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2010 Human Rights Report: Zambia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

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Zambia is a republic of 13.3 million citizens governed by a president and a unicameral national assembly. The ruling Movement for Multiparty Democracy (MMD) exerted considerable influence through its patronage and allotment of government resources. In a 2008 by-election, then-vice president Rupiah Banda was elected president in generally free and fair multiparty elections. Security forces reported to civilian authorities.

Human rights problems included unlawful killings; torture, beatings, and abuse of suspects and detainees by security forces; official impunity; life-threatening prison conditions; arbitrary arrests and prolonged pretrial detention; long trial delays; arbitrary interference with privacy; restrictions on freedom of speech, press, assembly, and association; government corruption; violence and discrimination against women; child abuse; trafficking in persons; discrimination based on sexual orientation and against persons with disabilities; restrictions on labor rights; forced labor; and child labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed politically motivated killings; however, security forces committed unlawful killings during the year. The Legal Resources Foundation (LRF), an independent human rights nongovernmental organization (NGO) 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 a government directive that restricted the use of firearms by police officers and a government pledge to retrain police on the use of force.

On September 3, three police officers in Chipata were arrested in connection with the killing of three suspects. The officers reportedly shot the suspects when they attempted to flee while leading police to a place where the suspects had hidden carcasses of cattle they had stolen.

On October 23, police reportedly killed two individuals in Mongu during a protest by the Barotse Freedom Movement (see section 6).

There were no developments, and none were expected, in the February 2009 police killing of Maybin Chongo or in the following 2008 cases: the April police beating to death of Alfred Nyanga; the May police beating to death of Robert Chimwang'a; and the September alleged killing of Gregory Kalezhi by a police patrol.

Unlike in previous years, there were no reports that mobs killed suspected criminals; nor that police were accused of abuse; nor that persons were accused of witchcraft, mental illness, or sexual impropriety.

There were no developments, and none were expected, in the February 2009 mob killing of alleged arsonist and murderer "Kalaye" and in the following 2008 cases: the February mob stoning to death of a minibus driver; the March mob stoning of two men, one of whom died; and the April killing by a mob that stoned and set ablaze a man.

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 2008 the government's Human Rights Commission (HRC) reported that torture was prevalent in police stations and noted 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; however, no legislation had been drafted by year's end. Authorities also detained, interrogated, and physically abused family members or associates of criminal suspects in attempts to identify or locate the suspects. Officers who tortured, beat, or otherwise abused suspects generally were not disciplined or arrested for such acts.

On September 7, the NGO Human Rights Watch (HRW) reported that police routinely engage in cruel, inhuman, and degrading treatment, including torture, to extract confessions. Based on interviews conducted at six prisons, the report noted, "They described what happened to them in police custody, before they were transferred to prison. Dozens of detainees said they had been beaten with metal bars, hammers, broom handles, police batons, sticks, or even electrified rods. Many said they had been bound first and hung upside down." On June 25, HRW wrote to Minister of Home Affairs Mkhondo Lungu and Chief Inspector of Police Simon Kabonde requesting that they investigate and halt these abuses. On September 11, Lungu publicly denied reports that police abused and tortured prison inmates. He also noted that human rights are an integral part of law enforcement training.

On November 12, residents of the Garden Compound, Lusaka, rioted and burned a police station and six vehicles following reports that police tortured a man who later died in police custody. Inspector General of Police Francis Kabonde denied the reports of torture on November 13.

On March 14, two Mazabuka police officers reportedly assaulted Christopher Perkins Liwoyo after he photographed them while acting as a freelance photographer. Liwoyo sustained minor injuries and did not press charges after being discouraged from doing so. Authorities did not take administrative action against the officers.

On September 8, a magistrate awarded Shadreck Nkhuwa and Isaac Chilombo 10 million kwacha (\$2,000) each after police detained and tortured them in Mumbwa for two days in 2004.

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On September 21, Ndola police reportedly shot and wounded 24-year-old Conrad Mutale while he participated in a protest.

There were no new developments, and none were expected, in the March 2009 reported police abuse of Edward Nkonde and Ephraim Munshimfwa; the July 2009 alleged police abuse of Cornelius Mwape; and the July 2009 charge of negligence of duty against an officer who detained a pregnant woman. There were also no new developments in the 2008 alleged police abuse of Monde Naluli.

There were instances of mob violence reported during the year.

On February 4, a mob reportedly beat Chingola police officer Matandi Sitali in reaction to allegations that he had attempted to rape a woman.

On September 9, a mob in Kitwe beat a police officer who allegedly stole a mobile phone from an accident victim at an accident scene.

There were no new developments, and none were expected, in the mob beating of Konde Mamadi in August 2009.

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 and young girls while they were in custody.

Prison and Detention Center Conditions

Prison conditions were poor and life threatening. An inefficient judiciary delayed court proceedings, which contributed to the holding of large numbers of pretrial detainees in prison for extended periods and exacerbated overcrowding. The country's prisons, which were built to hold 5,500 inmates, held nearly 15,300 prisoners and detainees. For example, Lusaka Central Prison, which was designed to accommodate 200 prisoners, held more than 1,500. By law the police can detain suspects up to 24 hours in holding cells before transferring them to a "remand prison." "Remand prisons" were supposed to house detainees prior to conviction exclusively but, in practice, were also used to hold convicted prisoners. Prison conditions in remand prisons did not generally differ from those in other prisons.

Poor sanitation, dilapidated infrastructure, inadequate and deficient medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of dysentery, cholera, and tuberculosis, which the overcrowding exacerbated. Prisons generally had inadequate provision for ventilation, temperature, lighting, and basic and emergency medical care.

Prisoners routinely complained that authorities denied them access to medical care as provided by law. Failure to remove or quarantine sick inmates and the lack of infirmaries at many prisons resulted in the spread of airborne illnesses such as tuberculosis, leading to the reinfection and death of prisoners. According to a report by HRW, the prison service estimated tuberculosis rates at over 5 percent, more than 10 times the rate outside of prisons. Drugs to combat tuberculosis were available, but the supply was erratic. Many prisoners were malnourished because they received only one serving of cornmeal and beans per day, called a "combined meal" because it represented breakfast, lunch, and dinner.

