membe had yet to repay the funds.

The PF-led government has made repeated promises to pass an access to information law since coming to power, but had not taken action on an existing draft by the end of 2014. Zambia was ranked 85 out of 175 countries and territories surveyed in Transparency International's 2014 Corruption Perceptions Index.

Civil Liberties: 34 / 60

D. Freedom of Expression and Belief: 11 / 16

Freedoms of speech and the press are constitutionally guaranteed, but the government often restricted these rights in practice in 2014. Government officials, including the president, use defamation lawsuits in response to unfavorable reporting. However, the Lusaka High Court ruled in December 2014 that provisions of Section 67 of the penal code prohibiting the publication of false information were unconstitutional because they violated the right to freedom of expression. The ruling came in a case involving Richard Sakala and Simon Mwanza of the independent *Daily Nation* and democracy activist McDonald Chipenzi, who had been charged in 2013 with "publication of false information with intent to cause public alarm" in connection with an article about police recruitment methods.

Although Sata had pledged to free the public media – consisting of the Zambia National Broadcasting Corporation (ZNBC) and the widely circulated *Zambia Daily Mail* and *Times of Zambia* – from government control, these outlets have generally continued to report along progovernment lines, and journalists reportedly practice self-censorship. The other main daily is the privately owned *Post*; the paper and its owner, M'membe, were longtime supporters of the PF. However, after the firing of Kabimba, who was seen as an ally of M'membe, the *Post* became more critical of Sata's government. The ZNBC dominates the broadcast media, though several private stations have the capacity to reach large portions of the population. Just over 15 percent of the population had internet access, according to 2013 figures.

At the opening of parliament in September 2014 – Sata's first public appearance since June – only the ZNBC was allowed to broadcast the event live, and only journalists from the state media and the *Post* were allowed in the chamber's press gallery. Journalists from the rest of the private media were barred from the chamber and forced to watch a live ZNBC feed. The Zambia chapter of the Media Institute for Southern Africa (MISA) filed an official complaint with the Lusaka High Court over the incident, reportedly the first time that the private media had been barred from the opening of parliament since independence.

Community and privately owned radio stations faced stepped-up harassment and threats by local government officials and PF party cadres throughout 2014, especially in retaliation for hosting opposition figures on call-in shows or criticizing local officials on the air.

The election campaign period in late 2014 saw an increase in media freedom violations, including editorial pressure, harassment, and intimidation of journalists and outlets. In November, high-ranking PF officials stormed the ZNBC newsroom and ordered the news director, Kenneth Maduma, and ZNBC journalists not to run stories with opposition views. Separately, in December, the UPND filed a lawsuit against the ZNBC for failing to cover Hichilema's presidential campaign rallies in its radio and television broadcasts, while giving full coverage to the PF conference and other events. In December, MISA Zambia issued a statement calling for a halt to election-related attacks on journalists and acts of censorship after reports of increases in both.

In January, the critical *Zambian Watchdog* news website leaked a version of the draft constitution; soon after, the government threatened new restrictions on internet media. Starting in June 2013 and for parts of 2014, the *Zambian Watchdog* and another independent news site, *Zambia Reports*, were blocked inside Zambia, although their content could be accessed on mobile phones, using circumvention tools and mirror sites, and via Facebook and Twitter.

Constitutionally protected religious freedom is respected in practice. The government does not restrict academic freedom.

E. Associational and Organizational Rights: 7 / 12

Freedom of assembly is guaranteed under the constitution but is not consistently respected by the government. Under the Public Order Act, police must receive a week's notice before all

demonstrations. While the law does not require permits, the police in 2014 continued to break up "illegal" rallies and demonstrations, as well as indoor meetings, led by opposition groups because the organizers lacked permits. The police can choose where and when rallies are held, as well as who can address them.

Freedom of association is guaranteed by law but not always respected in practice.

Nongovernmental organizations (NGOs) are required to register and reregister every five years under the 2009 NGO Act, which was signed into law by Banda but not implemented. The PF in its 2011 campaign had vowed to review the act, which also established a government-appointed board to provide guidelines and regulate NGO activity, and granted the government broad discretion to deny registration. However, in 2013 the PF attempted to implement the law, initially requiring every group to register by early November or face a ban. While many NGOs complied with the registration requirement, others resisted it as a violation of the right to freedom of association, and mounted a legal challenge. In August 2014, the government and some NGOs agreed to resolve the dispute out of court, leading to a suspension of the forced registration provision and negotiations on a self-regulatory framework that were ongoing at the end of 2014.

