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1999 Country Reports on Human Rights Practices

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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 the former President, Kenneth Kaunda, the main opposition leader, from seeking the presidency, prompting his United National Independence Party (UNIP) to boycott the elections. 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. 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. Police action generally was not politicized. 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. However, difficulties in privatizing major portions of the parastatal copper mines contributed to negative economic performance, including stagnation and increasing inflation. Balance of payments support by foreign donors resumed as a result of greater government attention to governance issues. Approximately 70 percent of all citizens live in extreme poverty.

The Government's human rights record was generally poor; although the Government took steps to address some human rights problems, serious abuses continued in several

areas. Citizens' right to change their government was restricted in the 1996 national elections, the last time national elections were held. The police committed extrajudicial killings, and police officers routinely beat and otherwise abused criminal suspects and detainees. A lack of professionalism and discipline in the police force remains a serious problem and officers who commit such abuses do so with impunity. Prison conditions are harsh and life threatening. A government commission of inquiry, established in 1998 to investigate the alleged torture during detention of suspects in a 1997 coup attempt, began work in November. Arbitrary arrests, prolonged detention, and long delays in trials remain problems. Police infringed on citizens' privacy rights. On at least one occasion, the Government infringed on freedom of the press, and it continued to control two of the country's three daily newspapers, contrary to its 1991 campaign promise to privatize government-owned mass media. In rare instances, the Government restricted citizens' right of peaceful assembly and association, and in a few instances limited freedom of movement. Human rights and civic organizations and political parties continued to complain of government harassment. Violence against women remained widespread. Women continued to experience discrimination in both law and fact, including the denial of widows' inheritance rights. Discrimination against the disabled is a problem. Child labor is a problem in rural subsistence occupations and 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 by government officials during the year, but police continued to use excessive force that at times resulted in extrajudicial killings. Police committed at least half a dozen extrajudicial killings. For example, in March Khondwani Musukwa died in police custody, apparently as a result of torture. Police reportedly were attempting to obtain information about associates of Musukwa believed to have been involved in a crime. No action was taken against the officers responsible for Musukwa's death. In July Sailas Mabvuto Lungu reportedly was beaten to death by a police constable who suspected him of driving a stolen vehicle. The officer was in detention and awaiting trial at year's end. In August a pregnant woman died in police custody. Police reportedly detained her in an attempt to determine the whereabouts of her husband. The woman is believed to have died as a result of abuse while in police custody; there was no judicial action against the police.

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

In May 1998, 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 continued and did not conclude during the year (see Section 1.c.).

In November 1998, police killed eight persons in the aftermath of the murder of former Finance Minister Ronald Penza. Police claimed that the eight were Penza's attackers;

however, it was unclear whether Penza's attackers were among those killed by the police. The body of one of the eight showed evidence of torture before death; others were shot during arrest attempts. One police officer was charged with three counts of murder, convicted, and was sentenced in March to 15 years' imprisonment. Two other officers were arrested, but subsequently were released; no disciplinary action against the officer was reported.

A police officer responsible for the 1998 shooting deaths of Theo Mijoni and Felix and Sydney Chtama was acquitted in November on the grounds that he was performing his duty and had not deliberately killed Mijoni and the Chtamas.

In January the Government decided to compensate the families who had lost houses in 1995 when army recruits destroyed 100 houses and killed 2 persons in a village. Each family was to receive a sum equivalent to about \$40 (100,000 kwacha). The recruits reportedly were dispersed to various units without disciplinary or judicial action.

On November 3, four gunmen shot and killed Wezi Kaunda, the son of former President Kenneth Kaunda, in Lusaka. One suspect was arrested; the investigation was ongoing at year's end.

In February a bomb killed a security guard at the Angolan Embassy in Lusaka; 10 other bomb explosions occurred in the capital on the same day.

b. Disappearance

There were no reports of politically motivated disappearances caused by government officials.

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

The Constitution prohibits torture; however, police regularly used excessive force when apprehending, interrogating, and detaining criminal suspects (or their relatives or associates) or illegal aliens. In most such instances, detaining officers beat suspects and generally were not disciplined or arrested for such acts.

In March a young man detained with a group of women from the National Pressure Group was beaten while in police custody at the Woodlands Police Station in Lusaka (see Section 1.d.).

In June Cedrick and Mary Phiri, who were attempting to determine the whereabouts of Phiri's brother-in-law, were taken into custody by police in the Matero district. They were detained overnight, during which time Cedrick was beaten with a monkeywrench on the head and back (see Section 1.d.) and later released without being charged.

In September officers of the Emmasdale police station beat Benson Mwale repeatedly on the buttocks; subsequently, he required medical attention for severe lacerations. The police were attempting to force him to disclose information relating to thefts of car windshields. In September a file on the incident was opened by the Permanent Human Rights Commission (PHRC), which also encouraged Mwale to sue the police officers in their individual capacities. The police command said that it would punish all officers

involved in the incident. Later in September, a "docket of complaint against police" was opened to investigate the matter. This docket is process through which the public can raise complaints against a police officer in order that legal procedures can be instituted. No police officers were punished by year's end.

