

# ZAMBIA 2013 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Zambia is a constitutional republic governed by a democratically elected president and a unicameral national assembly. International and local observers considered national elections held in 2011 to be generally free and fair. Security forces reported to civilian authorities.

Serious human rights abuses occurred during the year. The most important were abuses by security forces, including reports of unlawful killings, torture, and beatings; life-threatening prison conditions; and restrictions on freedom of speech, assembly, and association.

Other serious human rights problems included arbitrary arrest, prolonged pretrial detention, arbitrary interference with privacy, government corruption, violence and discrimination against women, child abuse, trafficking in persons, discrimination against persons with disabilities and members of the lesbian, gay, bisexual, and transgender (LGBT) community, restrictions on labor rights, forced labor, and child labor.

The government took limited steps to prosecute officials suspected of corruption or human rights abuses during the year; however, impunity remained a problem.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

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

There were several reports that the government or its agents committed arbitrary or unlawful killings. After local police authorities were unable to apprehend three men suspected of several killings, the government directed the military to use deadly force against the suspects. On June 25, after a much-publicized investigation into the killings, army soldiers killed Mika, Fabian, and Stefan Mailoni in Mkushi District. The Human Rights Commission (HRC) criticized the killings.

On June 14, soldiers belonging to the Zambia National Service shot and killed unarmed civilians Clement Muloongo and Pumulo Lungwangwa in Kampasa village during a scuffle over land rights. A third civilian survived the shooting but

was injured. The government did not initiate legal proceedings against the officers implicated in the shooting during the year.

The government rarely punished perpetrators and took few steps to prosecute or punish officials who committed abuses. In one notable example, however, on July 19, the High Court convicted and sentenced police officers Daniel Kapambwe and Moses Chinga to six years' imprisonment for manslaughter in the September 2012 shooting of Wesley Mpundu.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

The constitution states that no person shall be subjected to torture or to inhuman or degrading punishment, but no laws specifically prohibit torture. There were reports that police frequently used excessive force, including torture, and cruel, inhuman, or degrading treatment when apprehending, interrogating, and detaining criminal suspects.

On January 29, David Zulu testified in the Kabwe High Court that he confessed to possession of a stolen cell phone only after police beat him.

On March 25, police at Mpulungu police station stripped suspects naked and paraded them in front of the police cells to ascertain whether some of the suspects had traditional charms on them.

On July 17, in Kalulushi, after observing that police ignored his complaint about a stolen mobile phone, James Chishimba informed police he felt unfairly treated. The police officers on duty, angered by Chishimba's remarks, beat and detained him. The officers injured Chishimba and later offered him a bribe of 2,000 Kwacha (\$368) to cover up the incident. Chishimba declined and sued for compensation. There were no investigations into these alleged police abuses during the year.

Officers who beat or otherwise abused suspects generally were not disciplined or arrested unless the abuses led to death and became public. In contrast with 2012, human rights groups received reports of police demanding sex from female

detainees as a condition of their release and of police officers who raped women and girls in their custody. On August 22, a police officer in Kitwe raped a suspect in detention. The officer later was arrested and remained in detention pending trial at year's end.

### **Prison and Detention Center Conditions**

Prison conditions were harsh and life threatening due to outbreaks of disease, food and potable water shortages, gross overcrowding, and poor sanitation and medical care. Delays in court proceedings caused by an inefficient judiciary contributed to the holding of large numbers of pretrial detainees for extended periods.

Physical Conditions: Prisons were congested. According to the Prisons Care and Counseling Association (PRISCCA), the country's prisons, which were built to hold 6,700 inmates, held approximately 17,000, of whom an estimated 6,000 were pretrial detainees. Approximately 3 percent of detainees were women, and 3 percent were juveniles, a significant decrease from 2012, when 18 percent were women and 10 percent juveniles. The decline in the number of female and juvenile detainees was attributed to pretrial nongovernmental organization (NGO) mediation, alternative sentencing, and presidential pardons.

On January 12, prisoners in the "condemned" section at Mukobeko Maximum Security Prison protested being kept in congested cells. Demanding to be executed if the situation could not be improved, the prisoners complained that seven or eight inmates were kept in rooms designed to hold two. On March 7, Lusaka Central Prison officer-in-charge Oliver Liseba revealed that the prison held 1,143 prisoners, although it was designed to accommodate 250. Juveniles often were held with adults and were victims of sexual abuse. Pretrial detainees were held with convicted prisoners. Women and men generally were held separately in the same prison.

By law police may detain suspects up to 48 hours in holding cells. The Zambia Prison Service operated 89 incarceration facilities nationwide, of which 54 were standard prisons, 33 were open-air prisons, and two were juvenile reformatories.

Overcrowding, poor sanitation, dilapidated infrastructure, inadequate and deficient medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of water-borne and food-borne diseases, including dysentery and cholera. HIV and tuberculosis remained rampant, with HIV prevalence rates in prison estimated at 27.4 percent, compared with 14.3 percent in the general

population. On September 22, female prisoners at Lusaka Central Prison complained to the Committee on African Parliamentarians about prison authorities who used the same pair of gloves to examine numerous prisoners' private parts during body cavity searches. Also on September 22, Chiefs and Traditional Affairs Minister Nkandu Luo, who led a delegation from the Committee on African Parliamentarians against HIV/AIDS, stated that the conditions at the Lusaka Central Prison were unhealthy and not conducive for human habitation.

Prisons generally had inadequate ventilation, temperature control, lighting, and basic and emergency medical care. 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. Prison officers-in-charge often arbitrarily prohibited family from providing additional food to prisoners. Psychiatric isolation facilities did not exist within prison facilities, according to PRISCCA. Prison deaths occurred as a result of these conditions.

According to an HRC report, on February 13, prison authorities at Mukobeko Maximum Security Prison shot teargas at prisoners in locked prison cells and then beat them. Although the Ministry of Home Affairs initially denied any beatings and deaths at the prison, private broadcaster Muvi Television submitted public evidence showing that eight prisoners died from beatings and suffocation.

Prison rules require prisoners receiving medical attention to be escorted by a prison officer. During the year the prison service recruited 623 prison officers, increasing the workforce from 1,800 to 2,423. Despite the increase in the number of prison officers, there remained insufficient numbers of prison officers to perform escort duty, so prisoners were routinely denied access to medical care.

The prison system employed two medical doctors; however, only one doctor provided services to all of the country's prison facilities during the year. The supply of tuberculosis drugs was erratic. Failure to remove or quarantine sick inmates resulted in the spread of tuberculosis and other airborne illnesses, leading to infection and death in prison populations.

Antiretroviral treatment was available to prisoners infected with HIV/AIDS, but poor nutrition often rendered the treatment ineffective. On June 21, Zambia Prison Service Commissioner Percy Chato acknowledged that the service was concerned about the increasing cases of same-sex sexual activity in prison. Because the law criminalizes sodomy, authorities denied prisoners access to condoms.

Discriminatory attitudes towards the most at-risk populations (sex workers and

men who have sex with men) continued to stifle the development of outreach and prevention services for these groups.

There were no prison facilities for breastfeeding and expectant mothers. Incarcerated women who had no alternative for childcare could choose to have their infants and children under the age of four with them in prison. Prisons provided no food or medical services to children, however, and mothers had to share their meager rations with their children in an environment lacking appropriate medical care, which often exposed children to disease. Women's organizations commended the president for prioritizing female inmates with infants when granting amnesty.

Administration: Recordkeeping was inadequate. The penal code provides for noncustodial sentencing, but only at judges' discretion. Judges handed down non-custodial sentences mostly to juvenile offenders. For example, on March 11, in place of detention, the Magistrate's Court in Mbala ordered six juveniles facing defilement charges to do community service for one month at the school where the offense was committed. There were no ombudsmen to promote the interests of inmates. Prisoners and detainees had regular access to visitors and were permitted religious observance. Although the government investigated and monitored prison and detention center conditions, it did not act significantly to improve detention center conditions. Prisoners and detainees generally could not submit complaints to judicial authorities or request investigation of credible allegations of inhumane conditions.

