

# ZAMBIA 2022 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Zambia is a constitutional republic governed by a democratically elected president and a unicameral national assembly. In August 2021 the country held elections for president, national assembly seats, and local government. The United Party for National Development candidate Hakainde Hichilema won the election by a wide margin. Incumbent president and Patriotic Front candidate Edgar Chagwa Lungu conceded and facilitated a peaceful transition of presidential power. International and local observers deemed the election technically well-managed but cited several irregularities. The preelection period was marred by abuse of incumbency; restrictions on freedoms of expression, assembly, and movement; and partisan intolerance resulting in sporadic violence across the country. The results were deemed a credible reflection of votes cast, but media coverage, police actions, and legal restrictions heavily favored the ruling party and prevented the election from being genuinely free and fair.

The Police Service has primary responsibility for internal security and reports to the Ministry of Home Affairs and Internal Security. The military consists of the army, the air force, and the national service, under the Ministry of Defense. The commanders of each respective service, however, are appointed by and report directly to the president. The military has some domestic security responsibilities in cases of national emergency. Civilian authorities generally maintained effective control over the security forces. Members of the internal security forces committed numerous abuses.

Significant human rights issues included credible reports of: unlawful or arbitrary killings, including extrajudicial killings; torture and cruel, inhuman, or degrading treatment or punishment by the government; harsh and life-threatening prison conditions; serious restrictions on freedom of expression and media, including violence and threats of violence against journalists, censorship, or enforcement of or threat to enforce criminal libel laws to limit expression; substantial interference with the rights of freedom of assembly and association; serious government corruption; and the existence and enforcement of laws criminalizing consensual

same-sex sexual conduct between adults.

The government took steps to investigate and prosecute perpetrators of human rights abuses. Nevertheless, impunity for excessive use of force by law enforcement agencies, particularly police, remained a problem. The government also took steps to identify, investigate, prosecute, and punish officials for corruption, although impunity remained widespread.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

The country's Human Rights Commission (HRC) has the mandate to investigate reports of extrajudicial killings and other human rights violations. The Police Service has the mandate both to investigate and prosecute such matters, under the authority of the Director of Public Prosecutions. There were reports that some government agents used excessive force and committed arbitrary and unlawful killings. On June 2, police shot and killed Noble Mulenga, a day laborer at the Kateshi Coffee plantation in Kasama, during a worker protest. Mulenga was among plantation workers who were demanding a salary increase and improved working conditions when police reportedly fired live ammunition at the protestors.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution prohibits cruel, inhuman, or degrading treatment or punishment, but no law specifically addresses torture. According to the HRC, torture remained prevalent, and police reportedly tortured suspects in detention facilities. On February 20, police detained and reportedly tortured former President Lungu's barber Shabby Chilekwa for allegedly killing a rival United Party for National Development (UPND) cadre during the 2019 parliamentary by-election campaigns

in Kaoma in Western Province. Chilekwa's lawyer alleged police and UPND cadres (unemployed youth used for political party mobilization) tortured Chilekwa, causing hearing impairment that required medical care. The HRC could not verify the alleged torture due to lack of police cooperation. Chilekwa's case was still pending final determination at year's end (see section 1.d.). In addition, in June a video appeared in social media showing armed and uniformed army personnel slapping handcuffed youths for allegedly defaming the president. Military authorities initially justified the action, but later launched an investigation into the incident after a public outcry and demands from the HRC and other watchdog institutions.

There were no notable specific reports of impunity during the year, but it remained a problem. According to the HRC, three factors contributed to impunity among police officers. First, no serious sanctions or punishments were meted out to officers who committed abuses. Second, there was little public condemnation of police abuse of suspects, which the HRC said continued to occur. Finally, there were insufficient legal safeguards against torture, including a lack of antitorture legislation.

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

Physical conditions in prisons and detention centers remained harsh and life threatening due to overcrowding, frequent outbreaks of disease, food and potable water shortages, poor sanitation, and inadequate medical care.