In May 1998, seven police officers of Mindolo police station in Kitwe were arrested in connection with the death in custody and torture of Steward Mwantende. A trial continued and did not conclude during the year (see Section 1.a.).

In 1997 the PHRC 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. In March 1998, the HRC 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 1998, one of the alleged torturers was promoted.

In May 1998, the Government agreed to initiate an independent inquiry into torture claims by the October 1997 coup attempt detainees, and in August 1998 established a commission of inquiry made up of treason trial judge Japhet Banda and Lusaka principal resident magistrate Gertrude Chawatama. Due to judge Banda's treason trial obligations, the torture inquiry could not begin until the treason trial concluded on September 17. President Chiluba appointed two additional members and a deputy secretary to the commission of inquiry in September. The Commission began work in November through a series of public hearings; such hearings continued through year's end.

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, which has been part of their basic training since 1997. The Government took no action on its statements in 1998 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 the Government attempted to exclude the assistant commissioner of police and the Drug Enforcement Commission deputy commissioner from a lawsuit filed by opposition politician Dean Mung'omba for torture while he was detained in the aftermath of the 1997 coup attempt. The Government stated that the two officials should not be included in the suit because they were exercising their normal duties under the direction of the Attorney General; however, a High Court judge ruled that the two could be sued in their individual capacities.

Police corruption is also a problem. There were a handful of unconfirmed reports that police would release prisoners in exchange for a bribe of between \$100 and \$150 (200,000 to 300,000 kwacha). Citizens in private debt disputes often are 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.) or required document processing "fees" or gas money in order to commence investigations.

The police undertake investigations of instances of police use of excessive force and have disciplined officers found to have committed human rights abuses. Such investigations generally are prolonged, and outcomes are not readily apparent. 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 and robbery.

In February the Government removed its reservation and ratified the U.N. Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. At year's end, the Government 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.

In March unidentified assailants fired shots at a car belonging to former President Kaunda, who was not in the vehicle.

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. The Commissioner of Prisons has submitted no further such reports since 1996.

In March the Commissioner of Prisons attributed the serious overcrowding in prisons to the slow pace at which the courts dispose of cases. The Commissioner noted that some cases have been pending since 1991. According to the Commissioner, one judge had 50 cases pending, while the magistrate courts had 749 cases pending.

The Magistrates and Judges' Association of Zambia expressed its intention in March to undertake efforts to release all eligible detainees on bail in order to reduce prison congestion. According to the Association, Kamwala Remand Prison in Lusaka contained 636 inmates, although it had been designed to hold only 200.

The PHRC announced in July that it would employ prison inspectors to ensure that inmates are kept in habitable environments.

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

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. Family members or associates of criminal suspects were detained, interrogated, and physically abused by the authorities in attempts to identify or locate suspects. 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 were 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 narcotics laws. There were no cases of constitutional bail. Indigent detainees and defendants rarely have the means to post bail. The Government's 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 and a budget of \$110,000 (250,000,000 kwacha) during the year to cover the entire country.

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.).

A group of 20 women affiliated with the National Pressure Group, a lobbying body, was "arrested" by MMD cadres for holding an unauthorized political meeting in March. The women were gathered in a private home. They were taken into police custody, but were released a day after the arrests. The members of the group were never charged. A young man detained with the group was beaten while in police custody (see Section 1.c.).

In May Donald Phiri was taken into police custody during an unauthorized police search for weapons at his father's home. The search allegedly was intended to locate arms. Phiri's father complained that he was unable to determine his son's whereabouts for several days after he was taken into custody. Phiri was charged with murder in September, and his trial was pending at year's end.

In June Cedrick and Mary Phiri were taken into custody at Matero police station by police trying to determine the whereabouts of Phiri's brother-in-law. The two were detained overnight (see Section 1.c.) and released without being charged.

In August Imasiku Mutangelwa, the leader of a small organization known as the Barotse Patriotic Front (BPF), was sought by police for questioning after he made statements supporting a separatist rebellion in Namibia. Later the same month, Mutangelwa sought asylum in the residence of the South African high commissioner, but his request was denied. Mutangelwa subsequently was arrested and charged with belonging to an

unlawful society. Mutangelwa clearly had stated his affiliation with the BPF for several months without any action being taken against him. The case against him was referred by the Magistrate's Court to the High Court, where it remained pending at year's end.

In August the High Court of Ndola awarded damages to a woman who had been detained in 1997 by police trying to determine the whereabouts of her son.