On April 27, HRW issued a major report detailing massive overcrowding exacerbated by large numbers of pretrial detainees held for extended periods without trial; incidences of torture, and other violence administered by prison officials and other inmates; inadequate medical services; and poor sanitation and nutrition in prisons that manifested themselves in high rates of HIV/AIDS, tuberculosis, and other diseases. The HRC estimated that the HIV/AIDS prevalence rate in

prisons in 2008 was 27 percent. Antiretroviral treatment was available to some prisoners with HIV/AIDS; however, poor nutrition often rendered the treatment ineffective. Authorities denied many prisoners access to condoms.

Juveniles often were not held separately from adults. Women and men were generally held separately. Prison conditions for women were somewhat better than for men. HRW estimated that women make up 18 percent and juveniles 10 percent of all prisoners. Incarcerated women who had no alternative for child care could choose to have their infants and young children with them in prison until the children reached the age of four. However, prisons provided no food or medical services to such children, so mothers had to share their rations with children, in an environment that often exposed the children to disease without medical care. Pretrial detainees were not held separately from convicted prisoners.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. The government did not actively investigate or monitor prison and detention center conditions. Prisoners and detainees generally could not submit complaints to judicial authorities or request investigation of credible allegations of inhumane conditions. Authorities did not investigate these allegations or document the results of such investigations in a publicly accessible manner.

The government conducted some investigations of prison and detention conditions. In January 2009 the HRC Children's Rights Committee visited three reformatory centers and documented violations of children's rights in those centers. According to the committee's report released during the year, reformatory centers recorded cases of child abuse in the form of corporal punishment.

In 2009 HRC chairperson Pixie Yangailo visited Kasama Central Police Station and described conditions at the station as "pathetic." She noted that suspects were forced to sleep on the floor without blankets.

The HRC recommended in its 2009 report that prisons be rehabilitated to meet acceptable humane and sanitary standards and that prisoners be separated by age and gender. The government had not responded to these recommendations by year's end.

The government permitted prison visits by both domestic and international NGOs and by resident foreign diplomats during the year. The International Committee of the Red Cross (ICRC), provincial human rights committees, and the LRF periodically inspected prisons during the year. The ICRC performed its visits in accordance with standard modalities. The country did not have ombudsmen who could serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate inhumane overcrowding; addressing the status and circumstances of confinement of juvenile offenders; improving pretrial detention, bail, and recordkeeping procedures to ensure prisoners do not serve beyond the maximum sentence for the charged offense.

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 Zambian Police Service (ZPS), divided into regular and paramilitary units under the Ministry of Home Affairs (MoHA), has primary responsibility for maintaining law and order. The Zambia Security Intelligence Service (ZSIS), under the Office of the President, is responsible for intelligence and internal security. The Central Police Command in Lusaka oversees nine provincial police divisions with jurisdiction over police stations in towns countrywide. Although the government identified a need for 27,000 police officers and hired 1,500 new officers during the year, only 17,400 police were on duty at year's end. The HRC recommended in its 2009 report that the police increase its budget, enhance logistical support,

improve working conditions for police officers, and implement human rights training as well as punitive and preventative measures to curb police misconduct. The government had not responded to these recommendations by year's end.

The approximately 21,600-member defense forces, divided into the army, air force, and national service, have primary responsibility for defending sovereignty and territorial integrity and cooperating with the appropriate civilian authority in times of emergencies and natural disasters. The defense forces have domestic security responsibility only in cases of national emergency. By law, the vice president declares a national emergency in cases of natural disasters, and the president declares a national emergency in a state of war, insurrection, hostilities, or public emergency. Each service has a commander who reports to the minister of defense. Paramilitary units of the ZPS, customs officers, and border patrol personnel conduct patrols on lakes and rivers.

The Drug Enforcement Commission (DEC) is responsible for enforcing the laws on illegal drugs, fraud, and money laundering. The DEC employs approximately 300 agents to oversee illegal drug enforcement and interdiction.

Lack of professionalism, investigatory skills, and discipline in the security forces remained serious problems. Low salaries and substandard government housing exacerbated police corruption, as did poor working conditions.

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 between January and September, it received 143 complaints of police misconduct: 31 were related to unlawful detention; 50 to unprofessional conduct; 20 to police brutality; 20 to abuse of authority; 20 to unlawful debt collection; one to interference in a marriage; and one to death in police custody. The PPCA recommended to the MoHA permanent secretary disciplinary action in the form of punishment or dismissal in 26 of the 143 cases. Of the remaining complaints, the PPCA recommended nine for other disciplinary action while it dismissed the allegations in 94 cases and continued to investigate 14 cases. Many cases of abuse went unreported due to citizen ignorance of the PPCA and fear of retribution.

Many complainants dropped their cases after involved police officers intimidated complainants or offered compensation to avoid a formal PPCA investigation, according to the PPCA.

Security forces failed to prevent societal violence during by-elections (see section 3).

Arrest Procedures and Treatment While in Detention

The constitution and law provide that authorities must obtain a warrant before arresting a person for some offenses; 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 such as 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 court 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. The law provides for prompt judicial determination of the legality of charges against a detainee; however, authorities often did not inform detainees promptly of charges against them.

There was a functioning bail system; however, prisons were overcrowded in part because indigent detainees and defendants did not have the means to post bail or were held for 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. The government's legal aid office, responsible for providing representation for indigent detainees and defendants in criminal or civil cases, assisted few arrestees.

Arbitrary arrest and detention remained problems. Police arbitrarily arrested family members of criminal suspects. Criminal suspects were arrested on the basis of insubstantial evidence, uncorroborated accusations, or as a pretext for extortion. Police officials disciplined some officers found engaging in extortion of prisoners, including suspensions and written reprimands, although dismissals for extortion were rare.

Prolonged pretrial detention was a problem, and some defendants awaited trial for as long as 10 years. Approximately one-third of persons incarcerated in remand prisons and other 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. According to human rights groups, prison administrators routinely altered paperwork to make it appear as though prisoners had appeared before a magistrate when they had not, often because prison authorities had no fuel to transport prisoners to courts. Judicial inefficiency, lack of resources, and lack of trained personnel also contributed to prolonged pretrial detention.

In one case uncovered during the year, a 14-year-old boy had been held in a remand prison for two years without being brought to trial.

