



2012 Country Reports on Human Rights Practices - Zambia

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EXECUTIVE SUMMARY

Zambia is a constitutional republic governed by a democratically elected president and a unicameral national assembly. International and local observers considered national elections held in September 2011 to be generally free and fair. Security forces reported to civilian authorities.

Serious human rights abuses occurred during the year. The most important were abuses by security forces, including unlawful killings, torture, and beatings; life-threatening prison conditions; and restrictions on freedom of speech, assembly, and association.

Other serious human rights problems included arbitrary arrest, prolonged pretrial detention, arbitrary interference with privacy, government corruption, violence and discrimination against women, child abuse, trafficking in persons, discrimination against persons with disabilities and based on sexual orientation, restrictions on labor rights, forced labor, and child labor.

The government generally did not take steps to prosecute or punish officials who committed abuses, and impunity remained a problem.

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

a. Arbitrary or Unlawful Deprivation of Life

There were several reports that the government or its agents committed arbitrary or unlawful killings. Senior officials encouraged police officers to use their weapons when apprehending suspects, despite a government directive that restricted the use of firearms by officers and a government pledge to retrain police on the use of force.

On May 23, police officers beat Edrick Simbeye to death. He was arrested for building a house on someone else's land. On September 5, police fatally shot 50-year-old Wesley Mpundu as he drove to his home. Police claimed the shooting was accidental.

An investigative committee reported to the president concerning the killing of two persons and the injury of several others during riots in Barotseland in January 2011. Although its findings were not released to the public, the media reported the committee determined that police had violated the

human rights of the rioters and that the courts had treated those detained inhumanely and unjustly. In addition to compensation for police brutality and negligence, the committee recommended the government offer an unqualified apology to the victims and to the families of those killed.

The government rarely punished perpetrators. No steps were taken to prosecute or punish officials who committed abuses.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution states that no person shall be subjected to torture or to inhuman or degrading punishment. However, there were reports that police frequently used excessive force, including torture, when apprehending, interrogating, and detaining criminal suspects. Undertrained and underequipped police officers often used force, up to and including deadly physical force. For example, in January Ceaser Chalwe testified to the local chapter of the Legal Resources Foundation (LRF) that he and his friends were whipped with electrical cables, subjected to electric shocks, and threatened with death by police in an effort to force them to confess to theft of a motor vehicle.

Authorities also detained, interrogated, and physically abused family members or associates of criminal suspects to coerce them into identifying the location of suspects. For example, in February police falsely imprisoned and brutalized two relatives of Peter Berejana, who was wanted for armed robbery.

Officers who beat or otherwise abused suspects generally were not disciplined or arrested unless the abuses led to death and became public. In contrast with 2011, human rights groups received no reports of police demanding sex from female detainees as a condition of their release, nor were there reports that police officers raped women and girls in their custody.

Prison and Detention Center Conditions

Prison conditions were harsh and life threatening due to outbreaks of disease, food and potable water shortages, gross overcrowding, and poor sanitation and medical care. Delays in court proceedings caused by an inefficient judiciary contributed to the holding of large numbers of pretrial detainees for extended periods.

Physical Conditions: The country's prisons, which were built to hold 5,700 inmates, held approximately 17,000 in April, of whom an estimated 5,000 were pretrial detainees, according to the Prisons Care and Counseling Association (PRISCCA). Approximately 3 percent of the detainees were women and 3 percent were juveniles, a significant decrease from 2011, when 18 percent were women and 10 percent were juveniles. These declines in the number of female and juvenile detainees were attributed to pretrial nongovernmental organization (NGO) mediation, alternative sentencing, and presidential amnesties. The Lusaka Central Prison, which was designed to accommodate 200 prisoners, held more than 1,500. Juveniles often were held with adults and were victims of sexual abuse. Pretrial detainees were held with convicted prisoners. Women and men were generally held separately.

By law police may detain suspects up to 24 hours in holding cells. The Zambia Prison Service operated 87 incarceration facilities nationwide, of which 53 were standard prisons, 33 open-air prisons, and one juvenile reformatory.

Overcrowding, poor sanitation, dilapidated infrastructure, inadequate and deficient medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of

dysentery, cholera, and tuberculosis. Prisons generally had inadequate ventilation, temperature control, lighting, and basic and emergency medical care. Many prisoners were malnourished because they received only one serving of cornmeal and beans per day, called a combined meal because it represented breakfast, lunch, and dinner. As a consequence of these conditions, death in prison was believed to be a common occurrence.

There were 1,800 prison officers. Prison rules require prisoners receiving medical attention to be escorted by a prison officer. There were not enough prison officers to perform escort duty, so prisoners were routinely denied access to medical care. For example, on August 15, Weva Muchimba died from tuberculosis after prison authorities allegedly denied him access to medical care.

There was a significant lack of prison health services; 25 clinical officers and one medical doctor staffed 19 prison clinics. The supply of tuberculosis drugs was erratic. Failure to remove or quarantine sick inmates resulted in the spread of tuberculosis and other airborne illnesses, leading to infection and death in prison populations.

Antiretroviral treatment was available to some prisoners infected with HIV/AIDS, but poor nutrition often rendered the treatment ineffective. PRISCCA acknowledged the prevalence of homosexual conduct in prisons. Because the law criminalizes sodomy, authorities denied prisoners access to condoms. The prevalence of HIV/AIDS among prisoners was 24.1 percent, compared with 14.3 percent in the general population.

There were no facilities for breastfeeding and expectant mothers. Incarcerated women who had no alternative for childcare could choose to have their infants and children under the age of four with them in prison. However, prisons provided no food or medical services to children, and mothers had to share their meager rations with their children in an environment lacking appropriate medical care that often exposed children to disease.