The authorities held in detention pending deportation approximately 300 illegal immigrants, principally from neighboring countries. Because the immigration authorities lack funds for deportation, illegal immigrants sometimes are kept in prison for extended periods.

The state of emergency imposed in October 1997 allowed the Government to detain suspects for 28 days without charge by using a police detention order and to detain them for the remainder of the state of emergency under a presidential detention order. After the lifting of the state of emergency in March 1998, the cases of coup suspects went into normal legal proceedings 7 months after the arrests of most suspects. A total of 7 civilians and about 90 military personnel were detained. By the end of 1998, all civilians detained in connection with the attempted coup and several of the military personnel had been released. Nine of the accused were released in May after charges were dismissed on grounds of insufficient evidence. Eight more were acquitted, 1 sentenced to hard labor, and 59 sentenced to death in September. The death sentences were being appealed at year's end, and the process is expected to last several years.

The Government attempted to introduce a new state security bill in August that would have allowed the Government to hold treason suspects for indefinitely renewable periods of 14 days. Parliamentarians, including two from the MMD, sharply criticized the bill, which was withdrawn by the Government.

In 1996 the now-retired Speaker of the National Assembly ordered the indefinite incarceration of the Post newspaper reporters Fred Mwembe, Bright Mwape, and Lucy Sichone for contempt of the House. The High Court later quashed the sentences, ruling that the Speaker had no authority over private citizens. The Government appealed the case, seeking to reinstate the detentions of the three reporters. The case remains pending, although Mwape and Sichone since have died.

The Government does not use exile for political purposes; however, it has used deportation and the threat of deportation for political purposes against persons whose claims to citizenship it had refused to recognize.

During the year, a number of citizens remained in self-imposed political exile in foreign countries including: Liberal Progressive Front President, Dr. Roger Chongwe, in Australia; Zambia Democratic Congress General Secretary, Azwell Banda, in South Africa; former editor of the defunct newspaper, Confidential, Reverend Steward Mwila, in South Africa; and former President Kaunda's daughter, Catherine Mwanza, in South Africa.

e. Denial of Fair Public Trial

The Government generally respected the independence of the judiciary during the year.

However, there have been reported instances in past years in which Parliament overturned Court rulings; the last known attempt to do this occurred in the cases of Mwembe, Mwape, and Sichone in 1996 (see Section 1.d.). The President nominates and the National Assembly confirms the Chief Justice and other members of the Supreme Court. The judicial system is hampered by lack of resources and inefficiency.

The Supreme Court has appellate jurisdiction for all legal and constitutional disputes. The High Court, which holds regular sessions in all nine provincial capitals, has authority to hear criminal and civil cases and appeals from lower courts. Magistrate courts have original jurisdiction in some criminal and civil cases, while local, or customary, courts handle most civil and petty criminal cases in rural areas.

Local courts employ the principles of customary law, which vary widely throughout the country. Lawyers are barred from participating, and there are few formal rules of procedure. Presiding judges, who are usually prominent local citizens, have great power to invoke customary law; render judgments regarding marriages, divorces, inheritances, other civil proceedings; and rule on minor criminal matters. Judgments often are not in accordance with the Penal Code. For example they tend to discriminate against women in matters of inheritance (see Section 5).

Trials in magistrate courts are public, and defendants have the opportunity to confront their accusers and present witnesses. However, many defendants are too poor to retain a lawyer, and the poor state of the Government's legal aid department means that many citizens entitled to legal aid find that it is unavailable. Congestion in the courts and long delays while the accused are in custody can be tantamount to denial of fair trials.

Courts continued to act independently and at times made statements critical of the State. A judge in a habeas corpus hearing for journalists from the Independent Post newspaper criticized the State for failing to produce the accused during an initially scheduled hearing. He further expressed his hope that the State would not detain again immediately the individuals who were about to be released, as had happened in previous cases. In March a Lusaka High Court judge criticized both the prosecution and the defense for excessive delays in an aggravated robbery case that has been in progress since 1995. The judge expressed disappointment that the defense had not applied for constitutional bail on grounds of excessive delay in completing the trial and noted that the rights of the accused had been abused by this delay.

Repeated delays in presenting a state case against journalists from the Independent Post newspaper raised concerns that the Government was simply delaying the case in order to intimidate the newspaper (see Section 2.a.).

After a short-lived coup attempt on October 28, 1997, the Government detained about 90 military personnel and a total of 7 civilians, including former President Kaunda, in connection with the attempted coup. Charges were filed against these individuals in March 1998. President Kaunda was released after 6 months of detention, when the Government decided not to prosecute his case. By the end of 1998, all civilians detained in connection with the attempted coup had been released. The treason trial concluded in September with 59 of the accused receiving death sentences; these sentences are under appeal.

There were no reports of political prisoners.