Siavonga resident Norbert Chisanga was convicted by the Siavonga Magistrate's Court and imprisoned in 2006 for defiling three girls. However, at year's end, he still awaited final sentencing by the Lusaka High Court. Lusaka resident Over Mumba was convicted by the Lusaka Magistrate's Court and imprisoned in 2005 for heroin possession; at year's end, he still awaited final sentencing by the Lusaka High Court. Zacheous Sakala had been held in pretrial detention since 2002 without conviction. The HRC demanded in 2008 that the judiciary resolve his case.

There were no new developments, and none were expected, in the 2008 case of alleged unlawful detention of Rachel Bwalya and the case of Ernest Banda, who had been in detention since 2005.

Amnesty

A total of 825 prisoners were granted amnesty during the year. On May 25, in commemoration of the Africa Freedom Day, President Banda pardoned 350 prisoners. On October 24, President Banda ordered 473 prisoners released as part of the country's independence day celebrations. On December 8, President Banda pardoned two prisoners who were jailed for three years for contempt of court.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary; however, the government did not consistently respect judicial independence, and the judicial system was hampered by inefficiency, corruption, and lack of resources. Government officials used their offices to circumvent standard police and judicial procedures. However, during the year the courts at times made judgments and rulings critical of the government. In several instances, the courts awarded damages in cases of police and other security force abuse or unlawful arrest.

Accused military personnel may appear for summary trial before their commanding officers or be referred for trial in a military court by a court-martial. A court-martial sentence can be appealed to the Supreme Court. Military courts cannot try civilians and generally provided the same rights as civil criminal courts. The ZPS uses police tribunals to resolve internal police matters. Police tribunals try cases of police misconduct. However, they cannot try civilians or criminal cases involving police officers, but generally they provided the same rights as civil criminal courts.

The constitution permits judges to serve on the Supreme and High Court up to age 65. The president, in consultation with the Judicial Service Commission, may permit a judge at age 65 to continue in office. The president, in consultation with the commission, may also appoint a judge to the Supreme or High Court for a period of up to seven years.

There were no new developments, and none were expected, in the June 2009 appeal to the Supreme Court by Lusaka businessmen Faustin Kabwe and Aaron Chungu to order Supreme Court Chief Justice Ernest Sakala and Justice Peter Chitengi to vacate their offices because they had passed the constitutionally mandated retirement age of 65.

There were 165 magistrates at the end of the year. Attorneys who had a law degree held approximately 41 magistrate positions during the year; lay magistrates filled the rest. However, poor working conditions caused many magistrates to leave their jobs. The HRC recommended in its 2009 report that the government increase the number of magistrates and magistrate courts, improve accused persons' access to bail, and reduce abuses of judicial authority. The government had not responded to these recommendations by year's end.

Trial Procedures

Defendants are considered innocent until proven guilty, and trials in the High Court as well as in magistrate and local courts are public. Juries are not used; a magistrate renders judicial decisions and determines sentences. Although trials are open to the public, the public is not permitted to comment on an ongoing case. Defendants have the right to be present and to consult with an attorney; however, many defendants lacked the resources to retain a lawyer. The law provides for free legal counsel when indigent defendants face serious charges; however, public defenders were overwhelmed with cases, and many defendants did not have legal representation. Defendants can confront or question witnesses against them and present evidence and witnesses on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right to appeal.

Although statutory (common) law extends these rights to all citizens and is generally applied equally, the 1964 Local Courts Act permits local courts to employ customary (tribal or traditional) laws that vary widely throughout the country. Statutory law takes precedence over customary law, and any citizen may bring a case to magistrate court. However, the government encourages the use of customary law by local courts to augment the justice system and resolve disputes in rural areas. Lawyers are barred from participating in proceedings in courts that apply customary law, and there are few formal rules of procedure. Local court justices frequently do not have legal training but are expected to be versed in the traditions and customs of the ethnic group the court represents. Local courts cannot sentence convicted persons to imprisonment; they impose fines as punishment. Customary law sometimes discriminates against and denies the rights of some groups, particularly women and children.

Courts were congested, and there were significant delays in trials while the accused remained in custody. In cases in which 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.

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, and complainants have access to the High Court to seek damages for human rights abuses. There are administrative remedies available as well as judicial remedies for alleged wrongs. However, there were problems enforcing civil court orders due to insufficient judicial resources.

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 DEC, ZSIS, and the police authority to monitor communications using wiretaps on the basis of a warrant based on probable cause. On June 9, *The Post* newspaper alleged that Inspector General of Police Francis Kabonde obtained some journalists' phone records from a mobile service provider without a warrant.

Authorities sometimes detained, interrogated, and physically abused family members of criminal suspects to obtain their cooperation in identifying or locating suspects.

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 restricted these rights in practice. The law includes provisions that may be interpreted broadly to restrict these freedoms.

The government allowed but sometimes attempted to impede individuals' right to exercise public or private spoken criticism by using intimidation; for example, it thwarted the "Red Card" protest campaign, in which participants peacefully held up red cards to protest against various government actions, by arresting three individuals for disturbing the peace (see section 2.b.). On March 18, Ndola magistrate Kelvin Limbani sentenced Darius Mukuka to 18 months' imprisonment for defaming President Banda in a public bar. On May 25, President Banda pardoned Mukuka.

The government allowed press criticism but sometimes attempted to impede it using intimidation. The government-controlled *Times of Zambia* and *Zambia Daily Mail* were two of the most widely circulated newspapers. The government exercised considerable influence over both newspapers, including reviewing articles prior to publication and censoring individuals responsible for published articles that criticized the government. Opposition political parties and civil society groups complained that government control of the two newspapers limited their access to mass communication. Journalists in the government-controlled media generally practiced self-censorship.

The international media generally operated freely.

The independent media were active and expressed a wide variety of views. A number of privately owned newspapers questioned government actions and policies. Although these circulated without government interference, officials used the law to suppress criticism of political or other leaders. Government officials and ruling MMD party supporters repeatedly targeted the leading independent newspaper, *The Post*, with criticisms, threats, and litigation for publishing information critical of the government.

The law permits presidential investigative tribunals to call as witnesses journalists and media managers who printed allegations of parliamentary misconduct. Failure to cooperate with a tribunal can result in charges of contempt, which are punishable by up to six months in prison. The media criticized these provisions as clear infringements of freedom of the

press and claimed it was a means for parliamentarians, some of whom concurrently served the president in cabinet positions, to bypass the court system.

