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## Zambia

### Country Reports on Human Rights Practices - [2005](#)

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Zambia is a republic governed by a president and a unicameral national assembly with a population of 10.4 million. Movement for Multi-Party Democracy (MMD) candidate Levy Mwanawasa was elected president in 2001, and the MMD won 69 out of 150 elected seats in the National Assembly. Domestic and international observer groups noted general transparency during the voting; however, they cited several irregularities. Opposition parties challenged the election results in court and on February 16, the Supreme Court ruled that the 2001 election was valid. The civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor, although there were some improvements in a few areas, serious problems remained. The following human rights problems were reported:

- election irregularities and government corruption
- unlawful killings, torture, beatings, and abuse of criminal suspects and detainees by security forces
- impunity was a problem
- poor and life-threatening prisons conditions
- arbitrary arrests, prolonged detention, and long delays in trials
- infringement on citizens' privacy rights
- restrictions on speech and press freedom
- intimidation of journalists
- forcible dispersal of demonstrations and obstruction of rallies of the political opposition, labor unions, and civil society groups
- violence and discrimination against women
- child abuse, trafficking in persons, and discrimination against persons with disabilities
- limited enforcement of workers' 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.

Police killed several persons during apprehension and in custody. For example, on March 7, police arrested six Drug Enforcement Commission officers and charged them with the murder of a 44-year-old man. Police said that the officers tortured and then killed the man after they detained him for selling drugs in Kafue. The case was ongoing at year's end.

On April 3, police in Kitwe detained Danny Phiri on unnamed charges. On April 4, police told Phiri's father that his son needed to be hospitalized. On April 5, police told the older Phiri that his son had died. Police promised to request an autopsy but never did. Phiri was buried on April 8. Investigators later confirmed that Phiri died in police custody but said they could not determine the cause of death. LRF applied to have the body exhumed in order to conduct an autopsy. A decision on the LRF application was pending at year's end.

On July 14, police in Chipata arrested Joseph Nyirenda for stealing a bicycle and construction materials. The following day Nyirenda's wife and father found him hanging in his cell. Police claimed that Nyirenda committed suicide; however, Nyirenda's wife noted that the chair with which police said he had used to hang himself was from the police reception area. The case was under investigation at year's end.

There were no developments in the following 2004 cases: the killing of Michael Kulunga and David Mwape, the killing of Fridah Mulenga, or the accidental police shooting of Lydia Monga.

Police forcibly dispersed demonstrations during the year; at least one person was killed (see section 2.b.).

The case based on a 2003 complaint filed by the Chirambo family against two police officers, Nyirenda and Machilika, was ongoing at year's end.

There were reports of mob violence, which targeted suspected criminals, witches, or persons suspected of sexual impropriety, resulted in killings during the year. For example, on October 29, a mob in Chingola fatally beat a man who was suspected of stabbing another man to death. On November 25, a mob in Kitwe beat a man to death and attacked a woman with an axe for practicing witchcraft. The elderly are often suspected of witchcraft. On December 8, a group of people in Kasempa beat 81-year-old Mwanauta Kamanga to death after they accused him of being a witch.

Mobs also attacked police officers. On November 30, a group of bus drivers and conductors in Lusaka attacked a police officer after he ordered them to report to the police station because their buses were not in safe condition. On September 27, a mob in Lusaka damaged a police substation and threatened to lynch police officers inside following the suspicious death of a suspect in custody. The officers were forced to abandon the substation, allowing 16 suspects to escape from custody.

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices; however, police frequently used excessive force when apprehending, interrogating, and detaining criminal suspects or illegal immigrants, and there were reports of torture. Authorities detained, interrogated, and physically abused family members or associates of criminal suspects in attempts to identify or locate suspects (see section 1.f.). Officers who tortured, beat, or otherwise abused suspects generally were not disciplined or arrested for such acts, although local human rights organizations, particularly LRF, were active in pressing for such action.

Langton Sakala reported that Lusaka police beat and tortured him from December 21, 2004 to January 19, following his detention on charges of theft. Sakala said that police beat him with a baton and put him on the "kempelwa," to force a confession. The kempelwa involves using a rope or handcuffs to bind a suspect by the hands and feet, or sometimes just the feet, and hanging the suspect upside down from a rod and beating him. Sakala filed a civil suit against the officers, which was still pending at year's end.

In December 2004 police officers accused Terry Bilumba of taking part in an armed robbery and brought him to the Livingstone Central Police Station where they beat him. After releasing Bilumba, police detained him for questioning again on January 8. Bilumba was later released without charges.

On June 7, police arrested Ben Chola on firearms charges. Chola said that police beat him repeatedly with a steel rod and suspended him in the kempelwa until his father paid approximately \$25 (100 thousand kwacha) for his unconditional release on June 16.

The January 2004 case of torture of Nkumbwa Daniel Jones was referred to the Police Public Complaints Authority (PPCA) and was under investigation at year's end.

In the case of the March 2004 beating and paralysis of Aliyele Sakala, he has reportedly moved to another village and LRF has not been able to pursue his case.

