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U.S. Department of State

Zambia Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

ZAMBIA

Zambia is a republic governed by a president and a unicameral national assembly. After two decades of one-party rule, free and fair multiparty elections in November 1991 resulted in the victory of the Movement for Multi-Party Democracy (MMD) and the election of President Frederick J.T. Chiluba, a former trade unionist. In November 1996 elections, President Chiluba was reelected, and his party won 131 of 150 seats in the National Assembly. Constitutional amendments enacted in May 1996 disqualified former president Kenneth Kaunda, the main opposition leader, from seeking the presidency. The MMD's use of government resources, including the state-owned media, put the fairness of the elections into question, although, despite some voting irregularities, there was no evidence of substantial or widespread vote rigging or vote counting fraud.

Several days after a short lived coup attempt on October 28, 1997, the President proposed and Parliament approved legislation establishing a 90-day state of emergency, which was scheduled to end in January but was extended into March. The state of emergency allowed the Government to detain suspects for 28 days without charge under a police detention order and for the remainder of the state of emergency under a presidential detention order. By early in the year, the Government had detained a total of 7 civilians and about 90 military personnel, including former President Kaunda, in connection with the attempted coup. When the state of emergency was lifted in March, charges had been filed against those detained as suspected coup plotters. President Kaunda was released after 6 months of detention, when the Government decided not to prosecute his case. By year's end, all civilians detained in connection with the attempted coup had been released.

The Constitution mandates an independent judiciary and the Government generally respected this provision in practice; however, the judicial system is hampered by lack of resources and inefficiency.

The police, divided into regular and paramilitary units operating under the Ministry of Home Affairs, have primary responsibility for maintaining law and order. There were no indications that police action was as highly politicized as in the previous year. The Zambia Intelligence Security Service, under the Office of the President, is responsible for intelligence and internal security. Police continued to commit numerous, and at times serious, human rights abuses.

The Government continued its free market economic reform program. Difficulties in privatizing major portions of the parastatal copper mines contributed to negative economic developments, including stagnation, increasing inflation, and suspension of balance of payments support by foreign donors. Erratic rainfall, floods, and delayed delivery of fertilizer contributed to a below average 1997-98 maize crop, the staple food of most citizens. Approximately 70 percent of all citizens live in extreme poverty.

The Government took steps to address some human rights problems, but serious abuses continued in several areas. The police committed extrajudicial killings, and beat and otherwise abused criminal suspects and detainees. Prison conditions are harsh and life-threatening. Arbitrary arrests, prolonged detention, and long delays in trials remain problems. Police infringed on citizens' privacy rights. The Government established a commission of inquiry to investigate the torture of some of the coup detainees and promised further steps to improve police training and accountability. However, a lack of professionalism and discipline in the police force remains a serious problem. Unlike the previous year, the Government no longer persisted in attempts to limit freedom of the press; however, it continued to control two of the country's three daily newspapers, contrary to its 1991 campaign promises to privatize government-owned mass media. The Government restricted citizens' right of peaceful assembly and association, and in a few instances limited freedom of movement. Citizen's right to change their government was restricted in the 1996 national elections, the last time national elections were held.

In May 1997, the Government established the autonomous Zambian Human Rights Commission (ZHRC). Despite initial doubts about its effectiveness, the Commission obtained access to the coup detainees and investigated and confirmed allegations that seven of them had been tortured. The Government has promised to investigate these charges after the conclusion of the trial of the coup detainees. The Commission also took effective steps to press the Government to release a number of prisoners. However, human rights and civic organizations continued to complain of government harassment. Women continued to experience discrimination in both law and fact. Violence against women and denial of widows' inheritance rights remained widespread. Discrimination against people with disabilities is a problem. Child labor exists in rural subsistence occupations and in some urban occupations.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political killings during the year, but police continued to use excessive force that at times resulted in extrajudicial killings. Press accounts reported that police killed 19 persons during the year. For example, in February the police shot and killed Theo Mijoni, and Felix and Sydney Chtama in Lusaka's Kabulonga residential area where they were found pushing their broken-down vehicle. The police officers responsible were arrested and charged with murder; a trial was still under

way at year's end.