On June 3, Magistrate David Simusamba found Fred M'membe, editor in chief of *The Post*, guilty of one count of contempt of court for publishing an article commenting on a case dismissed in 2009 against Chansa Kabwela, an editor with *The Post*. On July 7, M'membe was released on bail. His appeal remained pending at year's end.

On July 31, MMD supporters in Ndola reportedly harassed and threatened with violence *The Post* newspaper reporter Abigail Chaponda for alleged bias against their party.

On November 10, the Lusaka High Court ordered the arrest of *Zambian Watchdog* editor Lloyd Himaambo and former spokesperson of former president Chiluba, Emmanuel Mwamba, for contempt of court. Himaambo had published articles purportedly written by Mwamba analyzing evidence in a criminal case. Their case remained pending at year's end.

On November 11, MMD Lusaka Province Youth Chairman Chris Chalwe was sentenced to one year at hard labor for a July 2009 assault on journalists Chibaula Silwamba and Anthony Mulowa.

There were no developments, and none were expected, in the February 2009 assault on photojournalist Thomas Nsama and the May 2009 assault on journalists George Chellah and Eddie Mwanaleza.

In addition to a 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. Several private television stations, including foreign-owned media, also broadcast locally. The government detained and censured individuals responsible for programs the government deemed offensive. Opposition political parties and civil society groups charged that government control of the ZNBC limited their access to mass communication.

On June 18, Ministry of Information and Broadcasting Public Relations Officer Betniko Kayaya threatened to revoke Radio Sky FM's license for broadcasting programs the ministry considered a threat to peace and security.

On November 20, Ministry of Information and Broadcasting Permanent Secretary Sam Phiri reportedly threatened to revoke Radio Lyambai's license for hosting a program to discuss the Barotse Agreement (see section 6).

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 e-mail. Although the Internet was available to and used by citizens, a lack of infrastructure limited public access. According to International Telecommunication Union statistics for 2009, approximately 6.3 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events. Although the law gives university councils at the three public universities a mandate to address faculty concerns, the minister of education may appoint council members. 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 in practice. Although the law does not require a permit to hold a rally, it requires organizers to notify police seven days in advance. Police are empowered to decide when and where rallies are held and who may address participants. The government on occasion used the law's broad mandate to change arbitrarily the time and date of rallies, particularly of opposition political parties and NGOs, and did so during the year, including during by-election campaigns.

Although there were no cases of police using violence to disperse protests, police reportedly condoned and committed acts of violence in the Mufumbwe by-election (see section 3).

On March 12, Kitwe police arrested and detained Catholic priest Frank Bwalya for three days for reportedly distributing red cards at a Youth Day event in Kitwe. Bwalya co-organized the "Red Card Campaign" to encourage the public to flash red cards to protest the government. On March 13, Bwalya was charged with breaching the peace. His case remained pending at year's end.

On August 3, Ndola police arrested and detained a woman and her 13-year-old son for allegedly flashing a red card at President Banda's motorcade. Both were charged with conduct likely to cause breach of peace and released the same day after admitting guilt and paying a 50,000 kwacha (\$10) fine.

The case against Patriotic Front (PF) Members of Parliament (MP) Mumbi Phiri and Jean Kapata, who were arrested for protesting the acquittal of former president Frederick Chiluba in October 2009, remained pending. There were no developments in the 2008 police shooting of two University of Zambia students in Lusaka.

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 MoHA Registrar of Societies. However, the registration process was long and permitted considerable discretion on the part of the registrar. During the year there were no cases in which the registrar refused to register an organization.

On February 25, the Lusaka High Court upheld the 2004 decision by the government to deregister the NGO Southern African Centre for the Constructive Resolution of Conflict (SACCORD) on grounds that it was inimical to national security. SACCORD received a temporary injunction permitting it to continue operations pending a hearing by the Supreme Court.

c. Freedom of Religion

For a complete discussion of religious freedom, please see the *2010 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt.

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

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. However, the government intermittently limited in-country movement. Police used roadblocks to control criminal activity, enforce customs and immigration regulations, check drivers' documents, and inspect vehicles for safety compliance. Police sometimes extorted money and goods from motorists at these roadblocks.

The government cooperated with the Office of 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. There were no restrictions on refugees' travel inside the

country, but refugees were required to have permission from the government to move or live outside refugee camps. Such permission was frequently granted.

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

Protection of Refugees

The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The government also provided temporary protection to individuals who may not qualify as refugees. There were reports during the year that the government expelled Zimbabweans and other foreign nationals who could not provide evidence that they were refugees and were therefore considered irregular migrants.

In late 2009 reports surfaced about corruption at Maheba Refugee Settlement. During government action on February 24 to restore order at Maheba following refugee protests over the corruption allegations, security forces killed one refugee, injured several others, arrested 150, and deported 36. On April 13, the UNHCR protested the deportations, stating that the refugees were not given any notice or explanation for their expulsion. The government subsequently acted to address corruption concerns at the settlement by investigating the allegations.

According to the UNHCR, by the end of the year, the country hosted 47,500 refugees, mainly from Angola and the Democratic Republic of Congo (DRC). The government assisted in the repatriation of 9,200 Congolese refugees during the year. On November 10, the government officially closed Kala and Mwange refugee camps after assisting in the voluntary repatriation of over 6,000 Congolese refugees to the DR Congo and an additional 2,000 to Maheba refugee camp. With the final push on Congolese repatriations, it was estimated that only 6,000 Congolese refugees remained in the refugee settlements at year's end. Of the refugees in the country, 38 percent have settled on their own volition outside official refugee camps and settlements.

Refugees at Kala, Mwange, and other camps were provided access to basic services, education, and police and courts. Government policy limited refugees' legal employment options to refugee camps, except where refugees obtained specific government authorization for employment outside camps.

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

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

Elections and Political Participation

In October 2008 then-vice president Rupiah Banda was elected president in a generally free and fair by-election conducted following the August 2008 death of then-president Levy Mwanawasa.

The law requires all elected officials except the president and vice president to vacate their offices from the time parliament is dissolved prior to running for election. The vice president is appointed and dismissed by the president. During the year several by-elections were held after incumbent deaths or resignations. Reports of vote buying and misappropriation of government resources for unfair political advantage continued and, in some cases, were challenged in court.