At year's end there was no new information in the case of the March 2004 beating of Adam Simukwai.

Victims of state-sponsored torture following the 1997 coup attempt were still awaiting compensation recommended in 2000 by a special commission appointed to investigate allegations of torture. The civil case against former Drug Enforcement Commission Deputy Commissioner Teddy Nondo, former Commissioner of Police Emmanuel Lukonde, and Attorney General George Kunda was still pending at year's end; Commissioner Lukonde died during the year.

Unlike in previous years, there were no reports that traditional rulers used corporal punishment. During the year the 2004 case against Chief Mushili for assaulting and extorting from his subjects was referred for mediation, which subsequently failed. The case was back in court and ongoing at year's end.

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. For example, on April 7, police beat and then raped a woman in Kalomo. When the woman's husband went to the local police station to file a complaint, the station inspector refused to take action. The husband complained to LRF who referred him to the Livingstone Criminal Investigations Officer. The police Victim Support Unit (VSU) was investigating the complaint at year's end.

There were no further developments in the 2003 cases of police beatings or rapes.

On November 25, mobs in Lusaka and Kanyama Township attempted to destroy buildings belonging to the Universal Church of the Kingdom of God because they believed that the church was engaging in satanic practices.

## Prison and Detention Center Conditions

Prison conditions were harsh and life threatening. The country's prisons, which were built to hold 5,500 inmates, held nearly 15 thousand prisoners; inmates in Lusaka Central Prison were forced to sleep sitting upright. During the year the magistrates' strike delayed court proceedings, exacerbating prison overcrowding (see section 1.e.). At one point during the year, Lusaka Central Prison, designed to accommodate 240 prisoners, held 1,278 inmates. In Mazabuka Prison officials revealed that 260 prisoners were being housed in a cell designed to hold 60 persons. Severe overcrowding, poor sanitation, inadequate medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of disease, including dysentery, cholera, and tuberculosis. Prisoners routinely complained that authorities denied them access to medical care, as provided for by law. Failure to remove or quarantine sick prisoners from the general population resulted in the spread of airborne illnesses such as tuberculosis, leading to prisoner deaths. Most prisons did not have infirmaries to isolate sick or contagious inmates. Drugs to combat tuberculosis were available in prisons but supply was erratic. Patients who received treatment for tuberculosis were frequently housed with inmates who were not being treated, leading to re-infection.

The HIV/AIDS prevalence rate in prisons was estimated at 17 percent. In 2004, 449 inmates died of AIDS or AIDS-related illnesses. In addition, 114 prison officers, of a total staff of 1,800, died of the disease, placing added strain on the prison system. Anti-retroviral 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. Infants and young children of incarcerated women were held along with their mothers. Pretrial detainees were not held separately from convicted prisoners. Prisoners with mental disabilities were not held separately from the general prison population.

The government permitted prison visits by both domestic and international nongovernmental organizations (NGOs) and by resident foreign diplomats during the year. Provincial human rights committees periodically inspected prison conditions; LRF continued its prison visits during the year.

### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, the government did not respect these prohibitions. Criminal suspects were arrested on the basis of insubstantial evidence or uncorroborated accusations. For instance, in February Lemon Mulambo filed a civil suit against police officers who arrested him in 2003 on charges that he murdered Kelvin Mudenda. According to the complaint, officers arrested Mulambo after a villager reported that he had dreamed that Mulambo hired two people to kill Mudenda. Mulambo and the two men he was alleged to have hired to kill Mudenda were acquitted of the charges in 2004 after a trial court found that the government had presented insufficient evidence in the case. Mulambo's civil suit was pending at year's end.

### 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, 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 thousand police officers, only 13 thousand were employed.

Lack of professionalism, investigatory skills, and discipline in the police force remained serious problems. Human rights training during the year raised police awareness of human rights; however, the use of excessive force continued, and corruption was widespread. Low salaries and substandard government housing exacerbated police corruption, as did poor working conditions.

Police used their authority to extort money, released prisoners in exchange for bribes, or required "document processing fees" or "gas money" to commence investigations. For example, prisoners in Mumbwa Central Prison complained that Zambia Wildlife Authority officers and police in Lusaka promised them work at a lodge. Instead authorities brought the job seekers to large commercial farms and then threatened to arrest them for trespassing unless they paid a fine. Police arrested those who were unwilling or unable to pay the fine and then charged the unwitting farm owners for police assistance in removing the trespassers.

Police stations frequently became "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. Officers found engaging in this practice reportedly were disciplined. There were no developments in the 2004 case of police corruption reported to the Anti-Corruption Commission (ACC) by Bernard Mulendema.

The government took some steps to address these problems. The PPCA received 367 complaints of police misconduct. According to its procedures, the PPCA meets in each of the country's nine provinces at least once a year to review complaints that cannot be resolved through internal police channels. Due to technical issues, the PPCA convened only once during the year, in April, when it reviewed approximately 50 cases from Lusaka Province. Following the April session, the PPCA directed the police inspector general (IG) to dismiss three officers; the IG had not responded to the PPCA directions at year's end.

