



## Zambia

### Country Reports on Human Rights Practices - [2007](#)

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Zambia is a republic of 11.9 million citizens governed by a president and a unicameral national assembly. In September 2006 President Levy Mwanawasa of the ruling Movement for Multiparty Democracy (MMD) was reelected; the MMD won 72 out of 150 elected seats in the National Assembly, later increased to 79 in late 2006 and over the course of the year due to by-elections, legal challenges, and defections to the ruling party. Domestic and international observer groups characterized the election as generally peaceful and transparent; however, they cited several irregularities. Zambia is a multiparty democracy, though the ruling MMD exerts considerable influence through its patronage and allotment of government resources. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, although there were improvements in a few areas. Human rights problems included: unlawful killings; torture, beatings, and abuse of criminal suspects and detainees by security forces; poor and life-threatening prison conditions; arbitrary arrests and prolonged detention; long delays in trials; arbitrary interference with privacy; restrictions on freedom of speech and press, and intimidation of journalists; restrictions on assembly and association; government corruption and impunity; violence and discrimination against women; child abuse; trafficking in persons; discrimination against persons with disabilities; and limited enforcement of labor rights and child labor laws.

#### RESPECT FOR HUMAN RIGHTS

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

###### a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any political killings; however, security forces committed numerous unlawful killings during the year. The Legal Resources Foundation (LRF), an independent human rights organization that counseled victims' families and represented them in actions against the government, consistently investigated and publicized such incidents; however, the government rarely punished perpetrators. Police and government officials encouraged police officers to use their weapons when apprehending suspects, despite an October 2006 government directive that restricted the use of firearms by police officers and a statement during the same month by the minister of home affairs that the government would retrain police on the use of force.

Minister of Home Affairs Ronnie Shikapwasha announced in November that off-duty police officers would no longer have access to firearms. The ministry took this step following a series of incidents involving shootings of civilians by off-duty police officers, including one where an officer shot and killed his father-in-law and injured his pregnant wife.

On January 26, police in Nakonde shot and killed a man in a group of six suspects found siphoning fuel from some tankers. The suspect was shot as he and his accomplices attempted to escape. The Northern Province police chief said that the shooting was a warning to would-be offenders, and no action was taken against the officer responsible.

On February 3, a woman died while in custody at Chainda police post. The morning following her arrest, she was found dead in her cell, and police claimed that she had committed suicide by hanging herself. Her relatives claimed to have information that the woman had been raped and then killed by police in a cover-up. An investigation was ongoing at year's end.

On October 29, a Chipata police officer identified as Inspector Mwanza shot a suspect who would not release a fuel container that the police wished to impound. The suspect later died from his injuries, and residents of the township rioted in protest against the police actions. Inspector Mwanza was arrested on October 30 and a subsequent investigation revealed that the confiscation of the fuel containers was not an operation approved by the central police command in Chipata. The case was making its way through the courts at year's end.

There were no developments, and none were expected, in the following 2006 and 2005 police killings: the February 2006

killing of three men involved in a robbery, the March 2006 killing of Joseph Phiri, the October 2006 killing of a demonstrator in Matere township, the April 2005 death in custody of Danny Phiri, and the July 2005 death in custody of Joseph Nyirenda.

No further information was available about the following cases from 2006: the September killing of two teenagers in Lusaka by a police officer, and the October 2006 deaths of two high school students in a Kitwe nightclub. There also was no information regarding the trial of six Drug Enforcement Commission officers in the March 2005 killing of a detainee.

On April 30, the Lusaka High Court ordered the government to compensate the father of Chanda Chayafya, a security guard who died in the custody of police in 1998. The police officers involved alleged that Chayafya was a suspect in a murder and that he was killed in an attempted escape, but the judge in the case found that the officers acted illegally.

Mob violence that targeted suspected criminals, persons accused of witchcraft, persons suspected of sexual impropriety, or persons with mental illness resulted in killings during the year.

For example, on February 11, a mob beat to death a suspected thief in Lusaka's Mazyopa township after he broke into a house and the owner of the house shouted for help.

On April 3, a mob beat to death a man after he attempted to break into a house at Magwero School for the Deaf.

There were no developments, and none were expected, in the following mob killings in 2006: the February deaths of Benson Sikazwe, Albert Jere, and Tipoti Chisense, the April death of Mary Lukbote, and the August killing of a suspected murderer in Eastern Province.

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution prohibits such practices; however, police frequently used excessive force including torture when apprehending, interrogating, and detaining criminal suspects or illegal immigrants. In 2006 the Human Rights Commission (HRC) reported that torture was prevalent in police stations, noting that "police officers continue to rely on torture as an interrogation technique." The HRC urged the government to draft and enact legislation that would criminalize torture and provide for compensation to victims. Authorities also detained, interrogated, and physically abused family members or associates of criminal suspects in attempts to identify or locate suspects. Officers who tortured, beat, or otherwise abused suspects generally were not disciplined or arrested for such acts.

On July 12, Deputy Minister for Home Affairs Grace Njapau told parliament that the government had put in place measures to reduce brutality and abuse of inmates by police, including additional training for police officers. She reported that in 2006, 83 complaints of unlawful detention by police were received: three had been finalized, while 80 were still pending. Out of 40 reported cases of police brutality, two had been finalized, and 38 were still pending. One hundred cases of unprofessional conduct by the police had been reported: nine were finalized, and 91 were still pending. All 11 cases of abuse of authority of office recorded against the police were still pending.