In April 29 by-elections, United Party for National Development (UPND) candidate Eliot Kamondo was elected MP representing Mufumbwe and MMD candidate Watson Banda was elected MP representing Milanzi. Elections-related violence contributed to four deaths and multiple injuries in Mufumbwe. Some observers alleged that ruling party supporters in both constituencies engaged in vote buying, misused government vehicles, distributed food and clothing for partisan purposes, and promised local development projects to entice voters to vote for their candidates. Some observers noted that security forces protected ruling party supporters but did not act to curb violence and even participated in violence against opposition supporters or voters. On December 15, Lusaka High Court Judge Philip Musonda nullified the election of Kamondo in Mufumbwe, citing the levels of violence as having disenfranchised voters. Some observers asserted that the court's ruling favored the ruling party, although Musonda denied that political factors influenced his decision. Kamondo appealed the decision to the Supreme Court.

On August 5, PF candidate Susan Kawandami was elected MP representing Chifubu and Charles Milupi was re-elected to represent Luena. Milupi ran for his own seat after joining the Alliance for Democracy and Development party. Some observers alleged that MMD supporters in both constituencies engaged in vote buying and misuse of government resources for partisan purposes. On October 25, UPND candidate Cosmas Moono was elected MP representing Chilanga and MMD candidate Given Mung'omba was elected MP for Mpulungu. Observers alleged that the Chilanga election was accompanied with isolated instances of political violence while in both elections there was misuse of government resources for partisan purposes.

Political parties could operate without restriction or outside interference, and individuals could independently run for election. However, the ruling MMD exerted considerable influence over the electoral process by using government resources to conduct political campaigns.

There were 22 women in the 158-seat parliament, four in the 27-member cabinet, and four on the Supreme Court. There was one minority MP; there were no minorities serving in the cabinet or on the Supreme Court. There were no female or minority provincial ministers. Political parties did not allocate parliamentary seats to minorities or women.

On June 22, the National Constitutional Conference (NCC) concluded its work and published a revised draft of the constitution proposed by the 2005 Mung'omba Constitutional Review Commission. During a 40-day public comment period, the NCC incorporated some changes suggested by civil society organizations and the public. On August 31, the NCC submitted the final amended draft constitution to the minister of justice for submission to parliament. Some civil society groups, including large umbrella organizations representing women's and church groups, maintained their boycott of the NCC in protest of what they perceived as disproportionate government and ruling party representation.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government attempted to implement the law; however, some officials engaged in corrupt practices with impunity. Petty corruption among the police and other public authorities was particularly problematic. Police, who enjoyed a high degree of impunity, released prisoners for bribes, extorted money from victims, and required "document processing fees" or "gas money" to commence investigations.

The World Bank's latest worldwide governance indicators reflected that corruption was a serious problem.

On March 15, the government announced its National Anti-Corruption Policy Implementation Plan. The Anti-Corruption Commission (ACC), which reports independently to the president, is responsible for combating government corruption. 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 resolved some irregularities reported by the Office of the Auditor General (OAG). The ACC continued its prosecution and public

educational activities. In 2009 the ACC received 2,073 reports of corruption, 658 of which were investigated. Of those, eight resulted in convictions. The ACC maintained a toll-free hotline for reports of corrupt practices.

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 handling evidence in corruption cases, and the process to liquidate assets seized in these cases was not transparent.

Public officials were not subject to financial disclosure laws, although presidential candidates were required to disclose financial assets when filing their candidacies with the Supreme Court.

On April 13, parliament enacted the Public Interest Disclosure (Whistleblowers Protection) Act, the Forfeiture of Proceeds of Crime (Asset Forfeiture) Act, and the Plea Negotiations and Agreements (Plea Bargaining) Act. The Whistleblowers Protection Act protects those who report incidents of corruption and entitles them to anonymity, compensation, relocation, and employment reinstatement. The act does not protect those who air complaints publicly in the press. The Asset Forfeiture Act allows the government to seize and confiscate illegally obtained property. The Plea Bargaining Act establishes a formal plea bargaining mechanism, which is designed to be employed in corruption cases.

On November 3, parliament passed the Anti-Corruption Commission Act of 2010, which removed clauses in the existing law providing for abuse of office by public officials as a ground for corruption prosecutions. These clauses had authorized prosecutors to investigate and prosecute officials if they had abused their offices to amass wealth and/or maintain a standard of living beyond their means. Some civil society and opposition figures criticized the change as weakening anticorruption efforts because it eliminated a legal statute used to convict some officials of corruption.

During the year the government investigated and prosecuted corruption cases.

For example, on May 18, the OAG published an audit report of the Roads Development Agency (RDA) indicating that it spent 985 trillion kwacha (\$195.5 million) more on road projects than appropriated by parliament and noted several financial irregularities. On August 21, the parliamentary Public Accounts Committee found that the RDA board of directors provided insufficient oversight. Resolution of the audit findings remained pending at year's end.

On May 26, a Lusaka court convicted Chansa Kabwela, a member of parliament and former finance minister, of corruption for accepting a \$5,500 bribe (in U.S. dollars) in connection with irregular payments made to two security companies. He was sentenced to five years at hard labor. His appeal in the High Court remained pending at year's end.

On August 13, High Court Judge Evans Hamaundu dismissed a petition to register in the country a 2007 London High Court judgment of 23 million UK pounds (\$46 million) against former president Fredrick Chiluba and seven others. Hamaundu ruled that Zambian law did not allow foreign judgments to be registered directly, although some previous foreign judgments have been registered.

During the year the government arrested seven Ministry of Health (MOH) officials in connection with the alleged embezzlement of more than 35.7 billion kwacha (\$7.14 million) at the MOH. The case remained pending at year's end.

In February 2009 a judge convicted former minister of lands Gladys Nyirongo of corrupt practices and abuse of authority and sentenced her to four years' imprisonment with hard labor. On October 8, the High Court upheld her conviction but reduced her sentence to two years' simple imprisonment. Nyirongo appealed to the Supreme Court. The case remained on appeal at year's end.