Monitoring: During the year the government permitted prison visits by both domestic and international NGOs, including by religious institutions.

Improvements: There were improvements in the handling of prisoners' affairs. The government marginally improved its prison capacity, opening one new prison facility, Mwembeshi B Maximum Security Prison, and splitting Kamfinsa Prison into male and female subunits. Overall, national prison capacity increased from 5,700 in 2012 to 6,700 during the year, according to PRISCCA. Specialized judicial research assistants were attached to every judge to expedite the dispensation of justice and the capacity of the prisons service was boosted with the recruitment of 623 new prison officers. NGOs took action to make typically paper-based court proceedings electronic to limit the chance that files would be lost. Judges also increasingly applied community service, fines, and other sentencing alternatives for minor offenses, especially for female and juvenile

detainees. Pretrial detention of juveniles was reduced by expedited reformatory placement.

#### **d. Arbitrary Arrest or Detention**

Although the constitution and law prohibit arbitrary arrest and detention, the government did not always respect these prohibitions.

#### **Role of the Police and Security Apparatus**

The Zambia Police Service (ZPS) reports to the Ministry of Home Affairs. Divided into regular and paramilitary units, the ZPS has primary responsibility for maintaining law and order. The Zambia Security and Intelligence Service, under the Office of the President, is responsible for intelligence and internal security. The Central Police Command in Lusaka oversees 10 provincial police divisions with jurisdiction over police stations in towns countrywide. Although the government identified a need for 27,000 police officers, there were only 16,783 police on duty as of April.

The defense forces, composed of the army, air force, and national service, totaled approximately 21,600 members. The commander of each service reports to the minister of defense. By law defense forces have domestic security responsibilities only in cases of national emergency. In addition to security responsibilities, the national service performs road maintenance and other public works projects and runs state farms for displaced children.

Paramilitary units of the ZPS, customs officers, and border patrol personnel watch over lake, river, and other border areas. The Drug Enforcement Commission (DEC) is responsible for enforcing the laws on illegal drugs, fraud, counterfeiting, and money laundering. The DEC, customs, and border patrol personnel also operate under the Ministry of Home Affairs.

Lack of professionalism, poor investigatory skills, and corruption--attributed to inadequate salaries, training, and equipment--remained serious problems. Police officers were poorly trained and ill equipped and did not exercise restraint on the use of force.

Civilian authorities maintained control over security forces. ZPS senior leadership, from the inspector general (the highest rank within ZPS) to the level of provincial commissioner, is appointed directly by the president.

The Police Public Complaints Authority (PPCA) encouraged aggrieved members of the public to report cases of human rights abuse by police. The PPCA reviewed complaints regarding police conduct that were not resolved through internal police channels. Many cases of abuse went unreported due to lack of public awareness of the PPCA and fear of retribution. Government investigation of corruption cases generally targeted leaders of the former ruling Movement for Multiparty Democracy (MMD), a move publicly perceived as politically motivated.

### **Arrest Procedures and Treatment While in Detention**

The constitution and law require authorities to obtain a warrant before arresting a person for most offenses. Police do not need a warrant when they suspect a person has committed offenses such as treason, sedition, defamation of the president, or unlawful assembly. Police rarely obtained warrants before making arrests.

Although the law requires that a detainee appear before a court within 24 hours of arrest, detainees routinely were held for much longer periods while prosecutors and officers collected additional evidence before presenting cases to a court. 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. Although the law obligates the government to provide an attorney to indigent persons who face serious charges, many indigent defendants received no legal counsel.

Although there was a functioning bail system, up to about 6,000 prisoners remained incarcerated without trial as of October, creating a massive administrative backlog in bail or bond cases. Prisons remained overcrowded, in part because defendants could not afford bail or were held for offenses for which bail was not authorized, including murder, aggravated robbery, and violations of narcotics laws. For those arrestees who could not afford legal fees, the government's legal aid office and the Legal Resources Foundation provided some with legal services.

Arbitrary Arrest: According to human rights groups, arbitrary arrest and detention remained problems. Police arbitrarily arrested family members of criminal suspects, often for questioning. Criminal suspects were arrested in many instances based on insubstantial evidence, uncorroborated accusations, or as a pretext for extortion. Police officials disciplined some officers for engaging in the extortion

of prisoners by suspending them or issuing written reprimands. Dismissals of officers for extortion were rare.

Police arbitrarily arrested opposition leaders. For example, on February 25, police detained 40 United Party for National Development (UPND) members, including members of parliament (MPs), in Livingstone. Police charged the 40 with the murder of Patriotic Front (PF) member Harrison Chanda during the campaign leading up to the Livingstone Central by-election. On March 11, police dropped all charges and released the detainees without explanation.

On July 25, police arrested and detained Andrew Banda, son of former president Rupiah Banda, for allegedly referring to President Sata as a “Satanist.” Police later released Banda without a clear explanation. On September 6 in Mkaika, Banda was attacked by PF “cadres” (young men armed with machetes, sticks, and axes). Police were present but did not prevent the attack.

The Public Order Act requires political parties to inform police of any planned rallies beforehand. Police often used the act to deny permits to opposition groups on the grounds of inadequate staff, after which police responded in force at rallies to arrest opposition leaders and their supporters. By contrast PF supporters, who sometimes were armed, often held rallies without submitting prior notification, and police seldom interfered.

Pretrial Detention: Prolonged pretrial detention was a problem. Approximately 35 percent of prison inmates were in pretrial detention, up from 30 percent in 2012. On average detainees spent an estimated two years in pretrial detention, which often exceeded the length of the prison sentence that corresponded to their alleged crime. Pretrial detainees often had little access to bail or bond proceedings, despite NGO efforts to make this relief available to them. In one effort to resolve a long-pending pretrial detention, the director of public prosecutions (DPP) ordered the release of Francis Mubanga, who had been in detention since 2008 without trial. Most detainees, however, did not receive such relief from the DPP or elsewhere. Broad rules of procedure gave wide latitude to prosecutors and defense attorneys to delay trials. Judicial inefficiency, lack of resources, and lack of trained personnel also contributed to prolonged pretrial detention.

Amnesty: On January 1, the president granted amnesty to 59 female prisoners. On May 25, African Freedom Day, the president granted amnesty to 615 additional prisoners. NGOs that worked on prison conditions asserted that the May 25 amnesty proceeding was designed to clear overcrowded prisons rather than to right

improper detention. On October 24, the president granted amnesty to 500 additional nonviolent prisoners as part of events to mark national independence day.

### **e. Denial of Fair Public Trial**

While the constitution and law provide for an independent judiciary, the government did not consistently respect judicial independence. The judicial system was hampered by inefficiency, corruption, and lack of resources. Police, the Joint Government Investigative Team, and the Immigration Department within the Ministry of Home Affairs did not always follow court orders. For example, on April 9, immigration authorities defied a court order allowing former president Rupiah Banda to travel to Kenya to attend Kenyan President Uhuru Kenyatta's inauguration. On June 7, immigration authorities refused to recognize another court order granting Banda permission to travel to South Africa to participate in the African Presidential Roundtable. Police also blocked opposition public rallies despite court orders restraining police from doing so. However, the courts made some judgments and rulings against the government. In several instances the courts awarded damages in cases of police and other security force abuse or unlawful arrest. These court rulings were honored.

### **Trial Procedures**

Defendants enjoyed the right to a presumption of innocence. They were, however, not always informed promptly and in detail of the charges against them. Trials were public but usually delayed. The law does not provide for trial by jury. Defendants enjoyed the right to consult with an attorney of their choice, to have adequate time to prepare a defense, and to confront or question witnesses against them, although they had limited access to government-held evidence. Many defendants could not afford an attorney. There were no reports of defendants being compelled to testify or confess guilt. Defendants had the right to appeal.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Complainants may seek redress for human rights abuses from the High Court. Individuals or organizations may seek civil remedies for human rights violations

and appeal court decisions to the African Court of Human Rights. There were no such appeals during the year.