In May seven police officers of Mindolo police station in Kitwe were arrested in connection with the death in custody of Steward Mwantende, who they picked up in connection with suspected housebreaking. During interrogation police reportedly beat and burned Mwantende by lighting a fire under his legs. Mwantende died from his injuries. The police officers were arrested and a trial was still underway at year's end. Also in May, police shot and killed five persons at Agritech Zambia Limited who they suspected of robbery. In fact, four of the five persons killed were drivers and their assistants who were hired to transport tires. No disciplinary action against the police officers responsible was reported.

In August a 12-year-old girl, Rachel Mbewe, was shot and killed by a police officer at her home in Lusaka's Bauleni township. The officer reportedly was drunk and believed that suspected criminals had entered the house; he shot Mbewe when she denied that anyone had entered. No disciplinary action against the police officer responsible was reported.

In November police killed eight persons in the aftermath of the murder of former Finance Minister Ronald Penza. Police claimed to have killed Penza's attackers, although it was unclear whether Penza's attackers were among those killed by the police. Two additional suspects were apprehended and awaited trial at year's end. No action has been taken against the police officers responsible for the killings.

In November a secondary school student died from a cerebral hemorrhage while in police custody. She had been arrested for allegedly stealing examination papers.

In 1995 army recruits near Kampala Mposhi went on a rampage in retaliation for the death of a comrade at the hands of local villagers. The rampaging army recruits destroyed an estimated 100 village houses and killed 2 villagers. After 3 years, no disciplinary action has been reported.

A large number of prison inmates died due to illness and harsh conditions (see Section 1.c.).

b. Disappearance

There were no confirmed reports of politically motivated disappearances caused by government officials. However, after a police officer threatened a lawyer for the treason detainees (see Section 1.d.) with abductions, her son disappeared under suspicious circumstances and later was found some 190 miles away. (see Section 1.e.).

Former Rwandan Legal Affairs Minister Agnes Ntangibyalino Rutugwera who disappeared from the country in 1997, was found in a Rwandan prison. The Government investigated the incident, but was able only to determine that the abductors were not government officials using government vehicles as alleged.

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

Although the Constitution prohibits torture, police regularly used excessive force when apprehending, interrogating and detaining criminal suspects or illegal aliens. In most such instances, detaining officers beat suspects and generally were not disciplined or arrested for such acts. In May police in the Woodlands station beat a foreign embassy guard and the housekeeper of a foreign diplomat after picking them up for questioning in connection with a suspected burglary. Neither individual was arrested. The officer responsible for the beatings was suspended for 1 month, demoted, and barred from promotion for

7 years.

In May Steward Mwantende died from injuries the police inflicted upon him during interrogation (see Section 1.a.).

The ZHRC confirmed that police tortured seven of the persons detained after the October 1997 coup attempt. There were reports that state agents tortured two of the seven in order to make them falsely implicate former President Kaunda and other politicians in the coup attempt. There were no reports of any government investigation into the torture of the coup detainees. In March the ZHRC urged the Government to hold an inquiry into these incidents of torture. Foreign governments, nongovernmental organizations (NGO's), and other human rights organizations also pressed the Government to investigate these incidents of torture and to bring charges against those responsible. Early in the year, one of the alleged torturers was promoted.

In May the Government agreed to initiate an independent inquiry into torture claims by the treason detainees, and, in August established a commission of inquiry comprised of treason trial judge Japhet Banda and Lusaka principal resident magistrate Getrude Chawatama. Due to Judge Banda's treason trial obligations, the torture inquiry cannot begin until the treason trial has concluded. The Government further promised to institute measures to monitor continuously and reform police operations to ensure that civil liberties are protected. It further directed the police, prisons, and immigration departments to intensify human rights training among their officers. The Government indicated that it would amend the Police Act to provide for the establishment of a police complaints authority to which members of the public could channel complaints pertaining to police harassment and abuse.

In September Minister of Home Affairs Peter Machungwa reported to Parliament that a police investigation had determined that the police did not use live ammunition during the August 1997 incident in which police fired on an opposition party vehicle, slightly wounding former President Kaunda and seriously wounding opposition leader Dr. Roger Chongwe. In June the ZHRC indicated that, due to a lack of funding, it was unable to continue with its own investigations into the shooting.