In March 2009 a judge convicted former president Chiluba's wife Regina of theft and sentenced her to three-and-a-half years' imprisonment in a case stemming from items she illegally received from her husband while he served as president. On December 7, the Lusaka High Court overturned Regina Chiluba's conviction, and the prosecution declined to appeal the case.

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

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

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

Although the government enacted a law to regulate NGOs in August 2009, it had not officially implemented the law by year's end. Many NGOs expressed concern that government officials would use the new law to punish or disband NGOs for publicly expressing critical views on human rights and governance issues. NGOs claimed that the bill would force NGOs to focus on the government's development priorities at the expense of their own objectives and that the government-controlled NGO Registration Board created by the law would exert political pressure on NGOs.

The government regulated some NGOs prior to the law's implementation. On January 14, then-minister of home affairs Lameck Mangani directed the Registrar of Societies to come up with details about the Press Association of Zambia Executive Committee to ascertain the leadership's legality. On February 12, the government opened an investigation into allegations that the Media Institute of Southern Africa had committed financial irregularities. On March 18, Mangani announced that eight NGOs were under investigation for alleged money laundering and other illegal activities, and the Registrar of Societies was scrutinizing some NGOs' mandates. The timing of his announcement coincided with vocal opposition to government proposals for statutory media regulation by the independent media and some NGOs.

The government generally cooperated with local human rights observers and international human rights and humanitarian NGOs. The government cooperated with international governmental organizations and permitted visits by UN representatives, the ICRC, and other organizations.

The HRC monitored human rights conditions, interceded on behalf of persons whose rights it believed were denied by the government, and spoke on behalf of detainees and prisoners. The HRC oversees local human rights committees in all nine provincial capitals and nominally enjoyed the government's cooperation without substantial political interference. However, independent human rights groups noted that the HRC was understaffed, underfinanced, and relied on the police to enforce its recommendations.

The HRC noted in its 2009 report abuses by the judiciary and the police and called on the government to implement reforms, including further criminalizing human rights violations. Citing funding insufficiency, the HRC did not issue an annual report during the year.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, ethnic group (tribe), gender, place of origin, marital status, political opinion, color, disability, language, social status, or creed. However, the government did not effectively enforce

the law, and violence and discrimination against women and children, discrimination based on sexual orientation, trafficking in persons, and discrimination against persons with disabilities remained problems.

Women

The law prohibits rape, and courts have discretion to sentence convicted rapists to life imprisonment with hard labor. However, rape was widespread. The government did not enforce the law effectively and obtained few rape convictions. In 2009 the ZPS's Victim Support Unit (VSU) recorded 244 cases of rape, 60 cases of attempted rape, and 188 cases of indecent assault; 111 defendants were convicted, 22 were acquitted, and 25 cases were withdrawn. However, these totals underestimated the problem's actual extent. The law does not specifically prohibit spousal rape, and penal code provisions that criminalize rape cannot be used to prosecute cases of spousal rape.

Domestic violence against women was a serious problem, and wife beating was widespread. There is no specific law against domestic violence, including spousal abuse, and cases of domestic violence were prosecuted under the penal code's general assault provisions. Penalties for assault range from a fine to 25 years in prison, depending on the severity of injury and whether a weapon was used during the assault. The VSU was responsible for handling cases of domestic assault, wife beating, mistreatment of widows, and property expropriation (grabbing) by the deceased husband's relatives. In practice the police were often reluctant to pursue reports of domestic violence and preferred to encourage reconciliation.

The government and NGOs expressed continued concern about violence against women. Fear of retribution and cultural considerations deterred women from reporting domestic violence cases, and the VSU stated in a June 2009 report that this meant the full extent of sexual and gender-based violence was unclear. However, increased public awareness resulted in more reporting of such incidents to police and other authorities than in previous years. The VSU reported that victims often refused to cooperate and the unit lacked equipment to analyze forensic evidence. The government operated gender-based violence shelters, a toll-free hotline, and eight one-stop centers to provide comprehensive assistance to victims of sexual and gender-based violence. During the year the government provided gender-based violence training to more than 300 police officers.

Sex tourism occurred but was not prevalent. Sexual harassment was common. The law only prohibits sexual harassment of children; however, the penal code contains provisions under which sexual harassment could be prosecuted. The government has successfully prosecuted persons for such actions. The government has also successfully prosecuted persons for other forms of harassment under other sections of the penal code.

Although couples and individuals enjoyed the right to decide freely and responsibly the number, spacing, and timing of their children, they often lacked access to information. Scarcity of information effectively led to discrimination against women in the exercise of reproductive rights. Many women lacked access to contraception and skilled attendance during childbirth, including essential prenatal, obstetric, and postpartum care. UNICEF estimated that from 2003-08, the maternal mortality ratio was 590 per 100,000 live births. Women generally did not experience discrimination in terms of diagnosis and treatment for sexually transmitted infections. The number of women who received HIV testing and treatment increased substantially in recent years, and many more women than men sought treatment. Barriers that limited access to these services include economic and social discrimination as well as lack of access to health facilities.

The law generally entitles women to equality with men. However, the government did not adequately enforce the law, and women in practice experienced discrimination in employment, education, and land and property ownership. Women who were employed often suffered from discriminatory conditions of service, including pay inequity. Although the Ministry of Lands set aside special land quotas for women to redress the imbalance in property ownership, women lacked adequate access to credit to purchase land or property. In most cases, women remained dependent on their husbands or male

members of their family to cosign for loans. As a result, few women owned their own homes or businesses, although some financial institutions allowed women to sign independently for loans. The government was proactive in improving the status of women through legal protections and public awareness campaigns. The Ministry of Women, Gender, and Development (MOWGD) and the Gender in Development Division (GIDD) are the government's primary agencies charged with promoting the status of women. The MOWGD coordinates gender policy while the GIDD plans, coordinates, and implements gender programs and policies across ministries.

Local customary law generally discriminates against women. Despite constitutional and legal protections, customary law subordinates women with respect to property ownership, inheritance, and marriage. Polygamy is legally permitted under customary law. The practice of "sexual cleansing," in which a widow is compelled to have sexual relations with her late husband's relatives as part of a cleansing ritual, continued as a practice under customary law. However, many local leaders banned the practice. The penal code prohibits "sexual cleansing" of children under the age of 16.