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

The constitution and law prohibit such actions, but the government frequently did not respect these prohibitions. The law requires a search or arrest warrant before police may enter a home, except during a state of emergency or when police suspect a person has committed an offense such as treason, sedition, defamation of the president, or unlawful assembly. Police routinely entered homes without a warrant when one was otherwise required by law.

Domestic human rights groups reported that authorities routinely detained, interrogated, and physically abused family members or associates of criminal suspects to obtain their cooperation in identifying or locating the suspects.

For example, on July 12, police in Chongwe beat the father and brother of a man suspected of committing a crime. Police pulled the father's genitals and continually beat him and the suspect's brother, detained them at Chongwe police station, and demanded 25 Kwacha (\$4.60) for their release. Human rights groups reported in 2012 that LGBT individuals were at particular risk of police beatings and other abuse. Security forces also encouraged family members to "out" LGBT individuals and put them forward for arrest.

The law grants the DEC, the Zambia Security Intelligence Service (ZSIS), and police authority to monitor communications using wiretaps with a warrant issued on the basis of probable cause, and authorities generally respected this requirement. The government required that mobile phone service providers register all subscribers' SIM cards, claiming it would shut off service to unregistered mobile phones by December 31.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Speech and Press**

Although the constitution and law provide for freedom of speech and press, the law contains some provisions that the government used to restrict these freedoms.

Freedom of Speech: The government was sensitive to criticism by opposition leaders and their supporters and was quick to prosecute critics using the legal

pretext that they had defamed the president or had incited public disorder. For example, on January 17, police arrested opposition leader Hakainde Hichilema, citing defamation statutes after Hichilema criticized President Sata during a tour of a public market. Hichilema appeared before the court several times during the year, but was not under active court proceedings at year's end.

On June 12, PF supporters poured beer over prominent government critic Father Frank Bwalya as he was entering Flava FM radio studios for an interview. On September 23, police summoned MMD leader Nevers Mumba for allegedly insulting the president in a radio interview. There were other instances of PF supporters accosting government critics and attempting to prevent them from conducting radio interviews; police did not prevent the harassment. The government monitored opposition political meetings. President Sata stated that security services had "infiltrated" the UPND in September.

Press Freedoms: Two of the country's three most widely circulated newspapers were government-run, while the third was perceived by many to be progovernment. Opposition political parties and civil society organizations complained that the three newspapers did not report objectively, despite the occasional story that criticized the government.

In addition to a government-controlled radio station, numerous private radio stations, including community radio stations, broadcast largely without interference. The government revoked newly issued nationwide licenses for QFM and Radio Phoenix after President Sata dismissed a government official in October for issuing the licenses; the government claimed the stations gave the opposition too much coverage. Some local private stations broadcast call-in programs on which diverse and critical viewpoints were freely expressed.

The government-owned Zambia National Broadcasting Corporation was the principal local content television station. Privately owned and foreign-owned television stations also broadcast. International services were not restricted. One private television station gained coverage and viewership during the year, but the only station with national coverage was government-run.

Violence and Harassment: Although the government stated that it tolerated negative articles in newspapers, several journalists reported receiving threatening phone calls urging them not to print critical information. Police arrested journalists more frequently than in previous years. Progovernment political activists and state agents often subjected journalists to physical attack, harassment, and intimidation.

On July 9, police raided the residences of journalists Clayson Hamasaka and Thomas Zgambo, who they later detained on suspicion of possessing illegal drugs and “seditious” material (handwritten notes on President Sata’s biography). Police confiscated the journalists’ computers, but released Hamasaka on July 10 and Zgambo on July 11 without charge. Police later re-arrested Hamasaka and charged him with possession of “obscene” pictures. Zgambo also was re-arrested on a similar charge. Both were released on bail but continued to appear in court at year’s end. Opposition sources revealed that police suspected the journalists of running the *Zambian Watchdog*, an anonymous online news and opinion blog.

On July 16, police arrested Wilson Pondamali, charging him with illegal possession of a military document and theft of a local council book. According to media sources, police suspected Pondamali of being a key contributor to the *Zambian Watchdog*.

On December 11, police arrested Foundation for Democratic Progress (FODEP) Executive Director MacDonald Chipenzi, *Daily Nation* Managing Editor Paul Sakala, and another of the newspaper’s reporters for publishing a story on alleged secret recruitment of police outside the normal process. Police charged the three with publishing false information and held them for nearly two days, postponing bail procedures with what some observers perceived to be contrived bureaucratic delays. Trial proceedings had begun at year’s end.

Censorship or Content Restrictions: The government remained sensitive to media criticism. The Media Institute of Southern Africa (Zambia Chapter) criticized police in June for disregarding the 2010 Whistleblowers Act and attempting to censor journalists covering stories the government might perceive to be negative.

Libel Laws/National Security: Libel laws were used to suppress free speech and the press. On January 15, while in court for charges of issuing a statement likely to cause public alarm, police interrupted court proceedings and tried to arrest opposition leader Hakainde Hichilema for allegedly insulting President Sata. Police later arrested Hichilema and charged him with defamation for allegedly publishing a defamatory statement January 13 article in the *Daily Nation*.

On September 23, police summoned MMD leader Nevers Mumba for allegedly insulting the president in a radio interview.

## **Internet Freedom**

Although access generally was not restricted and individuals and groups could freely express their views via the internet, the government targeted and blocked some online publications. From June 24 to July 16, the government blocked access to the antigovernment online publication the *Zambian Watchdog* on all but one internet service provider (ISP). As of July 16, the *Zambian Watchdog* was no longer accessible from Zambia-based ISPs. The *Zambian Watchdog* relocated to a different domain name and continued to operate its Facebook page, which was accessible. Vice President Guy Scott acknowledged in the National Assembly on June 28 that the government restricted the website domestically. Officials arrested three suspected contributors to the *Zambian Watchdog*, Clayson Hamasaka, Thomas Zgambo, and Wilson Pondamali, and charged them with “possessing obscene material,” “possession of seditious material with intent to publish,” and “unlawful possession of a restricted military pamphlet,” respectively. Two other online blogs, *Zambia Reports* and *Barotse Reports*, were also blocked, although both were available on Facebook and through non-Zambian ISPs.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **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. 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 by law to decide when and where rallies may be held and who may address participants. The government used this mandate frequently to block meetings and public rallies of opposition political parties. Progovernment groups disrupted meetings and activities of opposition political parties and civil society organizations.

For example, on September 18, PF supporters blocked and beat opposition UPND leader Hakainde Hichilema in Kasama, Northern Province, as he traveled to meet a traditional leader. Despite confirmation from eyewitnesses and media sources, police claimed the beating did not happen.

On May 31, a group of suspected PF supporters entered a Lusaka church and assaulted religious leaders, journalists, and civil society members attending a peaceful prayer protest against the government's removal of subsidies on maize meal and fuel. A government official accused of sponsoring the violence attended a service at the church the next Sunday to apologize to the congregants and renounce the assailants as PF members. The official also made a monetary donation. Police stated that they had apprehended a suspect but did not provide further details.

There were cases of police violently dispersing protesters. For example, on May 17, police tear gassed peaceful University of Zambia students as they marched towards State House to complain about the government's decision to remove subsidies on maize meal and fuel. In August students from Copperbelt University were detained after peacefully marching through Kitwe to demand better housing.