Some police officers arrested on corruption or abuse charges were convicted and sentenced to prison, but most went unpunished unless an NGO took up the case on behalf of the victim. Punishment, if any, usually came years after the abuse was committed, and the accused officers often remained on duty in the interim.

### Arrest and Detention

The law requires that authorities obtain a warrant before arresting a person for some offenses, but other offenses had no such requirement. Suspects being arrested were informed of their rights, including the immediate right to an attorney. The law requires that suspects appear before a magistrate within 24 hours of their arrest; however, detainees were frequently held for 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. Parliament repealed a law that made motor vehicle theft a nonbailable offense.

Indigent detainees and defendants rarely had the means to post bail. The government's legal aid office, which employed only 14 attorneys, was responsible for providing representation for indigent detainees and defendants in criminal or civil cases, but in practice, few received assistance. For example, on July 22, President Mwanawasa ordered police to arrest, detain, and prosecute Patriotic Front (PF) President Michael Sata for inciting riots at the Konkola Copper Mines. Police summoned Sata to the Lusaka Central Police station for questioning on July 23 but released him the same day. The following day, the president ordered more than 40 armed police officers to arrest Sata at his home; he remained in custody for 15 days before the High Court granted him bail. The government appealed the High Court's decision, claiming that Sata's offense was "unbailable." The inspector general of police, Nzunga Siakalima, was later dismissed for allowing Sata to be released on July 23, contrary to the president's order that he be held in custody. The government's appeal was still pending at year's end.

Police frequently arrested individuals as a pretext for stealing their property or extorting bribes; however, there were fewer reports of such incidents than in previous years.

Police arbitrarily arrested family members of criminal suspects (see section 1.f.).

Authorities detained at least four journalists during the year (see section 2.a.).

Unlike in the previous year, the government did not threaten to arrest the members of the Oasis Forum, which it claimed was unregistered (see section 2.b.).

There were no reports of political detainees.

Pretrial detention often was prolonged. In criminal cases detainees must be charged and brought before a magistrate within 24 hours; in practice police held most detainees for more than 1 month from the time of detention to the first appearance before a magistrate. In some cases defendants were awaiting trial for as long as 2 to 3 years. Approximately one-third of the 14,427 people incarcerated in prisons had not yet received a trial in their case and had not been convicted of a crime. On May 10, high court judge Christopher Mushabati publicly expressed concern that suspects arrested in early 2002 had not yet appeared before the High Court for trial. 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, lack of trained personnel and labor unrest (see section 1.e.). Attorneys and family members were permitted access to pretrial detainees.

In February 2004 police in the Lusaka suburb of Chilenje arrested five men on suspicion of aggravated robbery. The suspects were tried and acquitted of the charges. In March police released Moses Banda from detention after holding him for two years without trial on charges of possession of stolen property. Banda had appeared in court on several occasions but was always returned to jail after being informed that prosecutors were not ready to proceed because they could not locate his court record. On March 22, the High Court in Kabwe acquitted Peter Chasanga on murder charges after he had spent more than seven years in custody. In 1998 police in Kasama had arrested Chasanga and four other men for a 1997 murder. Three of the men accused with Chasanga died in custody; charges against the other man were dropped.

There were no developments in the government's appeal of the May 2004 Lusaka High Court ruling that the government was liable for holding Crispin Samulula in custody from 1996 to 2001 without trial.

There were no developments in the lawsuit brought by United Party for National Development (UPND) treasurer general Tiens Kahenya against the government for damages resulting from his imprisonment from December 2002 to April 2003.

During the year the government took some steps to reduce the length of pretrial detentions. On July 23, the government opened a new court complex near Lusaka Central Prison to accelerate the judicial process.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and while the courts continued to act independently and at times made judgments and rulings critical of the government, the judicial system was hampered by inefficiency, corruption, and the lack of resources. Government officials used their offices to circumvent standard police and judicial procedures.

A February 16 Supreme Court ruling that upheld the 2001 presidential elections was highly critical of the performance of the Electoral Commission of Zambia (ECZ) (see section 3).

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; local, or customary, courts handled most civil and petty criminal cases in rural areas.

## Trial Procedures

Trials in magistrate courts were public, but the legal system does not provide for jury trials. Defendants had the opportunity to confront their accusers and present witnesses; however, many defendants lacked the resources to retain a lawyer, and the limited resources of the government's legal aid department meant that legal aid was unavailable for many citizens. Defendants and their attorneys have the right to access government-held evidence related to their cases. Defendants enjoy a presumption of innocence and have the right to appeal.

Courts were congested, and there were significant delays in trials while the accused remained in custody (see section 1.d.). In many cases, 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.

Poor working conditions caused many magistrates to leave their jobs. Fully qualified attorneys filled approximately 19 magistrate positions during the year, down from 30 in 2004; lay magistrates filled the rest. During the year magistrates frequently did not appear at court as scheduled; reports indicated that the no-shows were designed to pressure the government for better conditions of service for magistrates. On March 18, magistrates went on strike for three weeks to demand higher salaries and better working conditions. The strike was settled after the government agreed to provide the magistrates with a raise in pay for an undisclosed amount, rent-free housing, and low interest car loans.