Customary law dictates that rights to inherit property rest with the deceased man's family. Statutory law prescribes that the man's children equally share half of an estate, the widow 20 percent, the man's parents 20 percent, and other dependents 10 percent. In a polygynous marriage, the widow's share must be divided proportionally with other women based on the length of time each has stayed in the marriage. As a result, property grabbing from widows remained widespread. The courts generally consider property grabbing a criminal offense and mandate up to three years' imprisonment in these cases. However, most property grabbing cases were decided in local courts, and the fines they imposed were low.

On December 10, UN Special Rapporteur on Violence Against Women, Rashida Manjoo, expressed concern over the country's use of customary law and stated that it contributed to discrimination against women and led to inconsistent application of justice in cases of violence against women.

Children

The Ministries of Labor and Social Security (MLSS), Sport, Youth, and Child Development (MSYCD), Community Development and Social Services (MCDSS), Home Affairs (MoHA), and Education shared responsibility for promoting children's welfare. However, scarce resources and ineffective implementation of social programs continued to hinder their ability to assist children.

Citizenship is derived by birth within the country's territory or from one's parents. The government's failure to register births did not result in the denial of public services, such as education or health care, to children. UNICEF indicated in 2009 that approximate 16 percent of urban births and 6 percent of rural births in the country were registered.

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

Although the law prohibits sexual harassment of children, child abuse and violence against children were common problems. Defilement, which the law defines as the "unlawful carnal knowledge of a child under the age of 16," was particularly common. The police VSU recorded 1,676 defilement cases in 2009; prosecutions resulted in 277 convictions and 63 acquittals.

Female genital mutilation (FGM) is prohibited under the country's penal code and has rarely occurred in practice. Most cases of FGM in the country have been limited to small communities of immigrants from other parts of Africa. There were no cases of FGM reported during the year.

The 2007 Demographics and Health Survey published by the Central Statistical Office indicated that 46 percent of women between the ages of 20 and 49 were married by age 18, including 11.6 percent who were married by age 15. Child marriage was more common in rural areas than in urban centers. Although a person must be at least 16 years old to marry under the formal law, there is no minimum age under customary law. Some local leaders spoke against child marriage and took steps to discourage it; however, most condoned the practice. The Police and Magistrates' courts intervened in cases of gross abuse.

The law criminalizes child prostitution and child pornography with penalties of up to life imprisonment for perpetrators. Child victims of prostitution are not charged unless they are also pimps over 12 years of age. However, the law was not enforced effectively, and child prostitution was common. The country has a statutory rape law that provides penalties of up to life imprisonment in rape cases. The minimum age for consensual sex is 16 years.

There are a large number of displaced and institutionalized children. According to the 2007 Zambian Demographic and Health Survey, the country has approximately 1.1 million orphaned children under the age of 17, including approximately 600,000 children orphaned as a result of HIV/AIDS. Orphaned children faced greater risks of child abuse, sexual abuse, and child labor. The survey indicated that about four in 10 children under the age of 18 were not living with both parents. About one in five children under the age of 18 were not living with either parent, and 15 percent were orphaned.

An estimated 20,000 to 30,000 children lived on the streets, often begging or prostituting themselves to survive. The joint MCDSS and ZPS Child Protection Unit (CPU) worked with the police to identify and assist street children. The MCDSS District Street Children Committee authorized the CPU to place children, including orphans and neglected children, in government- and NGO-operated shelters. The CPU reintegrated street children with their families, sent them to school, and placed others in shelters. The MCDSS also maintained a cash transfer scheme to target vulnerable families who might otherwise send minors into the streets to beg or work. The MSYCD continued its efforts to rehabilitate street children by providing education and skills training at two converted national service camps for up to 200 girls in Kitwe and for 400 boys in Chipata. After graduating from the camps, the children were placed in youth resource centers throughout the country, where they received training in carpentry, tailoring, farming, and other trades.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

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

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination in general, but there is no law that specifically prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, access to health care, or the provision of other state services or in other areas. Although the government did not impose restrictions on persons with physical or mental disabilities from voting or participating in civic affairs, the law prohibits those with mental disabilities from holding public office. Persons with disabilities faced significant societal discrimination in employment and education.

The MCDSS has responsibility for ensuring the welfare of persons with disabilities. Public buildings, schools, and hospitals rarely had facilities to accommodate persons with disabilities. The government did not mandate accessibility to public buildings and services for persons with disabilities. In September 2009 *The Post* reported that conditions at the country's only mental health facility, Chainama Hills Mental Hospital, were generally good. No patterns of abuse of persons with disabilities in prisons were reported.

National/Racial/Ethnic Minorities

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

The government grants special recognition to the Barotse Royal Establishment (BRE) as the political authority of the Lozi ethnic group. However, the government does not recognize the 1964 Barotseland Agreement signed by the United Kingdom, Northern Rhodesia, and the BRE immediately prior to Zambia's independence that granted the Lozi political autonomy. Some Lozi groups have demanded official recognition of Barotseland as an autonomous region. On October 9, police arrested Grace Likando, Muyangana Muyangana, and two other members of the Barotse Freedom Movement (BFM) for reportedly protesting without permission to advocate for the recognition of the agreement in the draft constitution. On October 23, police reportedly killed two individuals in Mongu during a BFM protest.

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

The law criminalizes homosexual behavior and provides penalties of 15 years' to life imprisonment for individuals who engage in "unnatural" (homosexual) acts. A lesser charge of "gross indecency" carries penalties of up to 14 years' imprisonment. The government enforced the law that criminalizes homosexual conduct and did not respond to societal discrimination. Societal violence against homosexual persons occurred, as did societal discrimination in employment, housing, and access to education or health care. There were active groups promoting rights of such persons, but the MoHA Registrar of Societies continued to refuse to register them. Groups held social gatherings but did not participate in open demonstrations or marches. There were also social impediments to the operation and free association of organizations for LGBT persons.

On September 20, five male students from Kabulonga Boys High School in Lusaka appeared in court on charges of gross indecent practices between persons of the same sex for allegedly having performed sexual acts on other male students. If convicted they face minimum of seven years' and maximum of 14 years' imprisonment. The case remained pending at year's end.