Administration: Recordkeeping was inadequate, and there were no alternatives to sentencing for nonviolent offenders. There were no ombudsmen to promote the interests of inmates. Prisoners and detainees had regular access to visitors and were permitted religious observance. The government did not actively investigate or monitor prison and detention center conditions. Prisoners and detainees generally could not submit complaints to judicial authorities or request investigation of credible allegations of inhumane conditions.

Monitoring: During the year the government permitted prison visits by both domestic and international NGOs, including by religious institutions and the LRF.

Improvements: There were improvements in the handling of prisoners' affairs during the year. Judges increasingly applied community service, fines, and other sentencing alternatives for minor offenses, especially for female and juvenile detainees. Pretrial detention of juveniles was reduced by expedited reformatory placement.

d. Arbitrary Arrest or Detention

Although the constitution and law prohibit arbitrary arrest and detention, the government did not always respect these prohibitions.

Role of the Police and Security Apparatus

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

government identified a need for 27,000 police officers, there were only 15,283 officers on duty at year's end, with 1,500 recruits in training.

The defense forces, composed of the army, air force, and national service totaled approximately 21,600 members. The commander of each service reports to the minister of defense. By law defense forces are to have domestic security responsibilities only in cases of national emergency. In addition to security responsibilities, the national service performs road maintenance and other public works projects and runs state farms for displaced children.

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

Lack of professionalism, poor investigatory skills, and corruption – attributed to inadequate salaries, training, and equipment – remained serious problems.

Civilian authorities maintained control over security forces.

The Police Public Complaints Authority (PPCA) encouraged aggrieved members of the public to report cases of human rights abuse by police. During the year the PPCA reviewed complaints regarding police conduct that were not resolved through internal police channels. However, many cases of abuse went unreported due to lack of public awareness of the PPCA and fear of retribution. Government investigation of corruption cases generally targeted leaders of the former ruling Movement for Multiparty Democracy (MMD), a move publicly perceived as politically motivated.

Arrest Procedures and Treatment While in Detention

The constitution and law require authorities to obtain a warrant before arresting a person for most offenses. However, police are not required to obtain a warrant when they suspect a person has committed offenses such as treason, sedition, defamation of the president, or unlawful assembly. Police rarely obtained warrants before making arrests.

Although the law requires that a detainee appear before a court within 24 hours of arrest, detainees were routinely held for much longer periods while prosecutors and officers collected additional evidence before presenting cases to a court. The law provides for prompt judicial determination of the legality of charges against a detainee; however, authorities often did not inform detainees promptly of charges against them. Although the law obligates the government to provide an attorney to indigent persons who face serious charges, many indigent defendants received no legal counsel.

Although there was a functioning bail system, prisons were overcrowded, in part because defendants could not afford bail or were held for offenses for which bail was not authorized, including murder, aggravated robbery, and violations of narcotics laws. For those arrestees who could not afford legal fees, the government's legal aid office and the LRF provided some with legal services.

Arbitrary Arrest: According to human rights groups, arbitrary arrest and detention remained problems. Police arbitrarily arrested family members of criminal suspects. Criminal suspects were arrested in many instances based on insubstantial evidence, uncorroborated accusations, or as a pretext for extortion. Police officials disciplined some officers for engaging in the extortion of prisoners by suspending them or issuing written reprimands, although dismissals of officers for extortion were rare.

On August 13, police detained and then released on bail opposition political leader Hakainde Hichilema for allegedly "uttering words likely to cause public fear and alarm." Hichilema had criticized the ruling Patriotic Front (PF) party for signing a memorandum of understanding with Sudan, allegedly to provide paramilitary training to PF youth. As of year's end, Hichilema's case had not been tried.

On December 16, police arrested and detained opposition political leader Nevers Mumba along with four other senior members of his party and erroneously charged them with unlawful assembly for holding a public meeting without a police permit. While the law requires seven days' notification to police prior to holding a public gathering, it does not require a police permit. Mumba was released on bail but rearrested on December 26 and charged with "conduct likely to cause breach of peace" after he publicly alleged that the ruling party used bribery to destabilize the opposition.

Pretrial Detention: Prolonged pretrial detention was a problem. Approximately 30 percent of prison inmates were in pretrial detention. On average detainees spent an estimated three years in pretrial detention, which often exceeded the length of the prison sentence that corresponded to their alleged crime. For example, on August 18, the High Court freed Mateo Mfula Kapotwe, who had been held for 11 years on charges of murder before the state decided not to prosecute him. Approximately one-third of persons in incarceration had not been convicted of a crime or had not received a trial date. Broad rules of procedure gave wide latitude to prosecutors and defense attorneys to delay trials. Judicial inefficiency, lack of resources, and lack of trained personnel also contributed to prolonged pretrial detention.

Amnesty: On May 25, African Freedom Day, the president granted amnesty to 2,314 prisoners. On October 24, Zambian Independence Day, the president granted amnesty to an additional 260 prisoners.

e. Denial of Fair Public Trial

While the constitution and law provide for an independent judiciary, the government did not consistently respect judicial independence, and the judicial system was hampered by inefficiency, corruption, and lack of resources. Police did not always follow court orders. For example, on September 9, police prevented a rally by the opposition United Party for National Development (UPND) despite an order from the Lusaka High Court authorizing it. However, the courts made some judgments and rulings against the government. In several instances the courts awarded damages in cases of police and other security force abuse or unlawful arrest. These court rulings were honored.