On April 3, three inmates at Mufulira State Prison were stripped naked in the presence of other prisoners and beaten severely by prison officers for drinking beer after sneaking away from a work detail. No action was known to have been taken against the guards.

No updates were available in the following cases from 2006 and 2005: the March 2006 beating of Joshua Nyangwali by police in Kapiri Mposhi; the May 2006 shooting of three men by two police officers in Kafue; the civil suit filed by Langon Sakala against the police who beat him in December 2004 and January 2005; and the civil case filed by victims of state sponsored torture following the 1997 coup attempt.

According to human rights groups, police occasionally demanded sex from female detainees as a condition for their release. There also were reports that police officers raped women. In December police arrested a fellow officer after he allegedly raped a woman who was being held at Nkana East police station in Kitwe.

Unlike in previous years, there were no reports that traditional rulers employed corporal punishment; however, on March 20, Copperbelt Province Permanent Secretary Jeniffer Musonda ordered the release of a 76-year-old man, Bruno Kapumba, who had been detained without charge for two weeks at Chief Shimukunami's palace in Lufwanyama after he was accused of being a wizard.

There were several instances of mob violence reported during the year.

On March 16, irate villagers beat 20 former street children at Katembula Youth Center in Lufwanyama after the youths attacked a school girl who had reportedly rejected a proposition from one of them.

On March 19, police in Lusaka intervened when irate persons tried to burn a shop owned by an Indian family following allegations that the shop owners tried to kill a customer.

Societal violence against persons accused of witchcraft occurred. For example, on May 16, villagers in Luto village beat two men who were identified by a "witch finder" as sorcerers who had caused the death of two children. Police arrested the "witch finder" and charged him with inciting violence. His case was ongoing at year's end.

#### Prison and Detention Center Conditions

Prison conditions were poor and life threatening. An inefficient judiciary delayed court proceedings and exacerbated overcrowding. The country's prisons, which were built to hold 5,500 inmates, held nearly 14,600 prisoners. Lusaka Central Prison, which was designed to accommodate 200 prisoners, held more than 1,200 inmates, forcing some inmates to sleep sitting upright. Poor sanitation, inadequate medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of dysentery, cholera, and tuberculosis, which were compounded by overcrowding.

Prisoners routinely complained that authorities denied them access to medical care as provided for by law. Failure to remove or quarantine sick prisoners and the lack of infirmaries at many prisons resulted in the spread of airborne illnesses such as tuberculosis, leading to prisoner re-infection and death. Drugs to combat tuberculosis were available but the supply was erratic. Many prisoners were malnourished because they received only one serving of corn meal and beans per day, called a "combined meal" because it represented breakfast, lunch, and dinner.

In August 2006 the Ministry of Home Affairs ordered the closure of Luwingu Prison, noting that conditions at the prison posed a risk to prisoners. The Zambian Prison Service was ordered to use other facilities to accommodate displaced prisoners pending the reopening of Luwingu. By year's end, Luwingu Prison had not reopened.

The HIV/AIDS prevalence rate in prisons was estimated at 27 percent. Antiretroviral treatment (ART) was available to some prisoners with HIV/AIDS; however, poor nutrition often rendered ART ineffective.

Juveniles often were not held separately from adults. Incarcerated women who had no alternatives for child care could choose to have their infants and young children with them in prison until the children reached the age of four. Pretrial detainees were not held separately from convicted prisoners.

The government permitted prison visits by both domestic and international nongovernmental organizations (NGOs) and by resident foreign diplomats during the year. The International Committee of the Red Cross, provincial human rights committees, and the LRF periodically inspected prison conditions during the year. During one visit in March, Human Rights Commission Acting Chairperson Pixie Yangailo said that conditions in police jails were "inhuman and need urgent attention."

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention; however, the government did not respect these prohibitions.

#### Role of the Police and Security Apparatus

The police, divided into regular and paramilitary units under the Ministry of Home Affairs, have 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. Police posts in towns throughout the country reported to one of nine provincial police stations, which in turn reported to the central police command in Lusaka. Although the government has identified a need for 27,000 police officers, only 15,000 were employed by year's end.

Lack of professionalism, investigatory skills, and discipline in the police force remained serious problems. Low salaries and substandard government housing exacerbated police corruption, as did poor working conditions. Police released prisoners for bribes, extorted money from victims, and required "document processing fees" or "gas money" to commence investigations. In an effort to address these issues, the Police Public Complaints Authority (PPCA) met during the year to review complaints regarding police conduct that were not resolved through internal police channels. The PPCA reported that it received 236 complaints during the year; it reviewed 114 cases and resolved 39. The range of punishments recommended included fines, demotion in rank, and recommendations for dismissal for offenses ranging from assault,

unlawful detention, and assault occasioning bodily harm. Overall, however, many cases of abuse went unreported due to factors varying from citizen ignorance of the PPCA to fear of retribution.

No update was available in the case of the individual whose body was exhumed in 2006 based on allegations from his family that he had died of injuries sustained from beatings by police.

The PPCA found that many complainants dropped their complaints after the police officers involved intervened directly with the complainant. Such interventions sometimes involved intimidation of the complainants but according to the PPCA, sometimes the police officers offered compensation to avoid a formal PPCA investigation.

During the year the PPCA lost its appeal to the High Court when the court ruled that the PPCA did not have the statutory authority to punish police officers and could only recommend disciplinary measures to the inspector general.

In a May 23 report to the Police and the Prisons Service Commission, the PPCA recommended that a police officer be fired after he was found guilty of assaulting a robbery suspect; however, the officer was transferred to another posting.