The law provides for the right to join unions, strike, and bargain collectively. Historically, Zambia's trade unions were among Africa's strongest, but the leading bodies, including the Zambia Congress of Trade Unions (ZCTU), have faced marginalization under PF rule. In October 2014, the ZCTU – which represents nearly all unionized public-sector workers – threatened mass protests and strikes if the government did not lift a two-year wage and hiring freeze announced in 2013. The strikes never materialized, but the ZCTU sought to secure the agreement of all presidential candidates that they would lift the freeze if elected.

F. Rule of Law: 8 / 16

While judicial independence is guaranteed by law, the government often does not respect it in practice. Upon taking office, Sata replaced most top judges and judicial officials, alleging that the system was corrupt and needed reform. In a disturbing development, Sata set up tribunals to probe alleged misconduct by judges (including the judges who ruled against Sata's allies in the *Zambian Airways* case), in violation of constitutional provisions on judicial independence. In 2012, Sata installed his ally and cousin, Lombe Chibesakunda, as acting chief justice of the Supreme Court after forcing out her predecessor. A legal challenge to her appointment, which had never been ratified by the National Assembly because she was past the constitutionally mandated retirement age of 65, was dismissed in April 2014. She has been accused of making biased decisions in favor of the PF.

Zambia's courts lack qualified personnel and resources, and significant trial delays are common. Pretrial detainees are sometimes held for years under harsh conditions, and many of the accused lack access to legal aid owing to limited resources. In rural areas, customary courts of variable quality and consistency – whose decisions often conflict with the constitution and national law – decide many civil matters.

Allegations of police corruption and brutality are widespread, and security forces have generally operated with impunity. There are reports of forced labor, abuse of inmates by authorities, and deplorable health conditions in the country's prisons.

Some leaders in Western Province, a traditionally poor and marginalized region, have repeatedly demanded to secede from Zambia. Successive national administrations have had a contentious relationship with the Lozi, the province's largest ethnic group. In 2012, a small group of separatists in the region declared independence after Sata reneged on a campaign promise to honor the 1964 Barotseland Agreement, which gave the area limited local self-governance and provided for future

discussions of greater autonomy or independence. Presidents since independence have failed to honor such agreements.

Consensual sexual activity between members of the same sex is illegal and punishable by prison sentences of up to 15 years, and members of the LGBT (lesbian, gay, bisexual, and transgender) community have faced increased public harassment and legal prosecution in recent years. In 2013, prominent LGBT rights activist Paul Kasonkomona was arrested after calling for same-sex relations to be decriminalized on a live show on privately owned Muvi TV. Kasonkomona was acquitted of "soliciting for immoral purposes" in February 2014. Two men, Philip Mubiana and James Mwape, arrested in 2013 for engaging in homosexual acts were acquitted in July 2014.

G. Personal Autonomy and Individual Rights: 8 / 16

The government generally respects the constitutionally protected rights of free internal movement and foreign travel. However, movement is often hindered by petty corruption, such as police demands for bribes at roadblocks, for which perpetrators are rarely prosecuted.

Most agricultural land, on which the majority of citizens conduct subsistence farming, is administered according to customary law; while technically such land is communally held, individuals and families exercise very strong use rights. However, the president retains ultimate authority over all land in the country and can intercede to block or compel its sale or transfer. Such powers have been used to buttress a land privatization scheme since the mid-1990s that has undermined traditional land rights and resulted the accumulation of large estates by commercial agriculture and mining concerns. Zambia ranks low on indexes of economic freedom; processes for starting and operating businesses can be opaque and time consuming.

Societal discrimination remains a serious obstacle to women's rights. Women won just 17 of the 150 elected seats in the National Assembly in the 2011 polls. Women are denied full economic participation, and rural, poor women often require male consent to obtain credit. Discrimination against women is especially prevalent in customary courts, where they are considered subordinate with respect to property, inheritance, and marriage. Rape, while illegal and punishable with up to life in prison with hard labor, is widespread, and the law is not adequately enforced. Spousal rape is not considered a crime. Domestic abuse is common, and traditional norms inhibit many women from reporting assaults.

There is significant labor exploitation in some sectors of the economy. In particular, labor abuses in Chinese-operated copper mines, including unsafe working conditions and resistance to unionization, have been reported. A 2013 report by Human Rights Watch found that these violations largely continued.

The use of children in the most dangerous forms of labor, such as mining and agriculture, is a problem in Zambia. According to the U.S. State Department's 2014 *Trafficking in Persons Report*, the most prevalent forms of exploitation in Zambia were internal trafficking of women and children for domestic servitude and forced labor in agriculture, mining, textile work, construction, and small businesses.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

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