### **Freedom of Association**

The law provides for freedom of association, but the government placed some limits on this right. All organizations must formally apply for registration to the Registrar of Societies in the Ministry of Home Affairs. The registration process was long and allowed the registrar considerable discretion. The government stated that as of September 12, a deadline later subsequently postponed to November 14, it would enforce the 2009 NGO Act that requires NGOs to register and allow government oversight of their operations. At year's end, however, the government again extended registrations under the act and remained in negotiations with NGOs on the act's implementation. Unlike in previous years, there were no known cases in which the registrar refused to register an organization. The registrar, however, attempted to deregister organizations critical of the government on the grounds that they failed to submit annual returns.

For example, in January, the prominent advocacy NGO FODEP received a warning of impending deregistration for nonpayment of dues. FODEP subsequently produced all relevant documentation validating its payment of annual returns and argued that the government attempt to deregister it was due to its work on governance issues. The registrar who pursued FODEP resigned during the year, and the new registrar did not pursue the matter.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

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

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

In-country Movement: The government intermittently limited in-country movement. Although police generally used roadblocks to control criminal activity, enforce customs and immigration, check drivers' documents, and inspect vehicles for safety compliance, there were reports police used roadblocks to limit participation in political gatherings. Police routinely extorted money and goods from motorists at roadblocks.

#### **Protection of Refugees**

Access to Asylum: According to the UNHCR, although the law provides for the granting of asylum or refugee status, it also gives the minister of home affairs wide discretion to deport refugees without appeal. The UNHCR reported that there were a total of 20,892 refugees, 29,835 people of concern (former refugees who lost their refugee status but still resided in Zambia), and 1,577 asylum seekers of various nationalities in the country at year's end. The two largest refugee settlements were Mayukwayukwa (10,925 refugees) and Meheba (18,225 refugees).

Refugee Abuse: According to the latest UNHCR Universal Periodic Review report to the Office of the High Commissioner for Human Rights, violence against girls and women--including defilement, rape, marriages of girls age 18 and under, and prostitution--continued to be a major problem affecting female asylum seekers and refugees in camps and among those residing independently, especially in urban areas. Gender inequality, economic dependence on men, and impunity of perpetrators were among the factors contributing to abuse. According to the report, girls reported sexual harassment by teachers in schools in refugee settlements.

Access to Basic Services: Although the government provided basic services to refugees, the law does not accord equal access to education. The government provided primary and secondary education in refugee settlements, however. In Meheba, with a population of 18,225 refugees, there were six government schools and nine schools run by local communities. In Mayukwayukwa, with a population of 10,925 refugees, there were two government and three community schools. The UNHCR provided textbooks and school supplies, but reported issues of absenteeism, especially when there were lapses in the school feeding program. Dropouts were also common among child-headed households and due to teen pregnancy. The Ministry of Home Affairs' Community Services Department attempted to help vulnerable refugees by providing skills training, supplementary feeding programs, shelter for the elderly, foster care, and back-to-school programs for unaccompanied minors. Refugees were provided regular access to police and to mobile court services two to four times per year. Refugees are required to obtain the government's permission to move or live outside refugee camps, which was frequently granted. Government policy limited refugees' legal employment options to refugee camps, unless refugees obtained specific government authorization to work outside camps.

Durable Solutions: The government, with the UNHCR, pursued local integration as a durable solution for thousands of Angolans and Rwandans. The government published criteria and procedures for local integration. Most of the categories for local integration were taken from Zambian immigration law and included children of a Zambian parent, foreigners married to Zambians, and holders of investment or employment permits. The government also created a category for refugees or children of refugees who arrived in the country between 1966 and 1986 and had lived continuously in the country for 20-30 years.

During the year 4,182 individuals were screened and determined eligible for local integration, and were pending final adjudication at year's end. The government made good progress providing local integration options to former Angolan refugees who lost their refugee status as of June 30, 2012, and former Rwandan refugees who lost their refugee status as of June 30, 2013. Immigration authorities allowed local integration screening processes to continue and did not seek to deport those who failed to qualify for local integration during the year. The Ministry of Home Affairs observed that most Rwandan refugees resisted repatriation, citing fear of persecution by their government, although an agreement for the voluntary repatriation of Rwandan refugees has existed since 2003. The UNHCR, with the International Organization for Migration, helped 335 Angolan

return home as of August. The UNHCR also referred several hundred refugees, mainly Congolese, for third country resettlement.

Temporary Protection: The government provided temporary protection to individuals who may not qualify as refugees, but frequently deported illegal immigrants. Provincial and district joint operations committees are responsible for establishing the identity of refugee status seekers and their reasons for leaving their country of origin. According to the Department of Immigration, the government intercepted several groups from the Horn of Africa at the border and within the country during the year. For example, on June 23, authorities intercepted and arrested 51 Ethiopian irregular immigrants in Muchinga Province near the border with Tanzania. No further information on the status of this case or the whereabouts of the Ethiopian detainees was available at year's end. Authorities attributed this case to human trafficking.

### **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 through periodic elections based on universal suffrage.

#### **Elections and Political Participation**

Recent Elections: In 2011 PF candidate Michael Chilufya Sata was elected president with 41.9 percent of the vote. Former president and MMD candidate Rupiah Banda received 35.4 percent, and UPND candidate Hakainde Hichilema received 18.2 percent of the vote. The seven other contenders each won less than 1 percent of the vote. Of the 150 constituency-based parliamentary seats, the PF won 60, the MMD 55, the UPND 28, and the Alliance for Democracy and Development and the Forum for Democracy and Development (FDD) one each. Three independent candidates were elected and two remaining seats were filled in November (one by the PF and one by the UPND).

Since 2011, 67 petitions challenging the parliamentary election results have been filed. The majority of the challenges allege corruption or other electoral malpractice. Of these 67 petitions, the PF challenged 55 seats while the opposition UPND petitioned eight seats, the MMD three seats, and another opposition party candidate one seat. At year's end the Supreme Court had nullified 11 MMD seats and two UPND seats, claiming corruption materially affected the outcome of the

original 2011 elections. The most recent Supreme Court decisions to nullify seats overturned previous High Court decisions to throw out the cases, and many observers believed the decisions were based on spurious grounds. Court decisions to nullify several of the seats cited modest contributions to a church and the practice common among all political parties of distributing traditional wraps (known as chitenge) with candidates' emblems on them as grounds for nullification. The courts did not nullify any of the PF seats. A total of 26 seats became vacant, with 11 subsequent by-elections held on March 14, April 23, June 20, July 25, and September 5. Of these 11 by-elections, the PF won eight, UPND two, and MMD one.

Opposition parties accused the PF of enticing opposition MPs to resign in order to win those seats in by-elections and to control parliament with a super-majority (two-thirds of all seats). Lending credence to the accusation, the PF secretary general admitted on a Muvi Television program that it was his duty to entice opposition parliamentarians to resign from their parties to join the PF, even if it meant having no remaining opposition MPs. Parliamentary by-elections resulting from court nullifications and defections of opposition MPs to the PF often were characterized by vote-buying, threats to withhold government development projects, intimidation, and physical violence.

NGOs accused the government of draining public resources, as each by-election cost an estimated almost 2.1 million Kwacha (\$400,000) in public funds. Opposition parties alleged that constant by-elections were designed to exhaust their financial resources and make it easier for the ruling party to win opposition-held seats.

Political Parties: Historically, political parties operated without restriction or outside interference, and individuals could independently run for office. The PF government, however, interfered with the operations of opposition political parties. Several MMD, UPND, and National Restoration Party officials faced police and legal harassment. Police arrested opposition officials, blocked public rallies, and dispersed participants in opposition political gatherings and public protests.

Participation of Women and Minorities: During the 2011 general elections, female candidates for parliament won 17 of 150 constituency-based seats. During the year a woman won an additional seat in a by-election. Four women were appointed to the 20-member cabinet and five to the 11-member Supreme Court. The vice president was from a minority group.

## Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for officials convicted of corruption, and the government attempted to enforce the law. It did not, however, enforce the law consistently, and officials often engaged in corrupt practices with impunity.