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

The Constitution provides for respect for privacy and the inviolability of the home; however, the authorities did not always respect these rights in practice. The law requires a warrant before police may enter a home, unless a state of emergency is in place. Police routinely ignored this requirement and often arrested alleged criminals at their homes without first having obtained an arrest warrant. The Constitution grants the Drug Enforcement Commission and the Zambian Intelligence Security Service authority to wiretap telephones for possible cause. In 1996 the Inspector General of Police admitted in open court that he had ordered the illegal wiretaps of the telephone at the offices of the Post, an independent daily newspaper. The case still is pending in court.

Police detained and abused relatives and associates of suspects; in August a pregnant woman detained by the police looking for her husband died in custody (see Sections 1.a., 1.c., and 1.d.).

In March police illegally searched the home of the husband of Sylvia Masebo, a political activist, reportedly on suspicion of narcotics activities. Masebo expressed her belief that the search was undertaken solely to defame her. In May police raided the home of the president of the World Baptist Evangelical Association, Reverend Bwanali Phiri, without a warrant in the early hours of the morning. The police said that they were looking for weapons; they then took Phiri's son Donald and two of Phiri's tenants into custody, reportedly on suspicion of involvement in a murder. Phiri complained that he was unable to determine the whereabouts of his son for several days after he was taken into custody. Phiri's tenants were released, but Phiri was detained for 4 months without charge, then charged with murder. The case was pending at year's end.

Roundups of suspected illegal aliens in the home or workplace continued. According to the Government Commissioner for Refugees, immigration officials are empowered under the law to conduct these roundups without a warrant.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

While the Constitution provides for freedom of expression and of the press, the Penal Code lists various prohibited activities that may be interpreted broadly to restrict these freedoms, and in at least one instance the Government infringed on press freedom. Overall, the Government's record on press freedom was mixed during the year. Over the past several years, in response to headlines and stories of alleged corrupt practices on the part of government officials, the Government, accused officials, and other individuals have brought numerous libel actions against the Post newspaper. There are currently over 80 cases filed over the course of the last 4 years waiting to be adjudicated. The number of pending libel cases did not increase during the year, because the journalist involved in most of them had left the Post.

The law includes provisions for investigative tribunals to call as witnesses journalists and media managers who print allegations of parliamentary misconduct. Failure to cooperate

with a tribunal may result in charges of contempt punishable by up to 6 months in jail. This is seen by the media as a clear infringement on press freedom and a means for parliamentarians to bypass the clogged court system in dealing with libel suits against the media.

Thirteen members of the editorial staff of the Independent Post newspaper were arrested after the newspaper published a story pointing out deficiencies in the country's military preparedness in relation to neighboring Angola. The Post claimed the information contained in the article was publicly accessible. Twelve of the staff members were charged with espionage, but the trial was delayed several times, raising questions about whether the Government really wanted to prosecute, or simply intimidate, the newspaper. All of the accused remain free on bond. Their trial started on December 22 with prosecution testimony by an army general. In addition the Attorney General and several members of the MMD applied for an injunction to restrain the Post from publishing articles related to tensions between Angola and Zambia. The injunction was thrown out in August by the High Court deputy registrar, who said that the application had not disclosed a cause for the requested action of prohibiting such articles (see Section 1.e.).

In March the deputy minister for Local Government and Housing locked a journalist in his office when the journalist came to investigate the status of a presidential housing initiative. This incident prompted the Zambia Independent Media Association (ZIMA) to conduct a march for press freedom.

A government appeal of a National Assembly case initiated against three journalists in 1996 remains pending (see Section 1.d.).

A number of privately owned newspapers question government actions and policies, and these circulate without government interference. For the last 3 years, the leading private daily, the Post, has had an Internet home page that has attracted over 15,000 readers per month. The government-controlled Times of Zambia and Zambia Daily Mail, two of the most widely circulated newspapers, also have home pages established in April 1996. The Government owns the sole television station, the Zambia National Broadcasting Corporation (ZNBC). In addition to the government-controlled radio station, there are three church-related stations and one private commercial station. The Government exercised considerable influence over the government-owned media, which continued to follow the government line on important issues.

In February the only commercial station resumed rebroadcasting Voice of America (VOA) and British Broadcasting Corporation (BBC) items. The station had been pressured by the Government to stop such rebroadcasts in 1997 due to an interpretation of licensing limitations. Multichoice, based in South Africa, provides satellite and analog wireless subscribers with television services. These services provide broadcasts of Cable News Network, BBC World, Sky Television, and South African Broadcasting Corporation Africa News. They also provide three BBC, one Radio France International, and VOA radio news broadcasts. Neither of the services provides local news coverage. A second wireless service, CASAT, began operations in December 1997. In 1998 Trinity Broadcasting Network, a foreign-based church-related television network, began 24-hour transmission from a rented studio at the ZNBC complex.