Trial Procedures

Defendants enjoyed the right to a presumption of innocence. However, they were not always informed promptly and in detail of the charges against them. Trials were public but usually delayed. The law does not provide for trial by jury. Many defendants could not afford an attorney. Defendants enjoyed the right to consult with an attorney of their choice, to have adequate time to prepare defense, and to confront or question witnesses against them, although they had limited access to government-held evidence. There were no reports of defendants being compelled to testify or confess guilt. Defendants had the right to appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

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 Rights. There were no such appeals during the year.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions, but the government frequently did not respect these prohibitions. The law requires a search or arrest warrant before police may enter a home, except during a state of emergency or when police suspect a person has committed an offense such as treason, sedition, defamation of the president, or unlawful assembly. Police routinely entered homes without a warrant.

A 2011 LRF report stated that authorities routinely detained, interrogated, and physically abused family members of criminal suspects to obtain their cooperation in identifying or locating the suspects.

The law grants the DEC, ZSIS, and police authority to monitor communications using wiretaps with a warrant issued on the basis of probable cause, and authorities generally respected this requirement.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

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

Freedom of Speech: The government was sensitive to opposition and other criticism and was quick to prosecute critics using the legal pretext that they had incited public disorder. For example, on July 29, security officers cited security and public order concerns when they detained and later deported Rwandan Roman Catholic priest Father Viateur Banyangandora for criticizing the government's agricultural policies during a church sermon.

Freedom of Press: The two most widely circulated newspapers and the only television station with national coverage were government-run. The third most widely circulated private newspaper was owned by a presidential ally. Opposition political parties and civil society organizations complained the three newspapers did not report objectively.

The independent media were active and expressed a wide variety of views. A number of privately owned newspapers questioned government actions and policies. They circulated without government interference.

In addition to a government-controlled radio station, numerous private radio stations, including community radio stations, broadcasted. Some local private stations, including Radio Phoenix and SkyFM, broadcast call-in programs on which diverse and critical viewpoints were freely expressed. The government-owned Zambia National Broadcasting Corporation (ZNBC) was the principal local-content television station. Four private domestic and foreign-owned television stations also broadcasted. International services were not restricted.

Violence and Harassment: Journalists were occasionally subjected to physical attack, harassment, and intimidation from progovernment and opposition political activists. On September 8, law enforcement officers briefly detained *Post* newspaper photojournalist Thomas Nsama on suspicion of espionage for allegedly taking pictures of accused prisoners and deleted the pictures from his camera. Police often arrested demonstrators of opposition political parties but failed to act if they were government supporters. On September 9, PF activists harassed and beat photojournalist

Salim Dawood when he attempted to photograph their attempt to prevent the opposition UPND from holding a rally. Police were present at the scene but took no action to protect the journalist.

Censorship or Content Restrictions: The government remained sensitive to media criticism. On August 12, Clayson Hamasaka, head of media studies at a government journalism school, was fired because he allowed the interview of an opposition party leader at the school radio station. On September 4, the government threatened to close the University of Zambia's radio station after it broadcasted a program featuring Richard Kapita, opposition UPND vice president. The government alleged that the radio station was advancing a partisan agenda under the guise of freedom of information and reduced the station's broadcast radius to the university campus, purportedly to conform to the radius authorized by its license.

Libel Laws/National Security: Libel laws were used to suppress free speech and the press. On May 16, the president sued opposition leader Hakainde Hichilema and the independent newspaper *Daily Nation* for defamation. Hichilema and the newspaper alleged that the president awarded a contract to renovate the State House to a company owned by Finance Minister Alexander Chikwanda without following proper tender procedures.

Internet Freedom

Although access was not restricted and individuals and groups could freely express their views via the Internet, the government frequently threatened to deregister critical online publications and blogs. In October the government attempted to deregister the blog *Zambian Watchdog* but was unsuccessful because the blog was hosted abroad and therefore outside government control. According to the International Telecommunication Union, in 2011 there were 0.06 broadband subscriptions per 100 inhabitants and 11.5 percent of the population used the Internet.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly; however, the government restricted this right. Although the law does not require a permit to hold a rally, it requires organizers to notify police seven days in advance. Police are empowered by law to decide when and where rallies may be held and who may address participants. On occasion the government used this mandate arbitrarily to block meetings and public rallies of opposition political parties.

There were cases of police violently dispersing protesters. For example, on June 7, police beat 44 peaceful UPND protesters. Police refused to issue reports documenting injuries to five of the protesters until ordered to do so on June 25 by the Lusaka Magistrate's Court.

Freedom of Association

The law provides for freedom of association, but the government placed some limits on this right. All organizations must formally apply for registration to the Registrar of Societies in the Ministry of Home Affairs. The registration process was long and allowed the registrar considerable discretion. Unlike in previous years, there were no known cases in which the registrar refused to register an organization. However, the registrar suspended the registration of organizations critical of the government on the grounds that they failed to pay registration fees or were operating outside their prescribed mandates. For example, on March 14, the MMD received a notice of deregistration for nonpayment of dues. The Lusaka High Court intervened and prevented the

deregistration action. On August 2, the registrar deregistered the Mount Zion Spiritual Church, alleging one of its pastors was involved in criminal activities.

c. Freedom of Religion

See the Department of State's [International Religious Freedom Report](#).

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

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

The government 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.

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

Protection of Refugees

Access to Asylum: According to the UNHCR, although the law provides for the granting of asylum or refugee status, it also gives the minister of home affairs wide discretion to deport refugees without appeal. The UNHCR reported that there were a total of 26,269 refugees of various nationalities in the country at year's end, a decline of 17,061 from the UNHCR's reported total of 46,653 refugees in 2011. The decline was largely due to the approximately 23,000 Angolans deemed no longer in need of refugee protection following the agreement of the UNHCR and host governments to invoke the cessation clause of the 1951 UN Convention Relating to the Status of Refugees. The majority of the remaining refugees were in the Maheba (17,332) and Mayukwayukwa (9,445) refugee settlements, while 14,427 were recorded as self-settled around the country.