Other Societal Abuses and Discrimination

The government actively discouraged discrimination against persons with HIV/AIDS. However, there was strong societal and employment discrimination against such individuals. Government officials made announcements discouraging such discrimination, but they did not publicly acknowledge cases of HIV/AIDS among government officials. As a result, the government made little headway in changing entrenched attitudes of discrimination and denial.

On May 26, the Livingstone High Court declared mandatory government testing of HIV/AIDS illegal. It awarded 10 million kwacha (\$2,000) each to Stanley Kingaipe and Charles Chookole, two former air force officers who had sued the air force for dismissing them because they were diagnosed as HIV-positive. The court awarded damages because Kingaipe and

Chookole were tested without their consent. However, the court upheld their dismissals on the basis that they were not dismissed due to their HIV status.

Individuals increasingly sought free access to HIV/AIDS counseling and testing, and more than 300,000 HIV patients, including 23,000 children, were receiving antiretroviral treatment by year's end.

Section 7 Worker Rights

a. The Right of Association

The law allows workers to form and belong to trade unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Police officers and military personnel were not permitted to form unions. Approximately two-thirds of the country's 300,000 formal sector employees were unionized. The law allows unions to conduct their activities without interference, and the government generally protected this right in practice.

The Industrial and Labor Relations Act 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 law provides for notice, reconsideration, and right of appeal to an industrial relations court.

The law provides the right to strike, except for those engaged in a broadly defined range of essential services, but requires that all other legal recourse be exhausted first. Essential services not permitted to strike include the defense force, judiciary, police, prison and health services, and the ZSIS. The law further defines essential services as any activity relating to the generation, supply, or distribution of electricity; the supply and distribution of water, and sewage removal; fire departments; and the mining sector. Because the process of exhausting other legal alternatives to striking is lengthy, most unions chose to strike illegally. The last legal strike in the country occurred in 1993. Workers who engaged in illegal strikes could be dismissed by their employers; the government at times intervened for political reasons when such dismissals occurred. During the year there were no such dismissals.

b. The Right to Organize and Bargain Collectively

The right to collective bargaining, without government interference, is protected in law and freely practiced. The law also prohibits antiunion discrimination and employer interference in union functions, and the government enforced this right.

There are no known special laws or exemptions from regular labor laws in the Lusaka and Chambishi Multi-Facility Economic Zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred in labor-intensive, informal-sector work such as domestic service, hospitality, agriculture, construction, and sexual exploitation. Forced labor occurred in the agriculture and mining sectors but was not common. The law authorizes the government to call upon citizens to perform labor in specific instances, such as during national emergencies or disasters. The government also may require citizens to perform labor associated with traditional civil or communal obligations, as when a traditional leader or other dignitary calls upon all members of a village to assist in preparing for a visit; however, there were no reports of such activities during the year.

Also see the Department of State's annual *Trafficking in Persons Report* at <http://www.state.gov/g/tip>.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits employment of children at 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, construction, farming, transportation, prostitution, quarrying, mining, and other 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. The labor commissioner effectively enforced minimum age requirements in the industrial sector, where there was little demand for child labor; however, minimum age standards were seldom enforced in the informal sector, particularly in mining and agriculture. Zambia ratified ILO Convention 182 in 2001 but had not promulgated a list of occupations considered to be the worst forms of child labor. Among the worst forms prohibited by law are child prostitution, slavery in all its forms, forced military conscription of children, and work that is harmful to the safety, health, or morals of children and young persons.

During the year children, particularly those who had lost both parents to HIV/AIDS, were sent to rural areas to be cared for by relatives, or they lived on the streets.

The MLSS, MoHA, and MCDSS are responsible for the implementation and enforcement of child labor laws and regulations, with charges for violations that provide for penalties ranging from a fine to a maximum of 25 years' imprisonment, or both. Labor inspectors may also enter family homesteads and agricultural fields to check for child labor violations.

Because more than 85 percent of child labor 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. Due to the scarcity of transportation, labor inspectors frequently found it difficult to conduct inspections in some rural areas. In cooperation with NGO partners, the government continued its efforts to remove children from abusive situations. The children, mainly orphans, were placed in formal and transitional classes, while others were given vocational skills training. Local governments maintained 16 district child labor committees to perform outreach and plan activities for vulnerable and working children. The purpose of the committees was to increase awareness of child labor laws and the harmful effects of child labor, to mobilize communities to eliminate the worst forms of child labor, and to monitor the implementation of child labor programs at the district and village levels. 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. The government participated in several projects to combat child labor and had generally been supportive.

For information on child trafficking, see the Department of State's annual *Trafficking in Persons Report* at <http://www.state.gov/g/tip>.

e. Acceptable Conditions of Work

The minimum wage in the formal sector was 268,000 kwacha (\$53.60) per month, based on the legal maximum workweek of 48 hours. Significant parts of the workforce, including foreign and migrant workers, are not covered by minimum wage provisions and other 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. 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. The MLSS is responsible for enforcing the minimum wage, and its inspectors received and resolved complaints.

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 non-unionized minimum wage. The standard workweek was 40 hours, and there were limits on excessive compulsory overtime, depending on the category of work. The law requires that workers earn two days of annual leave per month, and there is no limit on how much leave they can accrue. 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 one-half times their hourly rate for their overtime hours. 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; however, 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.

On June 21, 22 miners were seriously injured in an underground mine accident at the Chinese Collum Coal Mine (CCM) in Sinazongwe. On July 21, four Chinese nationals at CCM reportedly assaulted miners Killian Chilindile and Chipu Muleya for failing to reach production targets. The case remained pending at year's end. On July 28, three miners were seriously injured in an underground mine accident at CCM. Although the government closed the mine in 2009 for previous violations, it had not resolved these incidents by year's end.

On October 15, two Chinese managers at CCM reportedly shot and wounded 13 Zambian employees in Sinazongwe as they protested over salaries and working conditions. The victims were hospitalized and later released. Officials from the Ministries of Mines and Labor and Social Security investigated the incident. CCM management agreed on November 10 to compensate the 13 Zambian workers between 20 and 45 million kwacha (\$4,000 and \$10,000 each) in exchange for not pressing the government to prosecute. Management also increased the minimum basic monthly salary of its workers.

On November 6, police arrested a Chinese national, Bo Khan, for allegedly threatening to shoot his employees, Sankulani Phiri and Monica Sitali, after they tried to leave his residence without his permission. His case remained pending at year's end.

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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