#### Arrest and Detention

The constitution and law provide that authorities obtain a warrant before arresting a person for some offenses, but other offenses have no such requirement. For example, police are not required to obtain a warrant when they suspect that a person has committed offenses including treason, sedition, defamation of the president, unlawful assembly, or abuse of office. In practice, police rarely obtained warrants before making arrests.

According to the law, suspects being arrested must be informed of their rights, including the immediate right to an attorney. The law provides that persons arrested must appear before a magistrate within 24 hours of their arrest; however, detainees were frequently held for much longer periods because prosecutors routinely required that officers collect additional evidence before presenting cases to a magistrate. There was a functioning bail system; however, prisons were overcrowded in part because of the numerous offenses for which bail is not granted, including treason, murder, aggravated robbery, and violations of narcotics laws.

In practice police generally did not respect prisoners' right to apply for bail. Indigent detainees and defendants rarely had the means to post bail. The government's legal aid office, responsible for providing representation for indigent detainees and defendants in criminal or civil cases, assisted very few arrestees.

Arbitrary arrest and detention remained problems. Criminal suspects were arrested on the basis of insubstantial evidence, uncorroborated accusations, or as a pretext for extortion.

Police stations frequently acted as "debt collection centers", where police officers acting on unofficial complaints detained debtors without charge until they paid the complainants; in return, the police received a percentage of the payments. For example, Jennipher Sakala of Lusaka was arrested in February because her boyfriend alleged that she would not release his clothing after a domestic dispute. Martha Ngoma of Chipata alleged that she was arrested in June after a man who attempted to enter her house by force but was prevented from doing so by neighbors said that she took his shoes. Officers found engaging in this practice reportedly were disciplined.

Police arbitrarily arrested family members of criminal suspects.

Prolonged pretrial detention was a problem. In criminal cases detainees must be charged and brought before a magistrate within 24 hours; in practice, prisoners often waited more than one month from incarceration to the initial appearance before the magistrate. In some cases defendants were awaiting trial for as long as two to three years. According to human rights groups, prison administrators routinely doctored paperwork to make it look as though prisoners had appeared before a magistrate when they had not because the prison authorities had no fuel to transport prisoners to courts.

Approximately one-third of the nearly 14,400 people incarcerated in prisons had not been convicted of a crime or received a trial date. Broad rules of procedure give wide latitude to prosecutors and defense attorneys to request delays or adjournments. Other factors contributing to long delays were inadequate resources, inefficiency, and lack of trained personnel. Attorneys and family members were permitted access to pretrial detainees.

On January 16, Violet Kahale, who was charged with livestock theft after a commercial dispute with a neighbor, was released from prison after being detained for two years without trial; the LRF secured her release.

In February the LRF secured the release of five prisoners who had been detained for periods varying from three to five years without appearing before a magistrate.

#### e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary; however, the judicial system was hampered by inefficiency, corruption, and lack of resources. Government officials used their offices to circumvent standard police and judicial procedures.

During the year the courts continued to act independently and at times made judgments and rulings critical of the government. In several instances, the courts awarded damages in cases of police/security force abuse or unlawful arrest. In August, Lusaka resident Raphael Bulawayo won compensation for a case in which he was assaulted by a police officer in 1998 when he ran to a police station for refuge from a group of people who wished to fight him.

Poor working conditions caused many magistrates to leave their jobs. There were 136 magistrates employed at the end of the year. Fully qualified attorneys filled approximately 12 magistrate positions during the year, down from 24 in 2006; lay magistrates filled the rest. Judicial staff went on a 12-day strike in June to demand payment of their housing allowances.

The Supreme Court has appellate jurisdiction for all legal and constitutional disputes. The High Court, which held 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; customary courts heard most civil and petty criminal cases in rural areas.

#### Trial Procedures

Trials in magistrate courts are public, and local courts employ the principles of customary law, which vary widely throughout the country. Defendants have the right to be present and to consult with an attorney; however, many defendants lacked the resources to retain a lawyer, and government legal aid was limited. Defendants have the right to be present at their trial, confront witnesses, access government-held evidence related to their cases, and to appeal. Defendants are considered innocent until proven guilty.

Courts were congested, and there were significant delays in trials while the accused remained in custody. In cases where the magistrate's court did not have jurisdiction, at least six months elapsed before a magistrate committed the defendant to the High Court for trial. Following committal, preparation of the magistrate court record for transmittal to the High Court took months, or in some cases, as long as a year. Once a case reached the High Court for trial, court proceedings lasted an average of six months.

Lawyers are barred from participating in proceedings in courts that apply customary law, and there are few formal rules of procedure.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. For matters concerning police abuse, the PPCA acted as an independent and impartial disciplinary body.

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

The constitution and law prohibit such actions; however, the government frequently did not respect these prohibitions in practice. The law requires a search or arrest warrant before police may enter a home, except during a state of emergency. Police routinely ignored this requirement and arrested suspected criminals at their homes without an arrest warrant.

The law grants the Drug Enforcement Commission and the ZSIS authority to wiretap telephones for probable cause.

Authorities sometimes detained, interrogated, and physically abused family members of criminal suspects to obtain their cooperation in identifying or locating suspects. For example, in January police in Mazabuka arrested a 15-year-old boy in the place of his father, whom the police were seeking in connection with cattle theft. The acting commanding officer in the police district said that the boy was arrested to assist with the investigation.