**Abusive Physical Conditions:** Gross overcrowding in prisons and other detention facilities remained a problem. The state-run *Times of Zambia* reported, based on November data, that authorities held 24,000 inmates in facilities designed for 9,150 persons. According to the Prisons Care and Counseling Association (PRISCCA), congestion was caused mainly by a slow and highly centralized judicial system, outdated laws, and increased incarceration due to a high number of prosecutions of petty offenses. Other factors included limitations on magistrate powers to impose noncustodial sentences, a retributive police culture, and poor bail and bonding conditions. A shortage of high court judges in the country's six provinces delayed the execution of magistrate orders to transfer juveniles from adult facilities to reformatories.

Although the law requires separation of different categories of prisoners, the HRC reported some correctional facilities did not strictly follow separation guidelines, and only gender separation was routinely practiced. There was no total separation of juveniles from adult prisoners at pretrial level. Although most correctional facilities had isolation cells for juveniles, total separation holding cells were nonexistent, the PRISCCA reported. Incarcerated women who had no alternative for childcare could choose to have their infants and children younger than age four with them in prison.

Inadequate ventilation, temperature control, lighting, and basic and emergency medical care remained problems. Many prisons had deficient medical facilities, and women inmates had limited access to gynecological care. The prison healthcare system remained understaffed. Lack of potable water resulted in serious outbreaks of waterborne and foodborne diseases, including dysentery and cholera. Failure to remove or quarantine sick inmates resulted in the spread of tuberculosis and other illnesses. The incidence of tuberculosis remained high due to overcrowding, poor sanitation, lack of compulsory testing, and prisoner transfers. The supply of tuberculosis medication and other essential drugs was erratic. According to the PRISCCA and the HRC, prison food was meager and nutritionally inadequate, and prisoners noted insufficient bedding (blankets and mattresses) and poor sanitation.

The HRC and the PRISCCA expressed concern at the lack of isolation facilities for the sick and for persons with psychiatric conditions. Although prisoners infected with HIV were able to access antiretroviral treatment services within prison healthcare facilities, their special dietary needs and those of persons under treatment for tuberculosis were inadequately met. Prisons also failed to address adequately the needs of persons with disabilities.

**Administration:** A formal mechanism to investigate allegations of prisoner mistreatment existed through the Police Public Complaints Commission.

**Independent Monitoring:** The government permitted prison monitoring by the HRC, independent local and international nongovernmental organizations (NGOs), and religious institutions.

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

The law prohibits arbitrary arrest and detention. It also provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. Although the government generally observed these requirements, there were frequent reports of arbitrary arrests and detentions and excessive use of force by police, including in civil disputes. Police often prevented detainees from filing challenges to prolonged detention.

#### **Arrest Procedures and Treatment of Detainees**

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

Although the law requires that detainees appear before a court within 24 to 48 hours of arrest and be informed of the charges against them, the HRC reported that authorities routinely held detainees for as long as six months before trial. The HRC noted this abuse remained particularly common in rural districts where subordinate courts operated in circuits and detainees could be tried only when a circuit court judge was in the district.

Based on a constitutional presumption of innocence, the law provides for bail in most cases. Bail is not granted for persons charged with murder, aggravated robbery, narcotics violations, espionage, or treason. Before granting bail, courts often required at least one employed person, usually a government employee, to vouch for the detainee.

Detainees generally did not have prompt access to a lawyer. Although the law obligates the government to provide an attorney to indigent persons who face serious charges, many defendants were unaware of this right. The government's Legal Aid Board provided legal services to some indigent arrestees but did not have the resources to fully meet demand.

**Arbitrary Arrest:** According to human rights groups, arbitrary arrests and detention continued. Police often arrested and detained suspects for questioning

without promptly charging them. For example, on September 1, police in Lusaka arrested and detained opposition Patriots for Economic Progress party leader Sean Tembo for several days and denied him bond before formally charging him with hate speech. Police explained in a public statement that the delay was due to the unavailability of Tembo's lawyer after Tembo's insistence that he could only be charged in the presence of his lawyer. The HRC called the detention a violation of Tembo's right to liberty and protection of the law.

**Pretrial Detention:** Prolonged pretrial detention, including that of irregular migrants awaiting trial or removal, continued to be a problem, according to NGOs. On average, detainees spent an estimated six months in pretrial detention, which often exceeded the maximum length of the prison sentence for the detainee's alleged crime. Contributing factors included inability to meet bail requirements, some offenses being nonbailable, trial delays, judges working on a circuit court basis, and trial continuances due to absent prosecutors and witnesses. In August lawyers representing former opposition party Patriotic Front (PF) Deputy Secretary General Mumbi Phiri and her co-accused, Shabby Chilekwa, protested their seven-month detention without charge. The two were arrested in February and eventually charged with the murder of a UPND cadre during the 2019 parliamentary by-election campaigns in Kaoma in Western Province. In October prosecutors presented their case which at year's end remained adjourned pending final verdict.