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

There were no reports of political prisoners.

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

The law prohibits 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 often arrested alleged 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, on April 26, police in Livingstone accused Catherine Mubiana of harboring her brother, an escaped fugitive, and beat and whipped her as they demanded that she reveal her brother's whereabouts. Police then forcibly took Mubiana to the homes of her relatives in the neighborhood as they searched for her brother, before taking her to the Livingstone jail. She was later released without charges. LRF was preparing to file a civil suit on Mubiana's behalf at year's end.

On July 2, police detained Theresa Chinama after they were unable to locate her husband, Andrew Chinama, who owed another man \$90 (360 thousand kwacha). Police told Chinama that they would not release his wife until he acknowledged in writing that he was liable for the debt.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, the government at times restricted these rights in practice. The law includes provisions that may be interpreted broadly to restrict these freedoms. Journalists in the government-owned media generally practiced self-censorship; the private print media routinely criticized the government.

A number of privately owned newspapers questioned government actions and policies, and these generally circulated without government interference.

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. A Catholic radio network, Radio Yatsani, gained permission to broadcast two 30-minute programs live from Vatican Radio twice per day. The Ministry of Information had previously prohibited the station from broadcasting live programs, arguing that to do so would be in violation of the station's license. The station also used excerpts from the BBC for news. The 2004 Ministry of Information and Broadcasting Services (MIBS) order that Breeze FM, a commercial radio station in Chipata, stop relaying BBC broadcasts was still in effect at year's end. MIBS claimed that Breeze FM's license permitted local and regional broadcasts only. The station, however, remained a partner station of the BBC and was allowed to rebroadcast a selection of BBC programs.

The government-owned ZNBC was the principal local-content television station, and 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.

Several private television stations, including foreign media, broadcast locally. A new station, MUVI TV, broadcast local news three times a day. Multichoice, a telecommunications company based in South Africa, and CASAT provided satellite and analog wireless subscribers with television services. Broadcasts of foreign news sources were available in the country.

On June 15, cadres suspected to be acting on orders from the ruling MMD party attacked vendors of the independent newspaper *The Post*. *The Post* is consistently critical of the president and his administration. At the time of the attacks, the newspaper had been reporting some government leaders' attempts to shield former health permanent secretary, Dr. Kashiwa Bulaya, from prosecution on corruption charges (see section 3).

The police harassed and arrested journalists during the year. For example, on June 14, police detained Anthony Mukwita, a freelance journalist and host of a public phone-in radio program. Police questioned Mukwita regarding a fax from an unidentified listener critical of President Mwanawasa that Mukwita read on the air June 10. On June 22, police served Mukwita with a "warn and caution" statement, informing him that he was under investigation for sedition. Mukwita was released pending the outcome of the investigation. Police also summoned and interrogated Evangelical Fellowship of Zambia executive director, Bishop Paul Mususu, who was Mukwita's guest on the program at the time he read the fax. Radio Phoenix Managing Director, Elizabeth Pemba, terminated Mukwita's contract soon after police visited the radio station, claiming that he had exaggerated the episode. Following the termination of Mukwita's contract with Radio Phoenix, The Media Institute of Southern Africa (MISA) Zambia Chapter hired him to host the program *Face the Media*, which MISA broadcasts on Radio Phoenix. Mukwita was still hosting the program at year's end.

On July 21, police and MMD officials detained freelance journalist Owen Miyanza for selling politically themed videotapes critical of the president at the MMD national convention. Police released Miyanza after holding him for one night but did not return the confiscated videotapes.

On July 25, police summoned three journalists from *The Post* to Lusaka Central Police station as part of their investigation of opposition leader Michael Sata (see section 1.d.). The journalists were released after questioning, but *The Post* protested that the police summons constituted intimidation of journalists who were merely carrying out their duties.

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. As a result journalists in the government-owned media generally practiced self-censorship, and the government-owned media continued to be supportive of the government.

On August 11, parliament security officials prevented *Post* journalist McDonald Chipenzi from entering parliament to cover deliberations pertaining to the selection of the chairperson of the ECZ. The security officers stated that they were acting on directives from above. Later National Assembly chief research officer, Chikomeni Banda, explained that parliament was not happy with Chipenzi's reporting in *The Post*, which had been critical of a potential appointee to the ECZ position.

In response to headlines and stories alleging official corruption, those accused and others brought libel suits against the media. During the year the libel suit brought by Deputy Minister Geoffrey Samukonga against the *Zambia Daily Mail* went to trial. The court ruled in Samukonga's favor and ordered the *Mail* to run a front-page apology to Samukonga in addition to paying \$2,500 (10 million Kwacha) in legal fees after the newspaper failed to produce any witnesses at trial. Samukonga was later reported to have assaulted journalists from ZNBC, the *Zambia Daily Mail*, and *Times of Zambia* over their alleged biased and negative reporting. The journalists filed criminal charges against Samukonga. President Mwanawasa intervened and asked that the case be dropped, promising to take disciplinary action against the deputy minister. On November 4, Samukonga was dismissed from his post.