Refugee Abuse: The UNHCR reported violence against girls and women – including defilement, rape, marriages of girls age 18 and under, and prostitution – continued to be a major problem affecting female asylum seekers and refugees in camps and among those residing independently, especially in urban areas. Gender inequality, economic dependence on men, and impunity of perpetrators were among the factors contributing to abuse. According to the UNHCR, girls reported sexual harassment by teachers in both community and basic schools in refugee settlements.

Access to Basic Services: Although the government provided basic services to refugees, the law does not accord equal access to education. However, the government provided primary and secondary education in refugee settlements. Refugees were provided access to police and court services. Refugees are required to have the government's permission to move or live outside refugee camps, which was frequently granted. Government policy limited refugees' legal employment options to refugee camps, unless refugees obtained specific government authorization to work outside camps.

Durable Solutions: The UNHCR and the International Organization for Migration assisted 1,085 Angolans to repatriate voluntarily during the year. On June 30, group status ended for refugees who fled Angola during that country's independence and civil wars. The government collaborated

with Angolan authorities, the UNHCR, and other stakeholders to facilitate voluntary repatriation of affected Angolans.

In October the government initiated a process to allow some Angolan refugees to apply for citizenship or legal residency. According to the UNHCR, approximately 22,000 Angolan refugees qualified for legal residency under the government's broad criteria. Although 47 percent of the refugees registered in the settlements or urban areas were born in the country and most had strong social and economic ties to the country, they were not eligible for naturalization. The application process requires the applicant present an Angolan passport, which few refugees had. Government officials stated they were seeking cooperation from Angola to issue travel documents.

Temporary Protection: The government provided temporary protection to individuals who may not qualify as refugees. Provincial and district joint operations committees are responsible for establishing the identity of refugee status seekers and their reasons for leaving their country of origin. According to the UNHCR, the government intercepted several groups from the Horn of Africa at the border and within the country during the year. For example, on January 21, authorities intercepted and arrested 35 Ethiopian irregular immigrants in Muchinga Province near the border with Tanzania. They were deported.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right through periodic elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In September 2011 Michael Chilufya Sata of the PF was elected president with 41.9 percent of the vote. Former president and MMD candidate Rupiah Banda received 35.4 percent, and UPND candidate Hichilema received 18.2 percent of the vote. The seven other contenders each won less than 1 percent of the vote. Of the 150 constituency-based parliamentary seats, the PF won 60, the MMD 55, the UPND 28, and the Alliance for Democracy and Development and the Forum for Democracy and Development (FDD) one each. Three independent candidates were elected and two remaining seats were filled in November; one went to the PF and one to the UPND.

The results of the elections were challenged for 69 parliamentary and four local government seats, mainly by losing PF candidates. Of the 69 parliamentary seats, the High Court nullified the results for 10 seats held by the MMD. Elections were repeated in some constituencies, while a decision on others awaited the outcome of a court appeal. Three parliamentary by-elections were held on February 16, July 5, and November 8 due to a resignation, a death, and a party expulsion, respectively.

Political Parties: Historically, political parties operated without restriction or outside interference, and individuals could independently run for office. However, the PF government interfered with the operations of opposition political parties. Several MMD officials faced police and legal harassment. Police arrested opposition officials, blocked public rallies, and dispersed participants in opposition political gatherings and public protests.

Participation of Women and Minorities: During the 2011 general elections, female candidates for parliament won 17 of 150 constituency-based seats and another woman won a seat in a by-election during the year. Three women were appointed to the 20-member cabinet and five to the 11-member Supreme Court. The vice president was from a minority group.

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. However, it did not enforce the law effectively, and officials often engaged in corrupt practices with impunity. The World Bank considered corruption to be a serious problem in the country.

The government has a national anticorruption policy and a national anticorruption implementation plan. Under implementation during the year, the plan addresses resource mobilization, coordination of anticorruption programs in the public and private sectors, program monitoring and evaluation, and legal reform. The Anticorruption Commission (ACC), which reports directly to the president, is responsible for combating government corruption. In March the government reinstated the abuse of office clause of the Anticorruption Act, which the previous administration had removed. The government continued collaboration with the international community to improve capacity to investigate and prevent corruption. Parliamentary committees scrutinized operations of the executive branch and corrected some irregularities reported by the Office of the Auditor General. The ACC continued prosecutions and public awareness-raising activities.

During the year more than 15 former senior government officials were interrogated, and some formally charged, in connection with allegations of corruption-related offenses. For example, on May 24, former labor minister Austin Liato was convicted of stealing 2.1 billion kwacha (\$405,000). He was released on bail pending appeal to the High Court and rearrested July 25 on separate abuse-of-office charges. The president also dismissed several high-ranking government officials from the former regime, including ZNBC director general Eddie Mupeso, former armed forces commanders, and the directors of the Zambia Electricity Supply Corporation (ZESCO) and the Energy Regulation Board on allegations of corruption. Three former armed services commanders were tried on corruption charges, while the ZNBC and ZESCO directors were not charged. In a report released in January covering 2010, the auditor general revealed financial irregularities in all ministries and foreign missions totaling 221 billion kwacha (\$42.6 million). The irregularities included abuse of petty cash, unauthorized or wasteful expenditures, overpayments, and revenue that had not been properly accounted for.

Government controls over public funds and property were often inadequate. Investigative units often lacked expertise, personnel, and authority. Investigators frequently demanded illicit payments in dealing with the public. In addition, the government had no clear policy for handling evidence in corruption cases, and the process to liquidate assets seized in these cases was not transparent.