In June 2006 66-year-old Margaret Lukonto was detained by police, bound, and beaten as officers demanded that she reveal the location of her son, whom they wanted to question on theft charges. Lukonto was seeking the LRF's assistance in filing a civil suit.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press; however, the government at times restricted these rights. The law includes provisions that may be interpreted broadly to restrict these freedoms. Journalists in the government-owned media generally practiced self-censorship. Individuals could criticize the government publicly or privately without reprisal. The government did not attempt to impede such criticism.

The independent media were active and expressed a wide variety of views without restriction, though the government often criticized independent media outlets for being too outspoken. A number of privately-owned newspapers questioned government actions and policies, and these circulated without government interference. The international media operated freely.

The government-controlled *Times of Zambia* and *Zambia Daily Mail* were two of the most widely-circulated newspapers. In addition to the government-controlled radio station, there were numerous private radio stations.

The government-owned Zambia National Broadcasting Corporation (ZNBC) was the principal local-content television station. Opposition political parties and civil society groups complained that government control of the station and of two major newspapers limited their access to mass communication.

On March 15, the Supreme Court set aside a high court decision that ordered the Ministry of Information and Broadcasting Services to comply with the ZNBC Amendment Act and the Independent Broadcasting Authority (IBA) Act, which permit independent media bodies to recommend members to sit on the boards of the IBA and ZNBC, respectively. The minister of information was to submit the names of the recommended board members to parliament for ratification, but had refused to do so on the grounds that the names were only "recommendations" that he was free to reject. The Supreme Court said in its decision that the minister of information had the power to vet the names submitted.

Several private television stations, including foreign media, broadcast locally.

Unlike in previous years, there were no reports that the police harassed and arrested journalists or that they attempted to close radio stations. However, journalists in Western Province complained of censorship and intimidation by the Barotse Royal Establishment (BRE), a traditional leadership structure headed by the *Litunga* (king). Journalists at two radio stations reported that they had been contacted by members of the BRE who asked them to stop airing certain programs because the BRE was not comfortable with them. Journalists also reported being told not to write anything against the BRE or the government. In December the government banned call-in shows at Radio Lyambai in Western Province because of alleged mishandling of call-in programs. The manager of the radio station said that the BRE was behind the government's actions, as some callers to the station's call-in shows were critical of the BRE.

The government exercised considerable influence over the government-owned media, including reviewing articles prior to publication and censoring individuals responsible for published articles or programs deemed offensive by the government. On September 10, Minister of Information Michael Mulongoti said that journalists working for public media who wanted to criticize the government should look for jobs where they would be allowed to exercise that freedom. He subsequently recanted, saying that he had meant to encourage journalists to strive for balanced coverage of the government.

On August 16, Cabinet Protocol Officer Lovewell Jere barred local journalists from entering the state banquet for visiting Southern African Development Community heads of state even after international press had been permitted to enter. He allegedly told the journalists that no one wanted them to enter. Jere was put on administrative leave following the incident, and an investigation was ongoing at year's end.

In response to headlines and stories alleging official corruption, those accused and others brought libel suits against the media. For example, Deputy Secretary to the Cabinet Robert Mataka sued the *Zambian Watchdog* newspaper and its editor for libel. He alleged that in its August 21-26 edition, the newspaper published a false and malicious story claiming that Mataka bought a house belonging to the Zambia Law Development Commission using questionable means. The case was still pending at year's end.

The defamation suit filed by opposition Patriotic Front Party leader Michael Sata against the *Zambia Daily Mail* in 2006 was still pending at year's end.

The law provides that investigative tribunals can call journalists and media managers, who print allegations of parliamentary misconduct, as witnesses. Failure to cooperate with a tribunal can result in charges of contempt punishable by up to six months in jail. The media criticized these provisions as clear infringements of freedom of the press and as a means for parliamentarians to bypass the court system.

## Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by email.

## Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events. Although the law gives the University Council a mandate to address faculty concerns, the minister of education was empowered to appoint the members of the council; some academics criticized this provision as an infringement of academic freedom.

## 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.

The Public Order Act (POA) requires rally organizers to notify police seven days in advance of a rally, although a permit is not required.

Police forcibly dispersed demonstrations during the year. In November police fired tear gas to disperse a student protest at Evelyn Hone College in Lusaka. The students were protesting the poor water and sanitation situation at the College. The police alleged that the students began throwing rocks after they were prevented from marching to the Ministry of Science, Technology and Technical Training; the students said that the police forcibly dispersed a peaceful demonstration.

### 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 most cases, authorities routinely approved these applications; however, the registration process was long and involved the exercise of considerable discretion on the part of the registrar. During the year there were no cases in which the registrar refused to register an organization, although it threatened to deregister organizations that had not paid fees or were otherwise not in compliance with the law.

On September 27, the Supreme Court set aside a high court judgment that nullified the government's decision to cancel the official registration of the Southern African Center for Constructive Resolution of Disputes (SACCORD). Minister of Home Affairs Ronnie Shikapwasha had cancelled SACCORD's registration in late 2004 because of what he cited as activities that undermined the security of the country, but SACCORD successfully appealed the order in the High Court. The Supreme Court ruling ordered a new trial in the case before a different high court judge.

## c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right in practice. Although the constitution declared the country a Christian nation, in practice the government generally respected the right of all faiths to worship freely.

The government required the registration of religious groups and approved all applications for registration from religious groups without discrimination; however, in March 2006 then-foreign minister Ronnie Shikapwasha stated publicly that the government would begin consulting with the Council of Churches before it registered church groups.