Police corruption also is a problem. Citizens in private debt disputes are often detained by police in exchange for a portion of the payment owed (see Section 1.d.). Police sometimes committed extortion at roadblocks (see Section 2.d.).

The police undertake investigations of instances of police use of excessive force and have disciplined officers who committed human rights abuses. Middle ranking and senior officers are enrolled in human rights training seminars at the police academy. A number of police officers are the subject of internal investigations and prosecutions. Authorities arrested some police officers on such criminal charges as murder, robbery, and possession of illegal narcotics.

In August the Legal Affairs Minister announced that the Government had acceded to the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment with one reservation. However, by year's end, the Government had not ratified the Convention and still had not disciplined or prosecuted any of the individuals allegedly involved in the torture of persons detained in connection with the 1997-98 state of emergency.

Prison conditions are harsh and life-threatening. According to official statistics, prisons designed to hold 6,000 prisoners held over 12,000. This severe overcrowding, combined with poor sanitation, inadequate medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of dysentery and other diseases, including tuberculosis. In a report submitted to Parliament in 1996, the

Commissioner of Prisons said that 975 prisoners had died in prison between January 1991 and December 1995 due to illness and harsh conditions. The death rate of prison inmates remained about the same during the year.

During a visit to Mpima prison in Kabwe in May, the ZHRC learned that the prison has had no water supply for the last 3 years. Also in May, a Ndola magistrate, Dorothy Kaira, was informed by remandees that poor conditions at the Ndola remand prison forced them to plead guilty to offenses to enable them quickly serve their terms and be released.

The Government generally permits prison visits by both domestic and international monitors and by resident diplomats.

In December 1997, the authorities did not allow Africa Watch to visit the detained treason suspects. The Government did permit Human Rights Watch and Amnesty International to visit President Kaunda and Princess Nakatindi Wina, but they were not permitted to visit most of the coup detainees during the year. The authorities delayed for some time before permitting the ZHRC to visit the coup detainees.

d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention are still problems. Criminal suspects often are arrested on the basis of flimsy evidence or an uncorroborated accusation. In criminal cases, the law requires that a detainee be charged and brought before a magistrate within 24 hours. Attorneys and family members are allowed access to pretrial detainees. In practice the authorities hold most detainees for more than 1 month from commission of an offense to first appearance before a magistrate. In many cases, an additional period of 6 months elapses before a magistrate commits the defendant to the High Court for trial. Following committal, preparation of the magistrate court record for transmittal to the High Court takes months, or in some cases as long as a year. Once a case reaches the High Court for trial, court proceedings last an average of 6 months.

Pretrial detention often is prolonged. Approximately 2,000 out of 12,000 prisoners are awaiting trial on criminal charges. In some cases defendants have been awaiting trial for as long as 4 years. There was some progress in holding trials; in past years, some defendants had waited for as long as 10 years for their trials. These long delays are a result of inadequate resources, inefficiency, lack of trained personnel, and broad rules of procedure that give wide latitude to prosecutors and defense attorneys to request adjournments. The High Court Commissioner can release detainees if police fail to bring the case to trial, although that did not occur in any case during the year.

Although there is a functioning bail system, overcrowded prisons reflect in part the large number of detainees charged with serious offenses for which bail is not granted. These include treason, murder, aggravated robbery, and violations of the narcotics laws. Constitutional bail was granted in three cases in December. One was a criminal case and the other two involved the remaining civilian coup detainees, Dean Mung'omba and Princess Wina. The judges in these cases granted bail because the accused had been detained for excessive periods without evidence being presented against them. Indigent detainees and dependents rarely have the means to post bail. The Government legal aid office is responsible for providing legal aid representation for indigent detainees and defendants in criminal or civil cases. In practice few receive assistance. The office had 14 attorneys to cover the entire country and a budget of \$110,000 during the year.

Police stations frequently become "debt collection centers," where police officers acting upon unofficial complaints, detain debtors, without charge, indefinitely until they pay the complainants. In return the

police receive a percentage of the payments (see Section 1.c.).

The authorities held in detention pending deportation approximately 600 illegal immigrants, principally from neighboring countries. Because the immigration authorities lack funds for deportation, illegal immigrants are