The government had a national anticorruption policy and a national anticorruption implementation plan that addressed issues such as resource mobilization, coordination of anticorruption programs in the public and private sectors, program monitoring and evaluation, and legal reform. The Anti-Corruption Commission (ACC), which reported directly to the president, was responsible for combating government corruption. In March 2012 the government reinstated the abuse of office clause of the Anticorruption Act, which the previous administration had removed. The government continued collaboration with the international community to improve capacity to investigate and prevent corruption. Parliamentary committees scrutinized operations of the executive branch and corrected some irregularities reported by the Office of the Auditor General. The ACC continued prosecutions and raising public awareness.

During the year the government took several positive measures to fight corruption. On September 22, officials announced the cancellation of a \$220 million tender on digital television migration, citing irregularities in the tender process. Opposition and civil society leaders had raised concern over corruption allegations in the tender, which was awarded to a Chinese company that submitted the highest of four bids.

Several former senior government officials were arrested in connection with allegations of corruption-related offenses. On January 9, police arrested Ronnie Shikapwasha, former minister of information and broadcasting services, for abuse of his office's authority. According to the charges, Shikapwasha allowed broadcasting of unlawful material that criticized then opposition PF leader Michael Sata.

The president dismissed and police arrested Clive Chirwa, the director of Zambia Railways, Ltd. on allegations of corruption. The ACC investigation of those allegations was underway at year's end. The president also dismissed Elijah Muchima from his position as deputy minister for lands, natural resources, and environmental protection on allegations that he diverted 900,000 Kwacha (\$165,000) from the Mwinilunga Civic Center for his personal use. Police arrested Muchima, and his case was pending trial at year's end.

In a report released in January covering the year 2011, the auditor general revealed financial irregularities in all ministries and foreign missions totaling 531 million Kwacha (\$98 million), which was more than twice the amount of financial irregularities reported in 2010. The irregularities included abuse of petty cash, unauthorized or wasteful expenditures, overpayments, and revenue that had not been properly accounted for.

Government controls over public funds and property were often inadequate. Some contracts were sole-sourced, in violation of tender procedures. Investigative units often lacked expertise, personnel, and authority. Investigators frequently demanded illicit payments in dealing with the public. In addition 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.

Petty corruption among police and other public authorities was particularly problematic. Police enjoyed a high degree of impunity and routinely extorted money at roadblocks, demanded gas money, borrowed bicycles (ostensibly to visit crime scenes or rescue victims of robberies), and sought payment for contrived document-processing fees. On September 20, the ACC arrested five police officers from the Chipata Central Police Station for soliciting more than 3,000 Kwacha (\$550) in bribes from a single roadblock and for illegally commandeering property. The police suspended the five officers, and ACC prosecution of the case continued at year's end.

Whistleblower Protection: The 2010 Whistleblower Act provides for the protection of all citizens who disclose information about illegality. In June the Media Institute of Southern Africa invoked the law to seek protection of a Muvi Television journalist whom police attempted to summon for disclosing alleged irregular promotions in the ZPS. The police dropped the summons.

Financial Disclosure: The law requires income and asset disclosure by a fraction of political officeholders and public servants. Some government departments and institutions like the Zambia Revenue Authority held integrity committees to enhance asset disclosure mechanisms within the workplace. In several institutions asset disclosure requirements were vague or inadequately enforced.

Public Access to Information: The law does not provide for public access to government information. Nonetheless, the government provided information to media and other interested parties, including foreign media, on an informal basis.

Despite earlier promises to do so, the government had not presented to parliament its proposed legislation protecting citizens' access to information by year's end. The government withheld information related to defense and the security forces 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 cooperative and responsive to their views.

UN and Other International Bodies: 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 and Commonwealth representatives and other organizations during the year. In March, after opposition leaders and civil society submitted a report of human rights abuses that occurred throughout the country in 2012, a team of Commonwealth representatives visited the country to investigate these claims. The government cooperated with this investigation. Some of the reported human rights abuses were alleged police brutality and violence towards the opposition and civil society, unlawful detention of opposition leaders, and the denial of the opposition's right to freedom of assembly and association.

Government Human Rights Bodies: The HRC, an independent body established by the constitution, monitored human rights conditions, interceded on behalf of persons whose rights it believed the government denied, and spoke on behalf of detainees and prisoners. The HRC cited inadequate government funding as a limitation to fulfilling its mandate. In an October report, the HRC identified eight outstanding human rights concerns: arbitrary killings by state agents, the increasing lack of the freedoms of assembly and of the press, rising cases of gender-based violence (GBV) and child defilement, poor prison conditions, prolonged detention and delayed court cases, violence during by-elections, perceived manipulation of the judiciary by the executive, and "induced" by-elections to garner numbers for ruling party. In November the minister of home affairs stated to parliament that the HRC would monitor discrimination against all minority populations, including LGBT individuals, marking the first time the government had made such a statement. The HRC and other independent human rights committees across the country enjoyed the government's cooperation

without substantial political interference; however, the government often failed to act to address the problems or concerns raised by the committees. The HRC attributed delays in publishing its annual human rights report to government bureaucracy.

## **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, and creed, but does not address discrimination based on sexual orientation or gender identity. The government did not effectively enforce the law. Violence and discrimination against women and children, discrimination based on sexual orientation or gender identity, and discrimination against persons with disabilities remained problematic

### **Women**

Rape and Domestic Violence: The law criminalizes rape, and courts have discretion to sentence convicted rapists to life imprisonment at hard labor. Rape was nonetheless widespread. The government increasingly enforced the law and obtained stiffer rape convictions. In August the Lusaka High Court sentenced Teddy Shikabita to 35 years' imprisonment for defiling a four-year-old girl. On the same day, the court sentenced a taxi driver to 15 years for raping a woman in Lusaka. The law does not prohibit spousal rape, and penal code provisions that criminalize rape do not extend to victims of spousal rape. Nevertheless, the law criminalizes domestic violence between spouses and among family members living in one home.

In the first half of the year, the police's Victim Support Unit (VSU) recorded 122 cases of rape. According to the VSU, the Young Women's Christian Association (YWCA), and other women's groups, however, this figure greatly underestimated the extent of the problem, as many rape victims did not report violations to authorities or settled by accepting financial compensation.

The law provides for prosecution of most gender-based crimes, and penalties for assault ranged from a fine to 25 years in prison, depending on the severity of injury and whether a weapon was used during the assault. Domestic violence against women was a serious problem and spousal abuse widespread. Zambia's first lady, Christine Kaseba-Sata, and the wife of the vice president, Charlotte Scott, were vocal advocates against GBV, as were several influential female ministers. The

government launched three projects during the year designed to prevent GBV and to support GBV survivors in 18 districts. The VSU was responsible for handling cases of domestic assault, wife beating, mistreatment of widows, and property expropriation (“grabbing”) by a deceased husband’s relatives. Police often were reluctant to pursue reports of domestic violence and preferred to encourage reconciliation. The law requires medical reports prepared by certified practitioners for prosecution of cases of violence against women (and also against men), but there were few certified practitioners in rural areas. The law provides for protection orders for victims of domestic and gender violence. Protection orders were issued and enforced.

Harmful Traditional Practices: Polygyny (where a man may have multiple wives) 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, declined significantly as a practice under customary law in rural areas where it originally had been practiced. Some local leaders banned the practice. The penal code prohibits “sexual cleansing” of girls under the age of 16.

Sexual Harassment: Sexual harassment was common. The penal code contains provisions under which some forms of sexual harassment of women may be prosecuted. For example, legal provisions that apply to breach of peace were used to prosecute perpetrators of sexual violence against women. In September 2012 police arrested former UPND youth leader Joe Kalusa for threatening to organize party youths to gang rape FDD leader Edith Nawakwi under the breach-of-peace provision of the law. While the magistrate court convicted Kalusa in February, the High Court dismissed the case on appeal in May.