The High Court did not rule on the Universal Church of the Kingdom of God's petition to find the government in contempt for violating an order staying proceedings against the church. The government had sought to deregister the church in 2005, but in January 2006, the High Court overturned the government's decision and allowed the church to continue operations.

## Societal Abuses and Discrimination

There were approximately 80 persons in the Jewish community. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2007 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 movement, foreign travel, emigration, and repatriation; however, the government intermittently limited these rights. Police continued to man numerous roadblocks around the country to control criminal activity, enforce customs and immigration regulations, check drivers' licenses, and inspect vehicles for safety compliance. Police at times extorted money and goods from motorists at these roadblocks.

The law prohibits forced exile, and the government did not use it.

#### Protection of Refugees

The law does not provide for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where there is reason to believe they feared persecution, and granted refugee status or asylum. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 UN convention and the 1967 protocol.

The country hosted an estimated 114,928 refugees, mainly from Angola and the Democratic Republic of Congo. UNHCR formally closed its repatriation program for Angolan refugees in December 2006, but assisted refugees wishing to return to obtain the proper documentation. A total of 74,000 Angolan refugees were repatriated to Angola between 2003 and early January.

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

The constitution and law provide citizens with the right to change their government, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

#### Elections and Political Participation

In September 2006 president and MMD candidate Levy Mwanawasa was reelected with 43 percent of the vote; 150 members of parliament (MPs) also were elected. In October 2006 eight other MPs were appointed by the president, as provided for by the constitution.

Observers gave the Electoral Commission of Zambia (ECZ) high marks for its role in organizing the 2006 elections, particularly with regard to voter registration and education; however, some members of the public were not able to register to vote because the government did not efficiently issue national registration cards, which were required for registration. Civil society groups also criticized the ECZ's failure to establish an absentee voting system and charged that parties and candidates had uneven access to electronic and print media. In addition, the lack of regulations governing campaign finance resulted in an uneven playing field for contestants. Following the vote, there were reported problems with the counting, tabulation, and reconciliation of ballots as well as problems with the system for the electronic transmission of results. Suspicion that the elections were rigged fueled riots by opposition supporters.

On September 28, the ECZ announced that a member of the MMD and a member of the Patriotic Front in Petauke had been arrested and charged with two counts of illegal practices and undue influence. The two party activists allegedly claimed on the radio in September 2006 that one of the candidates for parliament was ill and would die immediately after the elections. The two also allegedly threatened voters with deportation to Mozambique if they voted for the wrong candidate.

During the year several by-elections were held due to the defections of MPs from one party to another or due to the nullification of election results by the courts. Reports of vote-buying and misappropriation of government resources for unfair political advantage continued, and some cases were challenged in court.

On March 30, the Lusaka High Court nullified the results of the parliamentary election in Kapoche constituency based on complaints by ousted Kapoche MP Nicholas Banda, who alleged that the MMD candidate had engaged in unfair campaign tactics, including enlisting a local chief to threaten subjects with eviction if they did not vote for the MMD. The court found that the election was "marred with illegal practices, thereby depriving the majority of voters from electing their preferred candidate." The losing candidate in the subsequent by-election, Charles Banda (not related to Nicholas Banda), again challenged the results of the election in court, alleging that President Mwanawasa told villagers in the constituency that they would receive no government aid unless they voted for the MMD candidate. The case was ongoing at year's end.

There were 22 women elected to parliament in the September 2006 elections. In October 2006 the president appointed two more women to parliament. There were four women serving in the cabinet and three serving in the Supreme Court. There were no significant minority populations in the country, and there were no set-asides for minority communities within

political parties or the National Assembly. The country's ethnic communities were well represented in political institutions.

The constitutional reform process got underway in September with the creation of a National Constitutional Conference (NCC), which is charged with either suggesting amendments to the current constitution or drafting an entirely new one. Civil society groups protested "heavy" government and ruling party presence in the NCC, and said that they would boycott the NCC's deliberations. The NCC held its opening ceremony on December 19, and began work; some church and women's groups have maintained their boycott of the NCC, but other civil society organizations are participating.

#### Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government attempted to implement the laws; however, officials frequently engaged in corrupt practices with impunity. Petty corruption in the police and other public authorities was particularly problematic.

The World Bank's worldwide governance indicators reflected that corruption was a severe problem. The government continued its collaboration with the international community to improve its capacity to investigate and prevent corruption. Parliamentary committees sustained their scrutiny of executive branch operations, and the Anticorruption Committee increased its prosecution and public educational activities.

Despite these efforts there remained a widespread public perception that corruption was pervasive in almost all government institutions. Controls over government funds and property were often weak, investigative units often lacked authority and personnel, and officials dealing with the public frequently demanded illicit payments with impunity. Additionally, the government had no clear policy for the disposal of confiscated assets, and there was lack of transparency surrounding the liquidation of assets seized in the campaign against corruption. Public officials were not subject to financial disclosure laws.

Trials of former government officials charged with abuse of office and theft proceeded, resulting in the conviction on February 21 of Kashiwa Bulaya, former permanent secretary at the Ministry of Health. He was appealing the case at year's end.

On May 4, a British court found former president Frederick Chiluba and several others liable in a civil suit for misappropriating \$41 million of public resources. The criminal case, which was frequently in recess due to Chiluba's poor health, was continuing at the end of the year.

During the year Samuel Musonda, the former managing director of the government-owned Zambia National Commercial Bank, appealed his 2006 corruption conviction before the High Court and was released on bail.

The prosecution's case against former president Chiluba's wife, Regina Chiluba, was ongoing at the end of the year.