Contrary to its 1991 campaign promises to privatize government-owned mass media, the

Government has declined to privatize the state-owned and government-controlled Times of Zambia, the Zambia Daily Mail, and the ZNBC radio and television stations. Opposition political parties complain that government control of these media bodies effectively limits their access to such means of mass communication.

Academic freedom is respected. University professors are permitted to lecture freely, conduct research, and publish their work. The Government is attempting to pass a university act to give greater power to the Minister of Education to supervise universities. There is concern among the academic community that this act would lead to limitations on their freedom. The act was introduced into the Parliament in September, debated, passed and forwarded to the President for enactment. However, before the President could take action, a group of university professors and students obtained a court injunction blocking presidential action. The bill lapsed at the end of the year and must be resubmitted to the Parliament if it is to be enacted.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly; however, the Government restricted this right in practice. The law requires rally organizers to notify the police 7 days in advance of a rally. The police may advise the organizers that the time or venue is inopportune. In practice the police did not interfere with most peaceful rallies whose leaders followed the prior notification rule and that could be described as politically neutral or favorable to the Government or MMD; however, authorities sometimes denied permission to proceed with rallies planned by the political opposition, particularly the United National Independence Party (UNIP).

The Zambia Independent Media Association was allowed to conduct a march for press freedom in March (see Section 2.a.). However, in April UNIP was denied permission to conduct a march protesting a decision of the Ndola High Court that declared former President Kaunda stateless due to his Malawian parentage and his failure to normalize his citizenship status at an appropriate time. The authorities gave no reason for denying the permission for the march, and no reason was apparent.

Two miners were wounded when police fired shots to disperse a meeting of the Mineworkers Union of Zambia (MUZ) in Luanshya in April. The MUZ was given a permit for the rally on April 12, but the permit subsequently was revoked with the instruction that the meeting must be held in an enclosed place. The MUZ was issued a second permit after changing its meeting venue; however, on the day of the event, police informed MUZ officials that the Inspector General of Police had cancelled the event. The meeting went ahead, prompting the police to disperse the group.

Two opposition political activities were thwarted by private enterprises under suspicious circumstances. A press conference to be conducted by the United Party for National Democrats at a Lusaka nightclub was cancelled by the club the day before the scheduled event. The club stated that it was not authorized to host political activities, although no such restriction was stated during the initial scheduling. A new political party, the Zambia Alliance for Progress, was scheduled to launch its party officially at a sports complex in June. The sports complex cancelled the booking shortly before the date of the event, also stating that it was not authorized to host political activities. Both groups were able to hold subsequent meetings in different locations.

A group of approximately 20 women affiliated with the National Pressure Group was detained by police after a meeting by the group in the private residence of one of the members (see Section 1.d.).

Requests by the University of Zambia's student union to stage a peaceful protest over continued closure of the school were turned down in July. Seven students subsequently were arrested on suspicion of planning to proceed with the protest without permission. The students were released in July.

The Constitution provides for freedom of association; however, at time the Government restricted this right. All organizations must apply formally for registration to the registrar of societies. In most cases, authorities routinely approved these applications. However, the Registrar initially refused to register the Zambia Alliance for Progress, citing incompatibilities between the party's constitution and the national Constitution. The party amended its constitution and subsequently was registered. The Government also denied the application of a group of former servicemen who wanted to form an association. The Government argued that an organization for ex-servicemen already existed. There are currently 34 political parties and dozens of NGO's registered. The Government threatened to take action against those organizations that did not submit annual reports to the registrar of societies. In June the Ministry of Home Affairs deregistered more than 20 NGO's that did not comply with the reporting requirement.

In prior years, the Government has harassed and arrested NGO leaders. In 1996 authorities arrested NGO leaders, Alfred Zulu and Ngande Mwanajiti, and charged them with receiving financing from foreign governments. While the charges have not been dropped, they are not being pursued, and both men remained active and free throughout the year.

The Government pursued passage of a new NGO act during the year. The act would create an oversight committee dominated by government representatives. The proposed act also gives power to the Ministry of Home Affairs to regulate NGO activities without reference to purpose. NGO's have complained that the proposed act ignores a draft policy formulated jointly by the NGO community and the Government. NGO's further protest that the proposed act would restrict their freedom of assembly severely. The act was not taken to a vote in Parliament by year's end.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice. Although a 1996 amendment to the Constitution declared the country a Christian nation, the Government respects the right of all faiths to worship freely in practice. There are governmental controls that require the registration of religious groups. The Government approves all applications for registration from religious groups without discrimination. There were no reports that the Government rejected any religious groups that attempted to register or obtain licenses.

Some members of the Muslim community have complained that their religion has been discriminated against since the country was declared a Christian nation. They contend that they are unable freely to teach and practice Islam. However, other Muslim organizations state that they have not experienced any restrictions on their actions. There are mosques in

the country, and the Government does not appear to hinder Muslim worship or teaching.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides citizens with the right to move freely throughout the country, to reside in any part of the country, and to depart and return to the country without restriction; however, there were instances in which authorities limited freedom of movement.