Reproductive Rights: 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 and services, particularly in remote rural areas. Many women lacked access to contraception and skilled attendance during childbirth, including essential prenatal, obstetric, and postpartum care. According to the 2013 Millennium Development Goals (MDG) report, 38 women died each month due to complications relating to pregnancy and childbirth. A 2012 UN report estimated the maternal mortality rate at 441 deaths per 100,000 live births in 2010 and a woman’s lifetime risk of maternal death at one in 37. The major direct causes of maternal mortality were complications arising during pregnancy and birth, such as hemorrhage, septicemia (blood infection), obstructed labor, hypertensive conditions, and unsafe abortion. UN data from 2011 indicated that 27 percent of

girls and women between the ages of 15 and 49 used a modern method of contraception, and 47 percent of births were attended by skilled health personnel. Barriers that limited access to reproductive health services included limited information, inadequate staffing of rural clinics, lack of infrastructure and transport, cost, religious reasons, and myths surrounding contraceptive use.

The number of women who received HIV testing and treatment increased substantially in recent years, and many more women than men sought treatment.

Discrimination: The law generally entitles women to equality with men. Nevertheless, the government did not adequately enforce the law, and women experienced discrimination in employment, equal pay, education, inheritance, and ownership of land and other property. During the year the government ratified the Southern African Development Community Protocol on Gender and Development, which has 28 substantive targets for achieving gender equality by 2015. The YWCA and other women's groups commended the government and considered the ratification a positive step towards enhancing women's rights.

Although the Ministry of Lands, Natural Resources, and Environmental Protection set aside special land quotas for women to redress the imbalance in property ownership, women lacked adequate access to credit to acquire land or property. In most cases women remained dependent on their husbands or male members of their family to cosign for loans, although some financial institutions allowed women to sign independently for loans. Few women owned their own homes or businesses. The Ministry of Gender and Child Development (formerly the cabinet-level Gender in Development Division within the Presidency) is the primary agency charged with promoting the status of women. In 2012 the president appointed several women to high-profile positions, including Inspector General of Police Stella Libongani, Anticorruption Commissioner Rosewin Wandu, and Acting Chief Justice Lombe Phyllis Chibesakunda. During the year the president appointed more women to senior leadership positions, including HRC Director Florence Chibwasha, DEC Director Alita Mbahwe, and several provincial police commissioners.

Local customary law generally discriminates against women. Despite constitutional and legal protections, customary law subordinates women with respect to property ownership, inheritance, and marriage.

In patrilineal societies, customary law dictates that the right to inherit property rests with a deceased man's family. In the country's matrilineal societies, property

rights rest with the woman. Statutory law prescribes that a man's children equally share half of an estate, the widow 20 percent, other dependents 10 percent, and the deceased's parents 20 percent. In a polygynous marriage, a widow's share must be divided proportionally with other wives, based on the length of time each has stayed in the marriage. Property grabbing from widows remained widespread, particularly in rural areas. Courts generally considered property grabbing a criminal offense and mandated up to three years' imprisonment as punishment. Nevertheless, because of high legal costs and delays in adjudication due to an overloaded judicial system, most property-grabbing cases were settled by local customary courts, which do not have the power to impose prison sentences. With very few exceptions, most property grabbing cases revolved around family disputes. Fines imposed by customary courts were low.

## **Children**

Birth Registration: Citizenship is derived from one's parents or, with the exception of refugees, by birth within the country's territory. Failure to register births did not result in the denial of public services, such as education or health care, to children.

Education: Although government policy provides for tuition-free 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, but fewer girls attended secondary school.

Child Abuse: The punishment for assault causing bodily harm to a child is imprisonment for five to 10 years, and the law was generally enforced. For example, on March 6, the court sentenced Joseph Bwalya to 15 years in prison with hard labor for beating and injuring his child because the child did not cook for him. Although the law prohibits sexual harassment of children, child abuse and violence against children were common problems.

Forced and Early Marriage: A person must be at least 16 years old to marry under statutory law. There is no minimum age under customary law. First Lady Christine Kaseba-Sata and the Ministry of Chiefs and Traditional Affairs started an "End Early Marriages— Let Girls be Girls not Brides" campaign during the year. Several local leaders and organizations joined the campaign and took steps to discourage the practice. For example, the Nongovernmental Organization

Coordinating Council worked with traditional leaders in Mansa District to withdraw 27 girls from early marriages in April. According to the UN's 2013 MDG report on Zambia, more than 30 percent of girls ages 15 to 19 across the country had been pregnant or had a child. The rate was higher in rural areas.

Harmful Traditional Practices: The penal code prohibits female genital mutilation/cutting (FGM/C), and it rarely occurred. Although there were no cases reported during the year, it was believed to occur in small communities of immigrants from other parts of Africa. According to the 2009 Zambia Sexual Behavior Survey, the FGM/C prevalence rate was 1 percent.

Sexual Exploitation of Children: The law provides penalties of up to life imprisonment for statutory rape. The minimum age for consensual sex is 16. Defilement, which the law defines as the unlawful carnal knowledge of a child under the age of 16, was common. The law provides penalties of up to life imprisonment for persons convicted of defilement; the minimum penalty is 15 years in prison. The VSU recorded 1,017 defilement cases in the first two quarters of the year, compared with a total of 1,089 in 2012. In August University Teaching Hospital in Lusaka reported treating nearly 700 cases of defilement in the first eight months of the year. There were no statistics available on convictions for defilement.

The police and magistrates' courts intervened in cases of gross child abuse. The law criminalizes child prostitution and child pornography and provides for penalties of up to life imprisonment for perpetrators. The law provides that child prostitutes who are 12 and above may be charged and prosecuted. The laws were not enforced effectively, and child prostitution was common. Boys and girls were recruited into prostitution by women who formerly engaged in prostitution.

Displaced Children: A large number of children were displaced and institutionalized. Orphaned children faced greater risks of child abuse, sexual abuse, and child labor. According to the 2007 Zambian Demographic and Health Survey, an estimated four in 10 children under the age of 18 were not living with both parents, one in five was not living with either parent, and 15 percent were orphaned. An estimated 200 children's care homes accommodated approximately 5,000 children countrywide. According to Zambia Orphans of AIDS, the country had approximately 1.1 million orphaned children, most of them due to the loss of family members from HIV/AIDS.

Due to adult deaths related to HIV/AIDS and the breakdown of the family safety net in rural areas, a growing number of orphans migrated to urban areas, increasing the population of street children. According to UNICEF, there were 1.2 million orphans under the age of 15, of whom an estimated 20,000 worked and/or lived on the streets. In order to survive, many orphans engaged in various forms of work. Street children were especially vulnerable to commercial sexual exploitation, and the problem of child prostitution was growing.

The 2009 Boston University and University of Zambia joint study identified 292 organizations working with orphaned and vulnerable children. The most prevalent types of organizations were community-based organizations (37 percent), faith-based organizations (20 percent), and local NGOs (17 percent). The Ministry of Education, Science, Vocational Training, and Early Education; the Ministry of Community Development, Mother, and Child Health; and the police's Child Protection Unit worked jointly to identify and assist street children. The ministries' District Street Children Committee authorized the protection unit to reunite street children with their families and arrange for schooling and to place others, including orphans and neglected children, in shelters operated by the government and NGOs. The Ministry of Community Development, Mother, and Child Health, through the Department of Social Welfare, maintained several programs to prevent poverty and destitution for vulnerable families who might otherwise send minors into the streets to beg or work. These programs included the public welfare assistance scheme, the social cash transfer system, and the establishment of street children committees in selected districts identified as high-risk areas. In May the government announced that 52,422 people had benefited from the social cash transfer program.