In 2004 the government also filed corruption charges against several officials of the current administration and former military commanders including Lieutenant Generals Wilford Funjika, Sande Kayumba, and Geojago Musengule, who were charged in separate cases of procurement fraud. On October 31, Funjika was found guilty and sentenced to two years in prison, but his sentence was suspended because of ill health. Funjika was also ordered to pay back \$30,000 (15,000 British pounds) that had been provided to him by Seymon Holdings as a kickback. The trials of the others were ongoing at year's end.

The law does not provide for public access to government information; however, the government provided information to media and interested parties on an ad hoc basis. Information related to defense and security forces was withheld from public access.

#### Section 4 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 generally cooperated with such groups.

The HRC oversaw human rights committees in all provincial capitals, interceded on behalf of persons whose rights it believed were denied by the government, and spoke on behalf of detainees and prisoners. Independent human rights groups continued to complain that the HRC was understaffed, underfinanced, and lacked sufficient authority to enforce its recommendations.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, tribe, gender, place of origin, marital status, political opinion, color, or creed; however, violence and discrimination against women and persons with disabilities remained a problem.

#### Women

The law prohibits rape, and courts generally sentenced rapists to hard labor. In 2006 the Victim Support Unit (VSU) recorded 255 cases of rape and 1,400 cases of defilement, which included forced or unforced sex with a person under the age of 16. The penal code does not specifically prohibit marital rape, and statutes that criminalize rape cannot be practically used to prosecute cases of rape in marriage.

Domestic violence against women was a serious problem, and wife beating and rape were widespread. There is no specific law against domestic violence, and cases of domestic violence were prosecuted under the general assault statutes. Penalties imposed for assault vary, depending on the severity of injury and whether a weapon was used. The VSU was responsible for handling problems of domestic assault, wife beating, mistreatment of widows by the deceased husband's relatives, and property grabbing; however, in practice, the police often were reluctant to pursue reports of domestic violence and preferred to encourage reconciliation.

Due to traditional and cultural inhibitions, many cases of violence against women and children went unreported. The VSU reported that it was difficult to prosecute cases of abuse against women because victims often refused to cooperate, and forensic equipment needed to develop evidence was lacking. The government and NGOs expressed continued concern about violence against women, and in December, Human Rights Watch published a study of the impediments posed by gender-based violence in treating women with HIV/AIDS in the country. Women in the study said that fear of retribution or punishment from their husbands often impeded free access to HIV counseling and testing, as well as to treatment.

Prostitution is illegal, and police routinely arrested street prostitutes for loitering. There were no reliable statistics on the number of prostitutes in the country.

Trafficking in women and children was a problem.

An amendment to the penal code enacted in September 2005 prohibits the sexual harassment of children but there are no laws that specifically prohibit sexual harassment of adults, and sexual harassment in the workplace was common.

The law entitles women to equality with men in most areas; however, women were severely disadvantaged in formal employment and education. Married women who were employed often suffered from discriminatory conditions of service. Women had little independent access to credit facilities; in most cases, they remained dependent on their husbands, who were required to cosign for loans. As a result, few women owned their own homes. Some small financial institutions allowed 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 legal protections. Polygyny is permitted if the first wife agrees to it at the time of her wedding. Under the law a deceased man's children equally share 50 percent of an estate; the widow receives 20 percent; the man's parents receive 20 percent; and other relatives receive 10 percent. The widow's share must 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. However, under the traditional customs prevalent in most ethnic groups, all rights to inherit property rest with the deceased man's family. Property grabbing by relatives remained widespread, although increased training of local court officials may have resulted in a slight decrease in the practice. Many widows were ignorant of the law, and as a result received little or nothing from the estate. The fines that the law mandates for property grabbing were extremely low. The police, through its VSU, treated instances of property grabbing as criminal offenses.

The common traditional practice of "sexual cleansing", in which a widow had sex with her late husband's relatives as part of a cleansing ritual, continued to occur; however, some traditional leaders have banned it. The penal code also outlaws the practice.

#### Children

Although the government sought to improve the welfare of children through the ministries of labor and social security, sport, youth, and child development, as well as education, scarce resources and ineffective implementation of social programs continued to adversely affect children.

The government's failure to register all births did not result in discrimination or denial of public services.

Government policy provided for free basic education until grade seven; however, education was not compulsory, and many children did not attend school. The government eliminated school fees and mandatory uniforms for primary education

students to increase school attendance, but many teachers and school administrators still required students to purchase uniforms or pay a fee before they would allow them to attend classes. The net enrollment ratio for children of primary school-age increased from 66 percent in 1999 to 97 percent by 2005. The large rise in the net enrollment ratio was due in part to a revision in the formula used to calculate the figure, which included 500,000 students enrolled in nongovernmental, parent-supported, community schools.

The number of girls and boys in primary school was approximately equal; however, fewer girls attended secondary school. There were reports that teachers sexually abused female students. UN Children's Fund (UNICEF) officials noted that sexual abuse in schools discouraged or prevented many girls from attending classes. The government continued its collaboration with UNICEF on the Program for the Advancement of Girls' Education to work with families and community leaders to keep girls in school and to bring back those who had left.

There were 1.2 million children under the age of 15 who were orphaned, approximately 800,000 of these as a result of HIV/AIDS. These children faced greater risks of child abuse, sexual abuse, and child labor. Approximately 75 percent of all households were caring for at least one orphan, and children headed approximately 7 percent of households due to the death of both parents. The government instituted programs to increase public awareness of HIV/AIDS.