During the year there were defamation suits filed by political leaders. On November 9, police in Lusaka arrested Fred M'membe, editor of *The Post*, and charged him with defamation of the president. The charges stemmed from an editorial published in *The Post* that questioned the president's honesty and integrity. M'membe was released on bail pending prosecution of the case. On June 29, police had detained and issued a formal warning to M'membe in relation to articles and opinions published in *The Post* that accused the president of interfering in a closely watched corruption prosecution.

During the year there were no developments in Michael Sata's and George Chulumanda's appeals of court orders for defamation damages.

The law provides that investigative tribunals can call as witnesses, journalists and media managers who print allegations of parliamentary misconduct. 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.

There were no government restrictions on the Internet or academic freedom. 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 law provides for freedom of assembly; however, the government interfered with this right in practice.

During the year government officials, opposition leaders, and NGOs continued to criticize the Public Order Act (POA), which requires rally organizers to notify police seven days in advance of a rally. Although the POA does not require rally organizers to obtain a permit, police incorrectly warned prospective demonstrators they would be violating the law if they assembled without one.

In March police erroneously insisted that the opposition PF party required a permit to hold a demonstration at the Canadian High Commission. The PF members wanted to protest an incident in which they alleged that Canadian-owned Mopani Copper Mine prevented PF members from voting in a by-election won by the ruling MMD. Police said that they could not issue a permit because they did not have sufficient personnel to monitor the demonstration, and the demonstration did not take place. However, the police inspector general did grant the Oasis Forum permission to organize demonstrations in support of constitutional reform. On November 1, the peaceful demonstrations, which protested the government's position on the constitution, took place in Lusaka without police interference. However, also on November 1, police in Mongu prevented people from demonstrating on the constitutional issue at the city's community hall and protesters were diverted to the grounds of the Catholic Church. There were also reports that government authorities threatened civil servants with dismissal if they participated in the protests and that a state intelligence officer asked several demonstrators to provide their names. A December 10 demonstration that the Oasis Forum organized in Lusaka to demand constitutional reform was carried out peacefully and without police or government interference.

In December 2004 police briefly detained and released on bond 11 opposition members of parliament (MPs), four journalists, and 53 other persons demonstrating against the government's method and timing of adopting a new constitution; police charged that the organizers had failed to adhere to POA notification requirements. The government dropped the case against the four journalists and the minister of information apologized for the police abuse of at least one journalist, who was injured in the arrest. The journalists filed civil claims against the police for wrongful detention. The case had not been heard in court at year's end. The remaining defendants filed an appeal with the High Court challenging the constitutionality of the POA. The High Court had not ruled on the appeal at year's end.

During the year police forcibly dispersed demonstrations, which resulted in one death. On January 13, a police officer in Samfya shot and killed Kapya Bombeck in the belief that he was part of a group of demonstrators protesting police involvement in the deaths of two fishermen. The local hospital refused to perform an autopsy, allegedly on instructions from provincial police headquarters. Disciplinary action was taken against the police officer.

The results of the investigation into the September 2004 shooting death of a high school student during a demonstration were not released by year's end.

Unlike in the previous year, there were no reports that police failed to intervene during violent demonstrations.

#### Freedom of Association

The law provides for freedom of association, but the government placed some limits on this right in practice. All organizations must formally apply for registration to the registrar of societies. In most cases, authorities routinely approved these applications.

In November 2004 then Home Affairs Minister Ronnie Shikapwasha ordered the immediate deregistration of the Southern African Center for Constructive Resolution of Disputes, alleging that the NGO had conducted "activities which are inimical and a danger to state security." In December 2004 the Lusaka High Court overturned Shikapwasha's decision. The government announced that it would appeal the decision to the Supreme Court, but had not done so at year's end.

#### c. Freedom of Religion

The law provides 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.

On November 29, Ministry of Home Affairs' permanent secretary Peter Mumba announced that the government would deregister the Universal Church of the Kingdom of God, in effect banning church operations, while it investigated allegations that the church had engaged in satanic practices. The government deregistration of the Church followed rioting in Lusaka that damaged church structures (see section 1.c.). On December 29, High Court judge Tamula Kakusa issued a ruling that allowed the church to resume operations pending judicial review of the deregistration.

#### **Societal Abuses and Discrimination**

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

For a more detailed discussion, see the 2005 [International Religious Freedom Report](#).

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

The law provides for these rights; however, at times the government limited them in practice. Home Affairs Deputy Minister Justin Chilfuya announced in March that the use of police roadblocks would be reduced as a result of complaints of widespread abuse. Although the roadblocks were reduced in number, 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 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 assisting refugees and asylum seekers. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 UN convention and the 1967 protocol.

According to the UNHCR, no Congolese or Rwandan refugees were deported during the year.

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

The law provides 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.