Some contracts were sole-sourced and tender procedures not followed. Petty corruption among police and other public authorities was particularly problematic. Police enjoyed a high degree of impunity and routinely extorted money at roadblocks, demanded gas money, borrowed bicycles (ostensibly to visit crime scenes or rescue victims of robberies), and sought payment for contrived document-processing fees.

The law does not require income and asset disclosure by appointed or elected officials; however, presidential candidates were required to disclose financial assets when filing their candidacies with the Supreme Court.

The law does not provide for public access to government information; nonetheless, the government provided information to media and other interested parties, including foreign media, on an informal basis. The government withheld information related to defense and the security forces from the public for reasons of national security.

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

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

UN and Other International Bodies: The government generally cooperated with local human rights observers and international human rights and humanitarian NGOs. The government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations during the year.

Government Human Rights Bodies: The Human Rights Commission (HRC), an independent body established by the constitution, monitored human rights conditions, interceded on behalf of persons whose rights it believed the government denied, and spoke on behalf of detainees and prisoners. During the year the HRC identified three outstanding human rights concerns: increasing lack of police respect for human rights, poor prison conditions, and the PF's intolerance of criticism by opposition parties. The HRC and other independent human rights committees across the country enjoyed the government's cooperation without substantial political interference. The HRC attributed delays in publishing its annual human rights report to government bureaucracy.

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

The constitution and law prohibit discrimination based on race, ethnic group (tribe), gender, place of origin, marital status, political opinion, color, disability, language, social status, and creed but does not address discrimination based on sexual orientation or gender identity. The government did not effectively enforce the law; violence and discrimination against women and children, discrimination based on sexual orientation or gender identity, and discrimination against persons with disabilities remained problems.

Women

Rape and Domestic Violence: The law criminalizes rape, and courts have discretion to sentence convicted rapists to life imprisonment at hard labor. Rape was nonetheless widespread. The government did not enforce the law effectively and obtained few rape convictions. The law does not prohibit spousal rape, and penal code provisions that criminalize rape do not extend to victims of rape by a spouse. However, the law criminalizes domestic violence between spouses and among family members living in one home.

In the first half of the year, the police's Victim Support Unit (VSU) recorded 115 cases of rape. Some women's groups recorded more cases than the VSU. However, these figures greatly understated the actual extent of the problem. According to the VSU's records, of the 211 rape cases recorded in 2011, there were 41 convictions, two acquittals, and two withdrawn cases.

The law provides for prosecution of most gender-based crimes, and penalties for assault range from a fine to 25 years in prison, depending on the severity of injury and whether a weapon was used during the assault. Domestic violence against women was a serious problem and spousal abuse widespread. Inspector General of Police Stella Libongani announced that a total of 9,612 recorded gender-based violence cases were recorded for the year, not including spousal rape. According to the 2011 report of the UN special rapporteur on violence against women, 47 percent of women and girls above age 15 suffered had experienced physical violence. The VSU was responsible for handling cases of domestic assault, wife beating, mistreatment of widows, and property expropriation ("grabbing") by a deceased husband's relatives. However, police were often reluctant to pursue reports of domestic violence and preferred to encourage reconciliation. The law requires medical reports prepared by certified practitioners for prosecution of cases of violence against women, but there were few certified practitioners in rural areas. The law provides for protection orders for victims of domestic and gender violence. Protection orders were issued and enforced.

Harmful Traditional Practices: Polygamy is legally permitted under customary law. 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 as a practice under customary law in many rural areas. However, some local leaders banned the practice. The penal code prohibits "sexual cleansing" of girls under the age of 16.

Sexual Harassment: Sexual harassment was common. The penal code contains provisions under which some forms of sexual harassment of women may be prosecuted. For example, legal provisions that apply to breach of peace were used to prosecute perpetrators of sexual violence against women. On September 18, police arrested UPND youth leader Paul Kalusa for threatening to organize party youths to gang-rape FDD leader Edith Nawakwi under the breach-of-peace provision of the law. The case was pending trial at year's end.

Reproductive Rights: Although couples and individuals enjoyed the right to decide freely and responsibly the number, spacing, and timing of their children, they often lacked access to information. Many women lacked access to contraception and skilled attendance during childbirth, including essential prenatal, obstetric, and postpartum care. According to UN data from 2011, 27 percent of girls and women between the ages of 15 and 49 used a modern method of contraception and 47 percent of births were attended by skilled health personnel. A 2012 UN report estimated the maternal mortality rate at 441 deaths per 100,000 live births in 2010 and a woman's lifetime risk of maternal death at one in 37. Nearly 31 percent of such deaths were HIV/AIDS related. Barriers that limited access to reproductive health services included limited information, cost, religious reasons, and myths surrounding contraceptive use. In rural areas, 31 percent of women were attended by a relative or a midwife during delivery.

The number of women who received HIV testing and treatment increased substantially in recent years and many more women than men sought treatment.

Discrimination: The law generally entitles women to equality with men. Nevertheless, the government did not adequately enforce the law, and women experienced discrimination in employment, education, inheritance, and ownership of land and other property. Employed women often suffered from discriminatory conditions of service, including unequal pay. Women earned approximately 25 percent less than men.

Although the Ministry of Lands, Natural Resources, and Environmental Protection set aside special land quotas for women to redress the imbalance in property ownership, women lacked adequate access to credit to purchase land or property. In most cases women remained dependent on their husbands or male members of their family to cosign for loans, although some financial institutions allowed women to sign independently for loans. Few women owned their own homes or businesses. The Ministry of Gender and Child Development (formerly the cabinet-level Gender and Child Development Division within the Presidency) is the primary agency charged with promoting the status of women. The president appointed several women to high-profile positions, including Inspector General of Police Stella Libongani, Anticorruption Commissioner Rosewin Wandu, and Acting Chief Justice Lombe Phyllis Chibesakunda.