The authorities generally respected these rights during the year, but police roadblocks to control criminal activity continued, and police sometimes extorted money and goods from motorists.

While there is no law specifically addressing the processing of refugees, the Government complies with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The U.N. High Commissioner for Refugees (UNHCR) estimated that there were approximately 220,000 refugees, mainly Angolans, in the country. The Government cooperated with the UNHCR in processing applications for refugee status.

The Government provided first asylum to approximately 25,000 refugees during the year. The majority of these came from the Democratic Republic of Congo in March and April due to ongoing fighting near Zambia's northern and Luapula provinces.

In June the Government detained six Namibians allegedly connected to a separatist movement in Namibia. The UNHCR requested access to the six to determine whether they sought asylum. The Government indicated that it would grant access, but it deported the six in August without providing the UNHCR with the opportunity for an interview. The UNHCR protested to the Government about the handling of these cases without regard to due process; the Government did not respond.

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

Citizens voted in national multiparty elections in November 1996; however, constitutional amendments barred the best known opposition candidate, former president and UNIP leader, Kenneth Kaunda, and his deputy, senior chief Inyambo Yeta, from running for the presidency, thereby restricting the right of citizens to change their government. The amendments enacted in 1996 require both parents of presidential candidates to be citizens by birth and disqualify tribal chiefs from running for the presidency unless they resign their chieftainship.

UNIP boycotted the elections and destroyed many party members' voter registration cards. Eleven political parties contested the presidential and National Assembly elections in 1996. The Government deregistered 14 opposition splinter parties for noncompliance with registration procedures. Approximately 50 percent of eligible voters registered. Of this total, almost 70 percent cast ballots. Although the MMD's use of government resources, including the state-owned media, during campaigns probably did not affect the final outcome, the elections' fairness nevertheless was put into question. The Government's failure to implement a transparent voter registration process raised doubts among

opposition parties about the Government's willingness to have an open electoral process.

Local government elections, originally scheduled for 1995, were held in December 1998. While the Government acted within the limits of the law, it gave only 1 month's notice of the election date, which prompted opposition parties to complain that they had insufficient time to prepare campaigns. The short notice also meant that the Electoral Commission was ill prepared to conduct a large-scale operation. As a result, there were reports of administrative problems at polling stations, including voting registrars sent to the wrong polling stations, party symbols mixed up on ballots, and polling stations under-supplied with ballots. Voter turnout was extremely low. However, despite serious irregularities, the elections generally reflected the will of the electorate.

Under the Constitution, the President wields broad authority. The National Assembly ratifies major appointments and theoretically has broad powers, but the overwhelming majority held by the MMD effectively precludes independent action by the legislature and limits its ability to provide a check on executive authority. During the year, Parliament took steps to strengthen itself and to improve responsiveness to citizen concerns. Parliament currently is establishing a system for citizen input to bills before they are voted upon. An MMD backbencher complained in August that the front bench frequently attempted to rush through legislation without allowing adequate time for debate. Criticism by two MMD backbenchers and an opposition parliamentarian prompted the Government to withdraw a controversial state security bill (see Section 1.d.).

The number of women in politics and government is increasing but remains small, and women are underrepresented in Government. There are 15 female members in the 150-seat Parliament; 2 of these are ministers, and 3 are deputy ministers. There are three ethnic Asians in Parliament (one is a minister), and one mixed race (African-European) minister.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Human rights and civic rights organizations generally operated without serious government hindrance; however, the Zambian Independent Monitoring Team (ZIMT), Committee for a Clean Campaign (CCC), the African Human Rights Network (AFRONET), and the Foundation for Electoral Processes claimed that official harassment, including blocking their bank accounts continued during the year.

The Government continued to be receptive to criticism from human rights and civic organizations in general, but on occasion government officials accused human rights monitors of abetting crime and thwarting the work of the police through their focus on victims of police brutality.

Some domestic human rights organizations, including the Law Association of Zambia, Women for Change, the Catholic Commission for Justice and Peace, and the Zambia Civic Education Association have continued to press for a transparent democratic electoral system.

The Government generally did not interfere with inquiries or visits by international human rights organizations; however, Human Rights Watch and Amnesty International were not permitted to visit most of the coup detainees during 1998.