In July the Constitutional Review Commission (CRC) released its interim draft constitution and began a 90-day period for public comment, which was extended to enable people in outlying areas to access and review the interim report and draft constitution. In October the government announced that it did not accept a number of key recommendations contained in the CRC draft constitution, including a provision that would require the president to be elected by a majority vote. Members of civil society and the political opposition criticized the CRC and demanded that it transmit its recommendations directly to a constituent assembly rather than to the president. These groups were concerned that the government was attempting to delay constitutional reform until after the 2006 presidential election. The CRC concluded its final draft of the constitution on December 31; however, the draft had not been made available to the public by year's end.

#### Elections and Political Participation

In 2001 11 political parties contested the presidential elections. Levy Mwanawasa, the MMD presidential candidate, was elected with 29 percent of the vote; runner-up Anderson Mazoka, the UPND candidate, won 27 percent of the vote. The remaining 44 percent was divided among the other nine opposition candidates. The MMD won 69 out of 150 elected parliamentary seats, leaving it slightly short of a majority; the remaining 81 elected seats were divided among several opposition parties and 1 independent member. Although noting general transparency during the voting, domestic and international observer groups and opposition parties cited irregularities in the registration process, problems in the tabulation of the election results, significant vote rigging, and the MMD's use of government resources during campaigns, including the government-owned media.

Following a challenge of the election results, on February 16, the Supreme Court ruled that the 2001 election was valid. In its 300 page decision, the court rejected the attorney general's argument that the constitution did not give the court authority to nullify a presidential election but found that the petitioners had not presented evidence sufficient to overturn the election. Even as it upheld the election, the Court said that the petitioners' evidence had raised serious concerns about the effectiveness of the ECZ, opposition parties' access to the media, and abuse of government resources in election campaigns. The court singled out the ECZ for particularly harsh criticism, accusing its officials of gross negligence and incompetence, but maintained that the ECZ's failures had affected all candidates equally.

In the five by-elections held during the year, there were numerous reports of vote buying, in which the electorate was offered money or goods such as food, clothing, or fertilizers that may have significantly influenced voting patterns. There were also reports that ruling party members used government resources such as transport and other logistics not available to opposition candidates to facilitate their electoral campaigns.

For example, there were reports that in the run-up to the March 4 Kasempa by-election, President Mwanawasa promised that the government would award Kasempa with development projects if the MMD candidate won. In addition, the government ensured the availability of fertilizer in the area and repaired roads to gain favor with voters.

Prior to the March 4 Kankoyo by-election, the government said that it would sell former mine township houses to tenants at very favorable prices. In the days prior to the by-election, government officers from the lands department carried out survey demarcations of the residential plots in preparation for the sale.

Prior to the March 4 Sinjembela by-election, the government began construction on a one-hundred-bed district hospital.

The campaigns leading up to the June 9 by-elections in Copperbelt and Southern provinces were marked by violence, intimidation, and corruption, although the election day itself was calm. Virtually all of the parties that contested the elections were guilty of violence, which was perpetrated mainly by supporters that parties brought in from outside the local areas. The Foundation for Democratic Processes a civil

society group, noted that the ruling MMD party took advantage of state resources, intimidated civil servants, used relief assistance to buy votes, housed campaign workers, and interfered with the police.

In August the Electoral Reform Technical Committee (ERTC) published its final report, which recommended changes to election law that addressed many of the problems that hampered the 2001 election; however, it was unlikely that the government would adopt the ERTC recommendations before the 2006 election.

Constitutional amendments barring citizens of partial or full foreign ancestry from the presidency violated the prohibition on discrimination based on place of origin. These amendments also prohibit traditional chiefs from running for political office unless they resign from their chieftainships.

There were 18 women in the 158-seat parliament (150 members were elected, while 8 others were appointed by the president),

There were 2 elected ethnic Asians in the 158-seat parliament.

### **Government Corruption and Transparency**

The anticorruption campaign the government launched in 2002 continued during the year. Trials of former government officials charged with abuse of office and theft proceeded, but none were completed. 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. The ACC increased its prosecution and public educational activities. On November 10, Mark Chona was removed from his position as Chairman of the Task Force on Corruption. On November 28, Maxwell Nkole, a former investigator with the Rwanda War Crimes Tribunal, was appointed as the new chairman.

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.

During the year the government continued to investigate and prosecute senior officials allegedly involved in corruption during the administration of former president Chiluba. In November 2004 the government began its prosecution of Chiluba himself in magistrate court. The prosecution was ongoing at year's end.

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; and Samuel Musonda, the former managing director of a government-owned bank, who was accused of abuse of office. Their trials were ongoing in civilian courts at year's end.

On May 17 the Director of Public Prosecutions (DPP) entered a "no prosecution" motion in the corruption trial of former Ministry of Health official Kashiwa Bulaya. The DPP did not consult the trial court prosecutor before announcing that the case against Bulaya would be dropped and there were allegations that the order came from higher levels of government. On June 14, public outcry led to the reinstatement of charges against Bulaya. His trial was ongoing at year's end.