Local customary law generally discriminates against women. Despite constitutional and legal protections, customary law subordinates women with respect to property ownership, inheritance, and marriage.

Customary law dictates that rights to inherit property rest with a deceased man's family. Statutory law prescribes that a man's children equally share half of an estate, the widow 20 percent, other dependents 10 percent, and the deceased's parents 20 percent. In a polygamous marriage, a widow's share must be divided proportionally with other wives, based on the length of time each has stayed in the marriage. Property grabbing from widows remained widespread. Courts generally considered property grabbing a criminal offense and mandated up to three years'

imprisonment as punishment. However, because of high legal costs and delays in adjudication due to an overloaded judicial system, most property grabbing cases were settled by local customary law courts, which do not have the power to impose prison sentences. With very few exceptions, most property grabbing cases revolved around family disputes. Fines imposed by customary courts were low.

Children

Birth Registration: Citizenship is derived from one's parents or, with the exception of refugees, by birth within the country's territory. Failure to register births did not result in the denial of public services, such as education or health care, to children.

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

Child Abuse: The punishment for assault causing bodily harm to a child is imprisonment for five to 10 years, and the law was generally enforced. For example, on September 20, the court sentenced Samson Nkosi to two years in prison for beating and forcing his 15-year-old son to chew and swallow a condom. Although the law prohibits sexual harassment of children, child abuse and violence against children were common problems. The VSU reported 1,089 cases of child sexual abuse in the first two quarters of the year.

Child Marriage: Although a person must be at least 16 years old to marry under formal law, there is no minimum age under customary law. Some local leaders spoke against child marriage and took steps to discourage it, but most condoned the practice. According to a 2011 report of the UN special rapporteur on violence against women, approximately 50 percent of women were married by the age of 18, and more than one-quarter of girls and young women between the ages of 15 and 19 were bearing children. The rate was higher in rural areas.

Harmful Traditional Practices: Female genital mutilation/cutting is prohibited under the penal code and rarely occurred. Although there were no cases reported during the year, it was believed to occur in small communities of immigrants from other parts of Africa.

Sexual Exploitation of Children: The law provides penalties of up to life imprisonment for statutory rape. The minimum age for consensual sex is 16. Defilement, which the law defines as the unlawful carnal knowledge of a child under the age of 16, was common. The law provides penalties of up to life imprisonment for persons convicted of defilement; the minimum penalty is 15 years in prison. The VSU recorded 1,089 defilement cases in the first two quarters of the year, compared with a total of 1,339 in 2011. There were 511 convictions and 23 acquittals in 2011.

The police and magistrates' courts intervened in cases of gross child abuse. The law criminalizes child prostitution and child pornography and provides for penalties of up to life imprisonment for perpetrators. The law provides that child prostitutes who are 12 and above may be charged and prosecuted. However, the law was not enforced effectively, and child prostitution was common. Boys and girls were recruited into prostitution by women who formerly engaged in prostitution.

Displaced Children: A large number of children were displaced and institutionalized. According to Zambia Orphans of AIDS, the country had approximately 1.1 million orphaned children under the age of 18, most due to the HIV/AIDS epidemic. Orphaned children faced greater risks of child abuse, sexual abuse, and child labor. According to the most recent data available, from the 2007 Zambian Demographic and Health Survey, an estimated four in 10 children under the age of 18 were not living with both parents, one in five was not living with either parent, and 15 percent

were orphaned. An estimated 200 children's care homes accommodated approximately 5,000 children countrywide.

Due to the deaths of adults related to HIV/AIDS and the breakdown of the family safety net in rural areas, a growing number of orphans migrated to urban areas, increasing the population of street children. According to UNICEF, there were 1.2 million orphans under the age of 15, of whom an estimated 20,000 worked and/or lived on the streets. In order to survive, many orphans engaged in various forms of work. Street children were especially vulnerable to commercial sexual exploitation, and the problem of child prostitution was growing.

The Ministry of Education, Science, Vocational Training, and Early Education; the Ministry of Community Development, Mother, and Child Health (MCDMCH); and the police's Child Protection Unit worked jointly to identify and assist street children. The ministries' District Street Children Committee authorized the protection unit to reunite street children with their families and arrange for schooling and to place others, including orphans and neglected children, in shelters operated by the government and NGOs. The MCDMCH also maintained a cash-transfer scheme for vulnerable families who might otherwise send minors into the streets to beg or work.

The Ministry of Gender and Child Development continued its efforts to rehabilitate street children by providing education and vocational training at two converted Zambia National Service camps in Kitwe and Chipata. Since its inception in 2004, 648 former street children (82 girls and 556 boys) and other vulnerable young persons graduated from the program. Enrollment at mid-year was 454, of whom 145 were girls. After they graduated from the camps, the ministry placed the children in youth resource centers throughout the country where they received training in carpentry, tailoring, farming, and other trades.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There were approximately 30 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](#).

Persons with Disabilities

The law prohibits discrimination in general, but no law specifically prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, air travel and other transportation, access to health care, and the provision of other government services. Although the government did not restrict persons with physical or mental disabilities from voting or otherwise participating in civic affairs, the law prohibits those with mental disabilities from holding public office. Persons with disabilities faced significant societal discrimination in employment and education.