Child abuse was a problem. Approximately 1,400 cases of child sexual abuse were reported in 2006, according to police statistics.

Early marriage was a problem. Although a person must be at least 16 years old to marry under statutory law, there is no minimum age for marriage under customary law. A few traditional leaders spoke against early marriage and took steps to discourage it, but the majority of traditional leaders condoned the practice. Courts intervened in cases of gross abuse.

There are laws that criminalize child prostitution; however, the law was not enforced effectively, and child prostitution was widespread. Although the government removed and rehabilitated some children who lived on the streets during the year, the presence of an estimated 20-30,000 such children throughout the country contributed to the proliferation of begging and prostitution. The laws against pornography and the sexual exploitation of children under the age of 21 were sporadically enforced.

#### Trafficking in Persons

The law prohibits the trafficking of any person for any purpose, but it does not define trafficking. There were reports that persons were trafficked to, from, and within the country.

The government did not collect or maintain data on the extent or nature of trafficking in the country; however, trafficking, particularly in the form of child prostitution, was believed to be significant. Female citizens were trafficked within the country and to other parts of Africa and to Europe, and the country was used as a transit point for regional trafficking of women for prostitution. Traffickers fraudulently obtained Zambian travel documents for their victims before proceeding to other destinations.

A June study on child trafficking in the country published by the International Labor Organization concluded that trafficking was predominantly internal and involved family members and relatives. The study noted that children were often trafficked as a source of cheap labor, and that girls were at more risk of being trafficked than boys. Law enforcement and immigration officers had varying levels of knowledge about trafficking, a problem exacerbated by extensive and extremely porous borders.

Traffickers often used promises of employment to entice young girls and women to leave their homes and families and then forced them into prostitution.

To be convicted of trafficking, a person must be witnessed accepting money in exchange for the victim. Anyone convicted of trafficking is subject to a term of imprisonment from 20 years to life. Most traffickers who were caught with children trying to cross borders were charged with document fraud and paid small fines. Convictions of the crimes of abduction, assault, or seeking to have sex with a minor could be punished with sentences up to life imprisonment with hard labor. One case was successfully prosecuted under the law in January: a man was sentenced to 20 years in prison after attempting to sell his son to a local businessman in March 2006.

Through its social welfare agencies, the government provided counseling, shelter, and protection to victims of child prostitution or referred victims to NGOs that provided such services. In some cases victims were placed in protective custody at rehabilitation centers or victim support shelters operated by NGOs.

Unless government officials were unaware that victims had been trafficked, victims were not detained, jailed, deported, or prosecuted for violations of other laws. When trafficking investigations have substantiated allegations, the government encouraged victims to assist with investigation and prosecution. The government did not have its own means of protecting

victims and witnesses; however, it arranged for protective custody and security protection through facilities operated by NGOs.

The government did not have programs that specifically targeted trafficking, although law enforcement officers attended training courses that raised awareness of the problem. A government interagency committee on human trafficking, chaired by the Ministry of Home Affairs, also met during the year to promote coordination and information sharing among agencies. Government agencies responsible for combating trafficking include the police, immigration authorities, and the ministries of justice, labor, and education.

#### Persons with Disabilities

The law prohibits discrimination in general, but there is no law that specifically prohibits discrimination against persons with physical and mental health disabilities in employment, education, or access to health care. Persons with disabilities faced significant societal discrimination in employment and education. Public buildings, schools, and hospitals rarely had facilities to accommodate persons with disabilities. The government did not legislate or otherwise mandate accessibility to public buildings and services for persons with disabilities.

#### Other Societal Abuses and Discrimination

The law prohibits "carnal knowledge of any person against the order of nature," but it does not specifically outlaw homosexuality. There was societal discrimination against homosexuals.

The government actively discouraged societal discrimination against those persons with HIV/AIDS; however, there was strong societal and employment discrimination against such individuals. Government officials made announcements discouraging such discrimination, but made little headway in changing entrenched attitudes.

#### Section 6 Worker Rights

##### a. The Right of Association

The law recognizes the right of workers to form and belong to trade unions, and workers exercised these rights in practice. Police officers were not permitted to form unions and remained nonunionized at year's end. In 2006 only 1 percent of the eligible workforce was employed in the formal sector, and approximately 60 percent of the formal sector was unionized.

The Industrial and Labor Relations Act (IRA) governs union activity. No organization can 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; however, the IRA provides for notice, reconsideration, and right of appeal to an industrial relations court.

The law prohibits discrimination by employers against union members and organizers; however, the law was not always enforced.

##### b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The right to collective bargaining, without government interference, is protected in law and freely practiced.

Labor Commissioner Noah Siasimuna declined to certify the results of an executive board election for the Zambia Union of Financial Institutions and Allied Workers (ZUFIAW) in late December 2006. Siasimuna refused to declare sole candidate Joyce Nonde the winner of the elections because she had resigned from her job and was no longer eligible to be a member of the union. In March Siasimuna further ordered that the National Executive Council of the ZUFIAW be dissolved and that the union not be allowed to enter into negotiations with employers. ZUFIAW appealed Siasimuna's actions and won its case in August, and Nonde was declared the General Secretary of ZUFIAW. The court found that Siasimuna had no authority to forbid the employees' representatives to negotiate on their behalf.

The law provides for the right to strike, except for those engaged in "essential services"; however, the law permits strikes only after all other legal recourse has been exhausted, and there has not been a legal strike since 1993. In addition to the Zambia Defense Force, the judiciary, the police, the prison service, and the ZSIS, the law also defines essential services as any activity relating to the generation, supply, or distribution of electricity; the supply and distribution of water and sewerage; fire departments; and the maintenance of safe and sound conditions in underground working environments such as shafts and machinery in the mining sector.