The law does not provide for public access to government information; however, in practice, the government provided information to media and interested parties on an ad hoc basis. With the exception of information related to the defense and security forces, the government was generally forthcoming with information.

### **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. Unlike in the previous year, there were no reports that the government attempted to deregister organizations.

Some domestic human rights organizations continued to press for a more transparent democratic electoral system. Human rights, development, and election NGOs monitored by-elections during the year and organized civic education activities to improve voter participation and information.

The Permanent Human Rights Commission (PHRC) 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 complained that the PHRC was understaffed, underfinanced, and lacked sufficient authority to enforce its recommendations.

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

The law prohibits 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**

Domestic violence against women was a serious problem, and wife beating and rape were widespread. There is no specific law for 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 is used. In 2003 the police VSU recorded 2,841 cases of assault. There were 599 convictions and 71 acquittals in assault cases, but the actual crimes may have taken place in 2002 or earlier. 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.

The law prohibits rape, and courts generally sentenced rapists to hard labor; there were 642 reported cases of rape in 2003. In 2004 the VSU recorded 289 cases of rape. There were also 1,374 cases of defilement, which includes forced or unforced sex with a minor who has not reached the age of consent. 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. To date courts have not tried a case involving marital rape, although the crime was known to be common.

Due to traditional and cultural inhibitions, many cases of violence against women and children remained unreported. The VSU reported that it was difficult to prosecute cases of abuse against women because victims often refused to cooperate and there was a lack of forensic equipment needed to develop evidence. The government and NGOs expressed continued concern about violence against women.

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 was a problem (see section 5, Trafficking).

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

The law entitles women to equality with men in most areas; however, in practice, 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 co-sign 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 the relatives of the deceased man 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," under which a widow had sex with her late husband's relatives as part of a cleansing ritual continued to happen; however, some traditional leaders have banned it. In September an amendment to the penal code makes it illegal for any person to engage in a harmful cultural practice such as sexual cleansing, or to encourage another person to engage in the practice.

NGOs that predominantly represented women's interests were particularly active as lobbying organizations. The NGO Coordinating Committee, an umbrella organization for women's NGOs, was influential in the Oasis Forum, which continued to conduct civic education programs on the issue of constitutional reform.

## Children

The government sought to improve the welfare of children, but scarce resources and ineffective implementation of social programs continued to adversely affect the welfare of children. Several ministries shared responsibility for improving child welfare.

Government policy provided for free basic education for the first nine years of elementary school; however, education was not compulsory, and many children did not attend school. The government has eliminated school fees and mandatory uniforms for primary education students to increase school attendance by children, but many teachers and school administrators still required students 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 72 percent by 2004. Inadequate educational facilities and a scarcity of educational materials were problems. Some areas have established community schools; however, these schools had fewer resources than public schools and required contributions from parents.

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. The United Nations International Children's Emergency 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 that have left.

There were approximately 1 million children under the age of 15 in the country who were orphaned, approximately 750 thousand 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 2004, according to police statistics.

Early marriage was a problem. There are no laws against early marriage, and it is permitted 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. For example, on August 10, a local court justice in Kasempa, North-Western Province terminated a marriage between a 91-year-old man and a 15-year-old girl. The court ordered the girl to return to school and fined the man \$50 (200 thousand kwacha). The girl's father was fined \$125 (500 thousand kwacha). The girl said that her father forced her into early marriage in return for a \$3.75 (15 thousand kwacha) dowry.

There are laws that criminalize child prostitution; however, the law was not enforced effectively, and child prostitution was widespread. The presence of an estimated 30 thousand street children in Lusaka contributed to the proliferation of street begging and prostitution. The laws against pornography and the sexual exploitation of children under the age of 21 were sporadically enforced.

Trafficking of children for sexual exploitation occurred (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

During the year the government continued implementation of a strategy to provide shelter and protection to street children, including prostitutes. The Ministry of Labor reported that the majority of the five thousand children removed from child labor during the year were street children (see section 6. d).

#### Trafficking in Persons

The September amendment to the penal code prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country.

The law prohibits the trafficking of any person for any purpose but it does not define trafficking. Persons convicted of trafficking were subject to a term of imprisonment from 20 years to life. The law had not been used to prosecute a case of trafficking at year's end. 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.

Nevertheless, traffickers were not effectively prosecuted under the law. For example, on April 30, immigration officers arrested a Congolese national as she attempted to leave the country with 16 Congolese children. Although the woman was attempting to take the children out of the country, the law did not specifically prohibit her conduct. The woman eventually pleaded guilty to charges of forgery and obtaining false documents for altering the children's passports and then attempting to use the altered documents at the border. She was fined and returned to the Democratic Republic of the Congo.

The 2004 cases against Bangu Kasenge and Delphine Bakuna Chibwabwa related to trafficking in persons were ongoing at year's end.

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.

The government did not collect or maintain data on the extent or nature of trafficking in the country.

Women from the country 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. During the year there were reliable reports that women were trafficked to the country for commercial sex work.