The Ministry of Education, Science, Vocational Training, and Early Education and the MCDMCH have responsibility for ensuring the welfare of persons with disabilities. However, public buildings, schools, and hospitals rarely had facilities to accommodate such persons. By law the government must provide reasonable accommodation for all persons with disabilities seeking education and ensure "any physical facility at any public educational institution is accessible." Five schools were designated for children with special needs. Some children with physical disabilities attended ordinary schools. No patterns of abuse of persons with disabilities in schools and prisons were reported.

National/Racial/Ethnic Minorities

The country's seven major ethnic groups – Bemba, Kaonde, Lozi, Lunda, Luvale, Ngoni, and Tonga – are divided into 73 ethnic subgroups. The government protected the civil and political rights, including rights under the law to share in revenue from the exploitation of natural resources on tribal lands of all ethnic groupings. The government generally permitted autonomy for ethnic minorities and encouraged the practice of local customary law. Some political parties maintained political and historical connections to tribal groups and promoted their interests.

The government grants special recognition to traditional leaders, including the Barotse Royal Establishment as the political authority of the Lozi ethnic group. However, the government does not recognize the 1964 Barotseland Agreement signed by the United Kingdom, Northern Rhodesia, and the Barotse Royal Establishment immediately prior to the country's independence that granted the Lozi political autonomy. Some Lozi groups demanded official recognition of the Barotseland Agreement.

On September 6, hundreds of Barotseland activists invaded the District Administration Office in Mongu, Western Province. They objected to the circulation of local-language copies of the country's draft constitution, which they claimed should not apply to the Barotseland nation. They attempted to return 500 copies. Following the district commissioner's refusal to accept the copies, activists destroyed them. On September 10, the ZPS arrested and charged 12 Barotseland activists with malicious damage of public property and with conduct likely to cause a breach of peace. The activists were put on trial and initially denied bail but were released on bail October 16. Their trial was not concluded by year's end.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The law criminalizes consensual same-sex sexual activity and provides penalties of 15 years to life imprisonment for individuals who engage in unnatural acts. A lesser charge of gross indecency carries penalties of up to 14 years' imprisonment. The government enforced the law against same-sex sexual activity and ignored societal discrimination against gay men and transgender persons. Societal violence occurred, as did societal discrimination in employment, housing, and access to education or health care. According to the 2012 VSU report, there were 11 cases of "unnatural offenses" and five convictions in 2011. Two groups, formally registered with the government as charitable nonprofit organizations since 2008, promoted lesbian, gay, bisexual, and transgender (LGBT) rights. The groups held private social gatherings but did not participate in open demonstrations or marches due to societal stigma against LGBT persons.

On October 29, a Livingstone court tried Pascal Courouble, a 49-year-old Livingstone resident and Belgian national, for sodomy, to which he pleaded not guilty. Courouble was released on bail and reportedly left the country. In two separate incidents on September 27 and 28, two transgender individuals were beaten and raped for being associated with an LGBT group.

Other Societal Violence or Discrimination

The government actively discouraged discrimination against persons with HIV/AIDS. Most employers adopted nondiscriminatory HIV/AIDS policies. However, societal and employment discrimination against such individuals persisted. Government officials discouraged such discrimination, but they did not publicly acknowledge cases of HIV/AIDS among government officials. The government made little headway in changing entrenched attitudes of discrimination and denial of the problem.

According to the UN's Millennium Progress Report for 2010, the number of individuals seeking counseling and treatment with antiretroviral drugs was 383,323 adults and 30,644 children.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join independent unions, conduct legal strikes, and bargain collectively. The law allows workers to form and belong to trade unions of their choice without previous authorization or excessive requirements, but police officers and military personnel could not form unions. The law allows unions to conduct activities without interference.

No organization may be registered unless it has at least 25 members and, with some exceptions, no trade union can 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.

With the exception of workers engaged in a broadly defined range of essential services, the law provides the right to strike if recourse to all legal options are first exhausted. Essential services providers who are not permitted to strike include the defense force, judiciary, police, prison, health services, and ZSIS personnel. The law further 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. The process of exhausting the legal alternatives to a strike is lengthy. The law does not limit the scope of collective bargaining.

The law also prohibits antiunion discrimination and employer interference in union functions, and it provides remedies for workers dismissed for union activity, including reinstatement of workers fired for union activity.

Freedom of association and the right to collective bargaining were generally respected. The government generally protected unions' right to conduct their activities without interference. The government enforced the law prohibiting antiunion discrimination and employer interference in union functions. All categories of workers except police and military were free to form or join unions. Domestic workers and shopkeepers were not unionized. Workers exercised most of these rights. Workers' organizations were independent of government and political parties.

In April 2011 two Chinese managers at the Chinese Collum Coal Mine in Sinazongwe shot and injured 13 protesting miners. On August 4, miners erupted into violent protests, killing Chinese supervisor Wu Shengzai and wounding several others. The protests were sparked by the mine's delayed implementation of the new minimum wage law. The government intervened to address the workers' demands and to provide for the safety of Chinese personnel at the mine. The government took some steps to improve working conditions at the mine.

The government increased the minimum wage for domestic workers without holding consultations with the Federation of Employers, leading to conflict between the government and employers and noncompliance by the employers. Some employers reportedly refused to bargain with unions and often employed casual workers or workers on short-term contracts in order to avoid hiring workers on a long-term basis, which would provide them with more bargaining power.

While the law provides for the right to strike, due to lengthy procedural requirements, most unions chose to strike illegally. Workers who engage in illegal strikes may be dismissed by employers; the government at times intervened for political reasons when such dismissals occurred. For example, on July 5, the Zambia Sugar Company suspended 60 workers for an illegal strike over wages. Pay negotiations between the company and the union began in January but collapsed in May after the company stated that it could not meet the workers' demands. The company subsequently took the matter to court, but the workers went on strike before the court issued its ruling, prompting the company to suspend and dismiss 60, and subsequently 1,000, workers.