The law prohibits employers from retribution against employees engaged in legal union activities; however, workers

engaged in illegal strikes did not enjoy this protection. Employers decide whether to retain such workers or dismiss them given there is no legal obligation; the government at times intervened for political reasons when such dismissals occurred.

During the year teachers in Senanga who went on strike to demand payment of their rural hardship allowance were fined half their salaries. At Ndola City Council, workers who went on strike in June to demand improved conditions of service and the removal of a senior council official were dismissed from their jobs. The workers were appealing their dismissals at year's end.

Chinese President Hu Jintao announced in February that his government would invest 800 million USD in a multi-facility economic zone in the Copperbelt Province. Construction at the site had not started by year's end, but labor groups expressed concern at the possibility of special exemptions from labor laws in the new zone.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred. 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 that was associated with traditional civil or communal obligations, as when a traditional leader or other dignitary called upon all members of a village to assist in preparing for a visit; however, there were no reports of such activities during the year.

#### d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits employment of children in any commercial, agricultural, or domestic worksite and the engaging of a child in the worst forms of child labor as defined in international conventions. Nevertheless, child labor was a problem in subsistence agriculture, domestic service, and informal sectors, where children under the age of 15 often were employed, and the law was not enforced. The law also prohibits slavery and the procurement or offering of a child for illicit activities.

The minimum age for employment is 15; for hazardous work, it is 18. A 2004 amendment to the Employment of Young Persons and Children Act made the worst forms of child labor illegal, including child prostitution, slavery in all its forms, military conscription, and work that is harmful to the safety, health, or morals of children and young people. The labor commissioner effectively enforced minimum age requirements in the industrial sector, where there was little demand for child labor.

Approximately 795,000 children were in the work force, of which approximately 87 percent worked in the agricultural sector. During the year children who had lost both parents to HIV/AIDS continued to migrate to urban areas where they lived on the streets. In urban areas children commonly engaged in street vending.

Child labor was most concentrated in the areas of agriculture, construction, farming, transportation, prostitution, household work, quarries, and mines.

The Ministry of Labor and Social Security (MLSS) is responsible for the implementation and enforcement of child labor laws and regulations. The MLSS can bring charges that provide for penalties ranging from a fine to imprisonment for violations. Labor inspectors may also enter family homesteads and agricultural fields to check for child labor violations.

Because more than 85 percent of child labor in the country occurred in the agricultural sector, most often with the consent of families, the MLSS labor inspectors focused on counseling and educating families that engaged children in child labor and did not refer any cases for prosecution during the year. The MLSS employed 67 labor inspectors in 22 field stations located throughout the country; however, inadequate resources hampered enforcement efforts. For instance, labor inspectors frequently found it difficult to access transportation, making it difficult to conduct inspections in vast rural areas that were difficult to regulate. In cooperation with NGO partners, the government continued its efforts to remove children from child labor. The children, mainly urban orphans, were placed in formal and transitional classes, while others were given vocational skills training. In cooperation with the International Labor Organization, the government also formed seven District Child Labor Committees during the year. The purpose of the committees was to increase awareness of child labor laws and the harmful effects of child labor and to mobilize communities to eliminate the worst forms of child labor.

The government continued to provide awareness and training activities for officials charged with enforcing child labor laws; however, the MLSS reported that resource constraints prevented it from providing all required training.

#### e. Acceptable Conditions of Work

The minimum wage for nonunionized workers, whose wages and conditions of employment were not regulated through collective bargaining, was determined by category of employment. In June 2006 the government published a statutory instrument that raised the minimum wage to \$67 per month (268,000 kwacha) based on a 48-hour workweek, the legal maximum for nonunionized workers. The minimum wage did not provide a worker and family with a decent standard of

living; most minimum wage earners supplemented their incomes through second jobs, subsistence farming, or reliance on extended family. The minimum wage act did not apply to domestic servants.

For unionized workers, wage scales and maximum workweek limits were established through collective bargaining. In practice almost all unionized workers received salaries considerably higher than the nonunionized minimum wage. The minimum workweek for full-time employment was 40 hours, which was the normal workweek. The law requires two days of annual leave per month of service. The law provides for overtime pay. Employers must pay employees who work more than 48 hours (45 hours in some categories) in one week at a rate of one and a half times their hourly rate. Workers receive double the rate of their hourly pay for work done on a Sunday or public holiday. The government effectively enforced these standards.

The law also regulates minimum health standards in industry, and city and district councils were responsible for enforcement. The inspector of factories under the minister of labor handled factory safety; staffing shortages limited enforcement effectiveness. The MLSS continued to conduct labor inspections during the year and ordered businesses to close when it found significant violations of labor laws. In February the minister of labor and social security announced that 15 companies were shut down in 2006 for violating labor laws.

On November 23, the government ordered that works at Finesteeel Manufacturing Company in Kabwe be suspended due to unsuitable working conditions, including high temperatures in the working areas, unguarded machinery, and inadequate personal protective clothing. The Chinese company that owned Finesteeel addressed the government complaints and began operations again on November 27.

The law protects the right of workers to remove themselves from work situations that endangered health or safety without jeopardy to their continued employment, but workers did not exercise this right in practice. The government acted when well-known occupational health problems existed, such as by requiring that underground mine workers receive annual medical examinations.



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