In May 1997, the Government established an autonomous Permanent Human Rights Commission, the PHRC. A Supreme Court justice chairs the Commission; other members are drawn from throughout society and include the former head of the Foundation for Democratic Processes and a University of Zambia lecturer on human rights. The Commission interceded on behalf of persons whose rights it believed were denied by the Government. In order to monitor human rights abuses actively at the local level, the Commission established human rights committees in all provincial capitals in 1998. While there were doubts at first about its autonomy and effectiveness, the Commission in 1997 aggressively sought and received access to the coup detainees, exposed the torture of seven of them, and demanded (and obtained) better medical care for them. The Commission spoke out on behalf of other detainees and prisoners, and the Government responded by releasing seriously ill prisoners at the Commission's request. In July the PHRC announced that it would employ prison inspectors to ensure that inmates are kept in habitable environments. The Government further responded to the Commission's recommendation by establishing in 1998 an inquiry to investigate torture claims by detainees. The inquiry is chaired by a High Court justice, and a principal resident magistrate is a member. The inquiry started in November with a series of public meetings (see Section 1.c.).

The Government continued to cooperate with the International Criminal Tribunal for Rwanda (ICTR) in detaining and sending to Arusha persons whom the ICTR identified as suspected war criminals.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, tribe, sex, place of origin, marital status, political opinion, color, or creed. Constitutional amendments barring native born Zambians of partial or full foreign ancestry from the presidency appear to violate the prohibition on discrimination based on place of origin. These amendments also prohibit traditional chiefs, who are accorded authority and privileges as chiefs, from running for political office unless they resign their chieftainships. A legal challenge to these amendments in 1996 was unsuccessful.

Women

Violence against women remained a serious problem. Wife beating and rape were widespread. According to official statistics, over 4,700 rape cases were reported to the police between 1991 and 1998. Of these, approximately 30 percent resulted in conviction and 5 percent in acquittal. The remainder either were dismissed or remain unresolved. The courts normally sentence defendants convicted of rape to hard labor. Since many rape cases were not reported to police, the actual number is considered to be much higher. Domestic assault is a criminal offense. Although the police established a Victim Support Unit (VSU) to attend to the problem of domestic assault in 1997, in practice police often are reluctant to pursue reports of wife beating, preferring instead to broker a reconciliation. The Government and NGO's expressed continued concern about violence against women, and the media devoted considerable publicity to it during the year. The VSU handles problems of wife beating, mistreatment of widows by the deceased husband's relatives, and "property grabbing." Both the Constitution and the law entitle women to equality with men in most areas; however, in practice women are

disadvantaged severely in formal employment and education compared with men. Married women who are employed often suffer from discriminatory conditions of service. Women have little independent access to credit facilities; in most cases, they remain dependent on their husbands, who are required to co-sign for loans. As a result, few women own their own homes. However, some small financial institutions reportedly are now allowing women to sign independently for loans.

Customary law and practice also place women in a subordinate status with respect to property, inheritance, and marriage, despite constitutional and legislative protections. Polygyny is permitted if the first wife agrees to it at the time of her wedding. Under the traditional customs prevalent in most ethnic groups, all rights to inherit property rest with the deceased man's family. The 1989 Intestate Succession Act was designed to provide women with a share of the joint estate. Under the act, the children of the deceased man equally share 50 percent; the widow receives 20 percent; the parents receive 20 percent; and other relatives receive 10 percent. A 1996 "reform" of the act places the widow's share at 20 percent, to be divided equally with any other women who can prove a marital relationship with the deceased man, thus granting inheritance rights to other wives, mistresses, and concubines.

In practice "property grabbing" by the relatives of the deceased man remains rampant, particularly when local customary courts have jurisdiction. These courts often use a different law, the Local Courts Act, to distribute inheritances without reference to the percentages mandated by the Intestate Succession Act. Ignorance of the law on the part of victims is also a problem. As a result, many widows receive little or nothing from the estate. The fines that the Intestate Succession Act mandates for property grabbing are extremely low.

Children

The Government seeks to improve the welfare of children, but scarce resources and ineffective implementation of social programs continue to affect adversely the welfare of children. Education is neither compulsory nor free. Due to poverty, both rural and urban children often work in the informal sector to help families make ends meet (see Section 6.d.). The number of street children in Lusaka jumped from 35,000 in 1991 to 90,000 in 1998, partly because of the growing number of parents who have died from AIDS. Approximately 75 percent of all households are caring for at least one orphan and, as a result, these children face greater risks of child abuse, sexual abuse, and child labor. Child abuse was believed to be fairly common, but no statistics were available.