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.

Women and children from rural areas were exploited in urban domestic servitude and subjected to forced labor in the agricultural, textile, and construction sectors and in small businesses such as bakeries. While orphans and street children were the most vulnerable, children of well-off rural families sent to live in urban areas were also vulnerable to forced labor.

There were reports of Chinese, Indian, and Lebanese nationals in forced labor in textile factories and bakeries; of Chinese and Indian men recruited to work in Chinese or Indian-owned mines in Copperbelt Province, who were kept in conditions of forced labor; and of migrants from Malawi and Mozambique, who were forced into labor or prostitution. Transnational labor trafficking of Indians and Bangladeshis through the country linked to criminal groups based largely in South Africa continued.

There were reports of abuses in labor-intensive work, including domestic service, hospitality, and construction. Forced labor also occurred in agriculture and mining but was not common. According to the 2011 Human Rights Watch report *You'll Be Fired If You Refuse*, mine supervisors forced miners to handle hazardous material without adequate protective clothing. Miners who refused to work in unsafe conditions were fired.

Also see the Department of State's [Trafficking in Persons Report](#).

c. Prohibition of Child Labor and Minimum Age for Employment

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

Child labor was a problem in agriculture, domestic service, construction, farming, transportation, prostitution, quarrying, mining, and other sectors where children under the age of 15 often were employed and the law was not always effectively enforced. The production of crops such as cotton, tobacco, maize, coffee, and sunflowers exposed children to dangerous pesticides, fertilizers, snake and other animal bites, and injuries from carrying heavy loads and using dangerous tools and machinery. According to the Zambia Labor Force Survey released in August 2011, more than one-third of children between the ages of seven and 14 – or an estimated 950,000 children total – worked in 2008. This figure was down from the nearly 48 percent of children who were employed in 2005. Of those employed, approximately 92 percent worked in agriculture.

The Ministry of Labor and Social Security chaired the National Steering Committee on Child Labor which was responsible for the implementation and enforcement of child labor laws and regulations. Penalties for violations range from a fine to 25 years' imprisonment, or both. Labor inspectors may enter homes and agricultural fields to check for violations of the child labor law.

While the labor commissioner effectively enforced minimum age requirements in the industrial sector, where there was little demand for child labor, minimum age standards were seldom enforced in the informal sector, particularly in mining, agriculture, and domestic service. Because more than 92 percent of child labor occurred in the agricultural sector, most often with the consent

of families, inspectors from the Ministry of Labor and Social Security focused on counseling and educating families that employed children. Authorities did not refer any cases of child labor for prosecution during the year. Due to the scarcity of transportation, labor inspectors frequently found it difficult to conduct inspections in rural areas.

In cooperation with NGO partners, the government continued its efforts to remove children from abusive situations. Vulnerable children, mainly orphans, were placed in formal and transitional classes, while others were given vocational skills training. Local governments maintained district child labor committees to perform outreach, plan activities for vulnerable and working children, increase awareness of child labor laws and the harmful effects of child labor, mobilize communities to eliminate the worst forms of child labor, and monitor the implementation of child labor programs at the district and village levels. While the government continued to provide awareness and training activities for officials charged with enforcing child labor laws, the Ministry of Labor and Social Security reported that resource constraints prevented it from providing all required training. The government participated in several projects to combat child labor.

Also see the Department of Labor's [*Findings on the Worst Forms of Child Labor*](#).

d. Acceptable Conditions of Work

There is no legally mandated national minimum wage, although the law gives the Ministry of Labor and Social Security authority to set wages by sector. Otherwise, the minimum wage and conditions of employment were determined by the category of employment. However, parts of the workforce, including foreign and migrant workers, are not covered by minimum wage and other provisions regarding acceptable conditions of work. 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. Most minimum wage earners supplemented their incomes through second jobs, subsistence farming, or reliance on extended family. The Ministry of Labor and Social Security is responsible for enforcing the minimum wage, and its inspectors received and resolved complaints. Employer compliance was still problematic, since some resisted government imposition of the minimum wage increases without stakeholder consultation. The law requires equal pay for equal work.

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 (45 hours in some categories) in one week for overtime hours at a rate of one-and-a-half 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.

In July the government raised the monthly minimum wage (including allowances) for domestic workers from 250,000 kwacha (\$48) to 522,400 kwacha (\$101), while the minimum wage for shop workers was raised from 419,000 kwacha (\$81) to 1,132,400 kwacha (\$218), based on a legal maximum workweek of 48 hours.

The law regulates minimum occupational safety and health standards in industry. City and district councils were responsible for enforcement. The inspector of factories under the minister of labor handled factory safety. The Ministry of Labor and Social Security conducted labor inspections during the year and ordered businesses to close when it found significant violations of labor laws.

The government enforced workweek standards but staffing shortages limited its effectiveness.

Miners reportedly developed serious lung disease, such as silicosis, due to poor ventilation and constant exposure to dust and chemicals. Throughout the year the government engaged mining companies and took some steps to improve working conditions in the mines. Through its social

welfare programs, the government provided social security protection to some categories of vulnerable persons in the informal economy.

Despite legal protections, workers did not exercise the right to remove themselves from work situations that endangered their safety or health. The government acted when well-known occupational health problems existed, such as by requiring that underground mine workers receive annual medical examinations. However, a November 2011 report by Human Rights Watch noted that many mine accidents were not reported to the government and estimated that, on average, 15 fatalities occurred each year. For example, on August 6, Julius Chanda died instantly when he fell into a pit while working underground at the Mopani mine.

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