The Ministry of Gender and Child Development continued its efforts to rehabilitate street children by providing education and vocational training at two converted Zambia National Service camps in Kitwe and Chipata. After the children graduated from the camps, the ministry placed the children in youth resource centers throughout the country where they received training in carpentry, tailoring, farming, and other trades.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

There were approximately 38 persons in the Jewish community and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The law prohibits discrimination in general, but no law specifically prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, air travel and other transportation, access to health care, and the provision of other government services. The Persons with Disabilities Act of 2012 mandates the Ministry of Community Development, Mother, and Child Health to oversee the government's implementation of policies that address general and specific needs of persons with disabilities in education, health care, access to physical infrastructure, electoral participation, and other areas. The Zambia Agency for Persons with Disabilities oversaw the act's implementation.

The country's active disability rights movement was led by an umbrella organization, the Zambia Federation of Disability Organizations, whose primary role was advocacy and awareness-raising. Organizations cited the lack of data and statistics on the number of persons with disabilities and types of disabilities as a major impediment to the inclusion of persons with disabilities in government programming and policy. Although the government did not restrict persons with physical or mental disabilities from voting or otherwise 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 Ministry of Education, Science, Vocational Training, and Early Education and the Ministry of Community Development, Mother, and Child Health have responsibility for ensuring the welfare of persons with disabilities. Public buildings, schools, and hospitals rarely had facilities to accommodate such persons. By law the government must provide reasonable accommodation for all persons with disabilities seeking education and ensure "any physical facility at any public educational institution is accessible." Five schools were designated for children

with disabilities. Some children with physical disabilities attended mainstream schools.

### **National/Racial/Ethnic Minorities**

The country's seven major ethnic/language groups--Bemba, Kaonde, Lozi, Lunda, Luvale, Ngoni, and Tonga--were divided into 73 ethnic subgroups. The government protected their civil and political rights, including rights under the law to share in revenue from the exploitation of natural resources on tribal lands of all ethnic groupings. The government generally permitted autonomy for ethnic minorities and encouraged the practice of local customary law. Some political parties maintained political and historical connections to tribal groups and promoted their interests.

The government grants special recognition to traditional leaders, including the Barotse Royal Establishment as the political authority of the Lozi ethnic group. The government does not recognize the 1964 Barotseland Agreement that granted the Lozi political autonomy and was signed by the United Kingdom, Northern Rhodesia, and the Barotse Royal Establishment immediately prior to the country's independence. Some Lozi groups continued to demand official recognition of the Barotseland Agreement or formal secession from Zambia.

On May 3, the Magistrates Court convicted and sentenced 17 Barotseland secessionists to six months' imprisonment for destroying copies of the draft constitution in September 2012. On August 14, a Barotseland secessionist group announced that it had formed an administrative government and unilaterally declared independence. Police arrested more than 70 of the activists and charged them with treason. On September 24, police also arrested and charged Clement Sinyinda, former ngambela (prime minister) of the Barotse Royal Establishment in connection with the secessionist group. During several appearances in district court, the Barotse activists told the court they were not Zambian citizens and could not be tried in Zambian courts. On November 2, the state withdrew charges against 31 of the activists. The 50 remaining detainees were released without charge on November 29.

The government was in conflict with the Bemba Royal Establishment. Despite presidential directives instructing traditional leaders not to name Henry Sosala as the Chitimukulu (paramount chief) of the Bemba-speaking people of Northern Province, the royal establishment did so. The royal establishment claimed the

government had interfered with its longstanding traditional customs of succession. The government refused to recognize Sosala.

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

The law criminalizes consensual same-sex sexual activity and provides penalties of 15 years' to life imprisonment for individuals who engage in "acts against the order of nature." A lesser charge of gross indecency carries penalties of up to 14 years' imprisonment. The government also used laws against "soliciting for immoral purpose" to arrest and charge some LGBT activists. The government enforced laws against same-sex sexual activity and advocacy with increasing frequency and ignored societal discrimination against LGBT individuals.

According to LGBT advocacy groups, societal violence occurred, as did societal discrimination in employment, housing, and access to education or health care. According to the VSU report for the first half of the year, there were 23 cases of "unnatural offenses," compared with 11 in 2012. Several groups quietly promoted LGBT rights and provided services to LGBT individuals, principally in the health sector. The groups held private social gatherings but did not participate in open demonstrations or marches due to societal stigma against LGBT persons.

Incidents of societal violence against LGBT individuals were more numerous. LGBT groups reported frequent attacks and discrimination in the neighborhoods in which they operated. Police occasionally arrested suspected LGBT individuals and forced some to receive anal examinations. On August 8, police arrested two men in Lusaka's Chilenje neighborhood on suspicion of engaging in same-sex sexual activity and subjected them to an involuntary anal examination. Police held the men in custody until their families posted bail on August 13 and 14, respectively. The men were charged with one count of committing "acts against the order of nature." There was no additional information available about their case at year's end. On April 25, police arrested two men in Kapiri Mposhi and charged them with four counts of engaging in same-sex sexual activity after a similar anal examination. The men remained in detention at year's end after the Kapiri Mposhi Magistrate's court denied bail requests, citing fears of "recidivism." On April 7, police arrested human rights and HIV/AIDS activist Paul Kasonkomona after he publicly advocated for LGBT and sex workers' rights on Muvi Television. Kasonkomona's trial also faced repeated delays and remained ongoing at year's end.

### **Other Societal Violence or Discrimination**

The government actively discouraged discrimination against persons with HIV/AIDS. Most employers adopted nondiscriminatory HIV/AIDS policies. Nevertheless, societal and employment discrimination against such individuals persisted. Government officials discouraged such discrimination, but they did not publicly acknowledge cases of HIV/AIDS among government officials. The government made some headway in changing entrenched attitudes of discrimination and denial of the problem.

According to the UN's 2011 Millennium Progress Report issued during the year, HIV/AIDS treatment coverage increased from 23.5 percent in 2005 to 77.6 percent in 2011, equivalent to over 450,000 people accessing antiretroviral treatment in 2011. This increased coverage had a significant impact on mortality among adults and resulted in an estimated 50,000 lives being saved in 2011. The report noted, however, that treatment mostly extended to adults, more females accessed treatment than males, and treatment coverage was higher in urban areas than in rural areas.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers, except for police officers and military personnel, to form and join independent unions, conduct legal strikes, and bargain collectively. The law allows workers to form and belong to trade unions of their choice without previous authorization or excessive requirements. The law also requires the registration of a trade union, which may take up to six months. The government has discretionary power to exclude certain categories of workers from the scope of the Industrial and Labor Relations (Amendment) Act No. 8 of 2008 (ILRA).

No organization may 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. The law provides that an employee can only become a member of "a trade union within the sector, trade, undertaking, establishment, or branch of activity." Unions may be deregistered under certain circumstances, but the law provides for notice, reconsideration, and right of appeal to an industrial relations court.

With the exception of workers engaged in a broadly defined range of essential services, the law provides the right to strike if recourse to all legal options is first exhausted. Essential service providers who are not permitted to strike include the defense forces and judiciary as well as police, prison, and ZSIS personnel. 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. The government has power to add other services to the list of essential services, in consultations with the tripartite consultative labor council. The process of exhausting the legal alternatives to a strike is lengthy. The law also limits the maximum duration of a strike to 14 days, after which, if the dispute remains unsolved, it is referred to the court. A strike can be discontinued if the court finds it not be “in the public interest.” Workers who engage in illegal strikes may be dismissed by employers.

The law does not limit the scope of collective bargaining, but it allows, in certain cases, either party to refer the dispute to court or arbitration. The law also allows for a maximum period of one year from the day on which the complaint is filed, within which a court must consider and issue its ruling.

The law also prohibits antiunion discrimination and employer interference in union functions, and it provides remedies for workers dismissed for union activity, including reinstatement of workers fired for union activity. Except for workers in the “essential services,” no other groups of workers were excluded from relevant legal protections. During the year the International Labor Organization (ILO) reported that most of the amendments to the ILRA proposed by the government in response to ILO recommendations had still not been taken into account during the labor law review process.

The government enforced the law prohibiting antiunion discrimination and employer interference in union functions.