The government did not keep data on trafficking cases and the law did not define the crime of trafficking, making it difficult to profile the typical trafficker. A 2004 survey of service providers, community members, and children located in four cities indicated that traffickers come from a variety of backgrounds and include family members, truck drivers, prostitutes, and business persons. Foreign traffickers were said to have come from Asia, Europe, and North America as well as from countries in the region.

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

There was no evidence the government authorities facilitated or condoned trafficking or were complicit in trafficking.

Through its social welfare agencies, the government provided counseling, shelter, and protection to victims of child prostitution or refers victims to NGOs that can provide such services. There is no formal screening or referral process. In some cases victims have been placed in

protective custody at rehabilitation centers or victim support shelters operated by NGOs.

When government officials understand that individuals are victims of trafficking, they do not treat victims as criminals. In identified cases, victims have not been detained, jailed, deported, or prosecuted for violations of other laws. When trafficking investigations have substantiated allegations, the government has encouraged victims to assist with investigation and prosecution. The government does not have its own means of protecting victims and witnesses. The government can and does arrange for protective custody and security protection through facilities operated by NGOs.

#### 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 did not have 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 living with HIV/AIDS; however, there was strong societal discrimination against such individuals, and much of the population believed that persons infected with HIV/AIDS should not be allowed to work.

#### 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. Only 11 percent of the eligible workforce was employed in the formal sector; approximately 60 percent of the formal sector was unionized.

The Industrial and Labor Relations Act (IRA) establishes burdensome registration procedures. For example, no organization could be registered unless it had at least 100 members, and with some exceptions, no trade union could be registered if it claimed 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.

The law provides for the right to strike, except for those engaged in "essential services"; however, 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 Security Intelligence Service, the law defines "essential services" as any activity relating to the generation, supply, or distribution of electricity; the supply and distribution of water; 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 permits strikes only after all other legal recourse has been exhausted, a cumbersome process. The law prohibits employers from retribution against employees engaged in legal union activities; workers engaged in illegal strikes did not enjoy this protection.

In July miners at Konkola Copper Mines (KCM), the country's largest mining company, went on strike demanding a 100 percent pay raise. The strike, which was illegal, lasted more than one week and cost several million dollars in lost production. Striking miners rioted, destroyed company property, and, in at least one instance, detonated explosives. Police arrested four persons in connection with the strike and riots (see section 1.d.), but released them after holding them for 15 days after the human rights commission and unions protested that they were being held without charge. The miners received a 30 percent increase in pay.

Unlike in the previous year, the government did not respond to striking civil servants with threats of mass firing and arrests, and revocation of rally permits.

There are no export processing zones.

##### 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 (see section 5). 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 dignity 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 Employment of Children and Young Persons Act as amended in 2004 prohibits employment of children in any commercial, agricultural or domestic worksite. The act also prohibits engaging a child in the worst forms of child labor as defined in international conventions. The minimum age for employment is 18 or, with the consent of a parent or guardian, a child may be employed at the age of 16. Nevertheless, child labor was a problem in subsistence agriculture, domestic service, and informal sectors, where children under the age of 16 often were employed, and the law was not enforced. The Labor Commissioner effectively enforced minimum age requirements in the industrial sector where there was little demand for child labor.

Approximately 600 thousand children were in the work force, of whom approximately 87 percent worked in the agricultural sector. During the year children, often orphans who had lost both parents to HIV/AIDS, continued to migrate to urban areas where they lived as street children. In urban areas children commonly engaged in street vending.

Child labor was most concentrated in the hotel and catering industries, construction, farming, transportation, prostitution, and household work.

In 2004 the president signed into law comprehensive child labor legislation that prohibits all forms of slavery and procuring or offering a child for illicit activities, including prostitution. 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.

During the year the government allocated only \$72,500 (300 million kwacha) for MLSS to investigate child labor issues, almost half of what was allocated in 2004. In January, despite budget reductions, the MLSS Child Labor Unit hired 49 new labor officers, inspectors and prosecutors responsible for enforcement of child labor laws. During the year the MLSS continued to recruit labor officers, which it required to be university graduates. The MLSS projected that it would need to hire an additional 27 labor officers in order to be fully staffed.

Because more than 80 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 also reported that inadequate resources hampered its enforcement efforts. There were a total of only two vehicles available to labor inspectors and none of the labor inspection field stations had a vehicle making it difficult to conduct inspections in vast rural areas. The MLSS removed five thousand children from child labor. The children, mainly orphans who were found in urban settings, were placed in formal and transitional classes, while others were given vocational skills training (see section 5).

The government continued to provide awareness and training activities for officials charged with enforcing child labor laws. Using funds provided by the International Labor Organization's (ILO) International Program on the Elimination of Child Labor (IPEC), the government began to develop training manuals for labor officers. In addition, ILO-IPEC funds were used to develop data and record keeping systems for use by inspectors and investigators.

#### 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. Based on a 48-hour workweek, the legal maximum for nonunionized workers, a general worker earning the minimum wage would receive \$16.50 (83,200 kwacha) per month. 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 the extended family.

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 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 has acted when well-known occupational health problems existed, such as by requiring underground mine workers to receive annual medical examinations.

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