People with Disabilities

Persons with disabilities face significant societal discrimination in employment and education. The Government has taken steps to ameliorate their hardships, including establishing a national trust fund to provide loans to the disabled to help them start businesses, but its efforts are limited by scarce resources. The Government has not legislated or otherwise mandated accessibility to public buildings and services for the disabled.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of citizens to form trade unions, and approximately 60 percent of the 300,000 formal sector workers are unionized. Eighteen of the country's 19 large national unions, organized by industry or profession, are affiliated with the Zambia Congress of Trade Unions (ZCTU). The ZCTU is operated democratically and, like its constituent unions, is independent of any political party and the Government. The Mineworkers' Union of Zambia and four other unions broke away from the ZCTU and established a rival umbrella organization in 1994. Four of them, including the Mineworkers' Union of Zambia, since have rejoined the ZCTU. The Mineworkers' Union rejoined the ZCTU during the year, leaving only the Zambia Union of Financial and Allied Workers outside the Congress. The 1993 Industrial and Labor Relations Act (ILRA) reestablished the "one union, one industry" principle. The Bankers Union of Zambia, although registered with the Government in 1993, has been unable to operate because the employers recognize the existing Zambia Union of Financial and Allied Workers. In 1993 the Ndola High Court ordered the Government to register the Secondary School Teachers Union (SSTU) of Zambia. The Government continues to argue that the Zambia National Teachers Union (ZNUT) represents secondary school teachers and has delayed recognition of the new secondary school teachers union administratively. The SSTU sued the Government over its nonregistration, prompting the Government to register it in 1997. However, most teachers still belong to the ZNUT.

All workers have the right to strike, except those engaged in essential services. In addition to the Zambia Defense Force, the judiciary, the police, the prison service, and the Intelligence Security Service, the ILRA defines as essential services power, medical, water, sewerage, fire fighting, and certain mining occupations essential to safety. It permits strikes only after all other legal recourse has been exhausted. The ILRA prohibits employers from retribution against employees engaged in legal union activities. Workers engaged in illegal strikes do not enjoy this protection.

By a majority vote of its members, a union may decide on affiliation with the ZCTU or with trade unions or organizations outside the country. The ZCTU is a member of the International Confederation of Free Trade Unions. Labor leaders travel without restrictions to international conferences and to visit counterparts abroad.

b. The Right to Organize and Bargain Collectively

Employers and unions in each industry negotiate collective bargaining agreements through joint councils in which there is no government involvement. Civil servants and teachers, as public officials, negotiate directly with the Government. Collective disputes are referred first to conciliation. If conciliation fails to resolve the dispute, the parties may refer the case to the Industrial Relations Court, or, in the case of employees, vote to strike. In practice the industry joint councils function effectively as collective bargaining units.

The ILRA prohibits discrimination by employers against union members and organizers. An employee who believes that he has been penalized for union activities may, after exhausting any existing administrative channels for relief, file a complaint with the Industrial Relations Court. This court has the power to order appropriate redress for the aggrieved worker. The complainant may appeal a judgment of the Industrial Relations Court to the Supreme Court. In practice the Court often orders employers to reinstate

workers found to have been victims of discrimination. This court, like other courts, has inadequate resources to address all of the cases before it in a timely manner.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits slavery and involuntary servitude, but it authorizes the Government to call upon citizens to perform labor in specific instances, for example, during national emergencies or disasters. Moreover, the Government can require citizens to perform labor that is associated with traditional civil or communal obligations, as when all members of a village are called upon to assist in preparing for a visit by a traditional leader or other dignitary. In practice bonded labor by adults or children is not permitted, and the labor authorities enforce the legal proscriptions when cases violating the law are brought to their attention (see Section 6.d.).

d. Status of Child Labor Practices and Minimum Age for Employment

The legal minimum age for employment of children is 16 years. The Labor Commissioner effectively enforces this law in the industrial relations sector although, because of high adult unemployment, there is no demand for child labor in the formal sector. The law is not enforced for those who work in subsistence agriculture, domestic service, and informal sectors, where children under the age of 16 often are employed. In urban areas, children commonly engage in street vending. There are an estimated 150,000 children in the workforce. At present, acute family poverty levels and economic factors motivate child labor.

Forced or bonded labor by children is not permitted, and the authorities enforce legal proscriptions if cases of violations are brought to their attention (see Section 6.c.).

e. Acceptable Conditions of Work

The minimum wage for nonunionized workers is set at \$0.05 (70.30 kwacha) per hour. Based on a 48-hour workweek, the legal maximum for nonunionized workers, a worker earning the minimum wage would receive \$35 (90,000 kwacha) per month. The minimum wage covers nonunionized workers in categories such as general workers, cleaners, office orderlies, and watchmen. The minimum wage is insufficient to provide a worker and family with a decent standard of living, and most minimum wage earners supplement their incomes through second jobs, subsistence farming, or reliance on the extended family.

With respect to unionized workers, wage scales and maximum workweek limits are established through collective bargaining. In practice almost all unionized workers receive salaries considerably higher than the nonunionized minimum wage. The minimum workweek for full-time employment is 40 hours and is, in practice, the normal workweek. The law requires 2 days of annual leave per month of service.

The law also regulates minimum health standards in industry, and the Department of Mines is responsible for enforcement. Factory safety is handled by the Inspector of Factories under the Minister of Labor, but staffing problems chronically limit enforcement effectiveness. There are no legislative provisions to protect a worker who refuses to work

on grounds of inadequate safety.

Trafficking in Persons

The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

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