Freedom of association and the right to collective bargaining were generally respected. The government generally protected unions’ right to conduct their activities without interference. All categories of workers except police and military were free to form or join unions. Domestic workers and shopkeepers were not unionized. Workers exercised most of these rights. Workers’ organizations were independent of government and political parties.

While the law provides for the right to strike, most unions chose to strike illegally to circumvent lengthy procedural requirements. The government applied laws

concerning strikes unevenly. For example, the government threatened a South African company with expulsion in October after it attempted to lay off workers protesting for higher wages and better treatment. On the other hand, when civil service nurses went on strike for a second time demanding higher wages in late November, the government responded by dismissing over 250 nurses.

The government took some steps to improve working conditions at Collum Coal Mine. In February the government seized the mine due to labor and safety violations.

In January two Chinese managers beat and injured Zambian workers who demanded to be paid their overdue wages at Mulungushi University in Central Province. Police arrested the Chinese employers.

The government increased the salaries of all civil servants in September and challenged the private sector to improve workers' conditions of service.

While the law provides that workers engaging in illegal strikes may be dismissed, the government at times intervened for political reasons when such dismissals occurred.

#### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. 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.

Information on government efforts to prevent and eliminate forced labor in the country during the year was not available.

Women and children from rural areas were exploited in urban domestic servitude and subjected to forced labor in the agricultural, textile, and construction sectors and in small businesses such as bakeries. While orphans and street children were the most vulnerable, children of well-off rural families sent to live in urban areas were also vulnerable to forced labor.

There were reports of Chinese, Indian, and Lebanese nationals in forced labor in textile factories and bakeries; of Chinese and Indian men recruited to work in Chinese or Indian-owned mines in Copperbelt Province, who were kept in

conditions of forced labor; and of migrants from Malawi and Mozambique, who were forced into labor or prostitution. Transnational labor trafficking through the country of Indians and Bangladeshis continued. The trafficking was linked to criminal groups based largely in South Africa.

There were reports of abuses in labor-intensive work, including domestic service, hospitality, and construction. Forced labor also occurred in agriculture and mining but was not common.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the employment of children at any commercial, agricultural, or domestic worksite or engaging a child in the worst forms of child labor as defined in international conventions. According to the Employment of Young Persons and Children Act, the minimum age for employment is 15, and for hazardous work, the minimum age is 18. Restrictions on child labor prohibit work that harms a child's health and development or that prejudices a child's attendance at school. The law also prohibits slavery and the procurement or offering of a child for illicit activities.

Child labor was a problem in agriculture, domestic service, construction, farming, transportation, prostitution, quarrying, mining, and other sectors where children under the age of 15 often were employed and the law was not always effectively enforced. The production of crops such as cotton, tobacco, maize, coffee, and sunflowers exposed children to dangerous pesticides, fertilizers, snake and other animal bites, and injuries from carrying heavy loads and using dangerous tools and machinery. According to the Zambia Labor Force Survey released in August 2011, more than one-third of children between the ages of seven and 14--or an estimated 950,000 children total--worked in 2008. Of those employed, approximately 92 percent worked in agriculture.

The Ministry of Labor and Social Security chaired the National Steering Committee on Child Labor, which was responsible for the implementation and enforcement of child labor laws and regulations. Penalties for violations range from a fine to 25 years' imprisonment, or both. Labor inspectors may enter homes and agricultural fields to check for violations of the child labor law.

While the labor commissioner effectively enforced minimum age requirements in the industrial sector, where there was little demand for child labor, minimum age standards were seldom enforced in the informal sector, particularly in mining, agriculture, and domestic service. Because more than 92 percent of child labor occurred in the agricultural sector, most often with the consent of families, inspectors from the Ministry of Labor and Social Security focused on counseling and educating families that employed children. Authorities did not refer any cases of child labor for prosecution during the year. Due to the scarcity of transportation, labor inspectors frequently found it difficult to conduct inspections in rural areas.

In cooperation with NGO partners, the government continued its efforts to remove children from abusive situations. There were no statistics regarding numbers of children withdrawn from abusive situations. Vulnerable children, mainly orphans, were placed in formal and transitional classes, while others were given vocational skills training. Local governments maintained district child labor committees to perform outreach, plan activities for vulnerable and working children, increase awareness of child labor laws and the harmful effects of child labor, mobilize communities to eliminate the worst forms of child labor, and monitor the implementation of child labor programs at the district and village levels. While the government continued to provide awareness and training activities for officials charged with enforcing child labor laws, the Ministry of Labor and Social Security reported that resource constraints prevented it from providing all required training. The government participated in several projects to combat child labor.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

In July 2012 the government revised minimum wage and conditions of employment acts for various categories of workers, following amendments to various statutory instruments. The government decided that all domestic workers would be paid not less than 520 Kwacha (\$96) while all shopkeepers would be paid not less than 1,000 Kwacha (\$184). In general, however, the law gives the Ministry of Labor and Social Security authority to set wages by sector. Otherwise, the minimum wage and conditions of employment were determined by the category of employment, and every employer negotiated with employees their standard minimum wage. In March the government announced it would devise specified minimum wages for every sector instead of leaving the task to individual

employers. Nevertheless, parts of the workforce, including foreign and migrant workers, are not covered by minimum wage and other provisions regarding acceptable conditions of work. For unionized workers, wage scales and maximum workweek hours were established through collective bargaining. Almost all unionized workers received salaries considerably higher than the nonunionized minimum wage. Most minimum wage earners supplemented their incomes through second jobs, subsistence farming, or reliance on extended family. The Ministry of Labor and Social Security is responsible for enforcing the minimum wage, and its inspectors received and resolved complaints. Employer compliance was still problematic, since some resisted government imposition of the minimum wage increases without stakeholder consultation during the year. The law requires equal pay for equal work.

According to the law, the normal workweek should not exceed 48 hours. The standard workweek is 40 hours for office workers and 45 hours for factory workers. There are limits on excessive compulsory overtime, depending on the category of work. The law provides for overtime pay. Employers must pay employees who work more than 48 hours (45 hours in some categories) in one week for overtime hours at a rate of one-and-a-half times the hourly rate. Workers receive double the rate of their hourly pay for work done on a Sunday or public holiday. The law requires that workers earn two days of annual leave per month without limit.

The law regulates minimum occupational safety and health standards in industry. City and district councils were responsible for enforcement. The inspector of factories under the minister of labor handled factory safety. The Ministry of Labor and Social Security conducted labor inspections during the year and ordered businesses to close when it found significant violations of labor laws.

The government enforced workweek standards but staffing shortages limited its effectiveness.

A 2012 Human Rights Watch (HRW) report on Chinese-run mines recorded notable improvements on reducing work hours and respecting freedom of association, but the miners continued to face poor health and safety conditions and threats by managers if they tried to assert their rights. Miners reportedly developed serious lung disease, such as silicosis, due to poor ventilation and constant exposure to dust and chemicals. Throughout the year the government engaged mining companies and took some steps to improve working conditions in the mines. Through its social welfare programs, the government provided social

security protection to some categories of vulnerable persons in the informal economy.

Despite legal protections, workers did not exercise the right to remove themselves from work situations that endangered their safety or health. According to the 2011 HRW report *You'll Be Fired If You Refuse*, mine supervisors forced miners to handle hazardous material without adequate protective clothing. Miners who refused to work in unsafe conditions were fired. In February the government revoked the operation licenses for Chinese-run Collum Coal Mine, citing poor safety and environmental compliance. The government acted when well-known occupational health problems existed, such as by requiring that underground mineworkers receive annual medical examinations. The 2012 HRW report noted the Ministry of Mines, Energy, and Water Development made little progress in 2012 in holding responsible the companies and managers who put miners in dangerous work situations. For example, workers and China Non-Ferrous Metal Mining Corporation officials reported that the ministry's Mines Safety Department infrequently performed safety inspections that should be routine under Zambian law. The report also noted that injuries and deaths were common at mines.