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

The constitution provides for an independent judiciary. While the government largely refrained from direct interference, the Ministry of Finance and National Planning's control of the judiciary's budget continued to limit judicial independence. In most cases authorities respected court orders.

### **Trial Procedures**

The constitution provides for the right to a fair and public trial. While the law provides the right to a presumption of innocence, to be informed promptly of charges, and to be present at a fair and timely trial, these rights were not consistently protected. There were reports of lengthy detentions without trial and defendants who were not informed promptly of charges against them, and the

overburdened and insufficiently resourced judicial system led to lengthy and delayed trial procedures. Courts rarely provided indigent defendants with an attorney at state expense despite a legal requirement to do so. Interpretation services in local languages were available in most cases.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

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

Although individuals or organizations may seek redress for human rights abuses from the High Court, lack of access to affordable or pro bono legal services prevented many persons from exercising this right.

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

The constitution and law prohibit such actions. 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, defaming the president, or unlawful assembly. There were no reports that government authorities entered homes without judicial or other appropriate authorization. The law grants authority to the Drug Enforcement Commission, the Security and Intelligence Service, and police to monitor communications using wiretaps with a judicial warrant based on probable cause; authorities generally respected this requirement. The government required cell phone service providers to register all subscriber identity module (SIM) cards.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

Although the constitution and law provide for freedom of expression, including for members of the press and other media, they permit restrictions of these fundamental rights and freedoms in certain circumstances. In particular, the law

allows restrictions on freedom of expression in the interests of national defense, public safety, public order, and public health, or for the purpose of protecting the reputations, rights, and freedoms of others and maintaining the authority and independence of the courts.

**Freedom of Expression:** The government showed high levels of sensitivity to criticism, particularly from political opposition figures, and restricted the ability of individuals to criticize it freely or discuss matters of public interest. The opposition contended that, despite improvements, government-run media did not report objectively.

**Violence and Harassment:** According to the NGO Governance, Elections, Advocacy, and Research Services (GEARS) and other watchdog organizations, independent media did not operate freely due to intimidation by authorities. While the government broadly tolerated negative articles in newspapers and magazines, there were reports that government officials and members of the ruling party harassed journalists and used threats to intimidate independent media.

In January private television station KBN-TV released a leaked audio recording of a telephone conversation between President Hichilema's political advisor Levy Ngoma and Ministry of Home Affairs and Internal Security Permanent Secretary Josephs Akafumba in which they plotted to use state institutions to undermine an opposition party ahead of a parliamentary by-election, with Ngoma suggesting the scheme was sanctioned by Hichilema and Vice President Mutale Nalumango. Authorities initially claimed the audio was fake and reportedly accused journalists of having tapped the pair's telephones. Subsequently, police summoned KBN-TV station manager Petty Chanda and interrogated her regarding the alleged offense of "destroying evidence." Although police did not arrest Chanda, the NGO Chapter One Foundation stated the incident undermined press freedom and the privacy rights of media employees.

In February, ruling UPND party parliamentarian Heartson Mabeta threatened *News Diggers* – an influential and popular private newspaper – with closure after it published a story citing UPND Secretary General Batuke Imenda as saying his party, which was elected on a campaign promise of job creation, did not sign contracts with anyone to promise them employment. Imenda's statement attracted



a significant backlash from the public. In response, Mabeta accused *News Diggers* of malice and warned that the newspaper risked being shut down in the same manner that *The Post* – another independent newspaper – had been closed during the Lungu administration.

According to Chapter One Foundation and other NGOs, some radio stations experienced political pressure under the new administration and ruling party cadres. For example, on October 2, a Chipata-based journalist from 3FM Radio Station was reportedly harassed, assaulted, and threatened by ruling UPND party cadres on his way home from work for alleging the minister of agriculture had misled parliament. Separately, on November 4 ruling party cadres reportedly forced their way into the studio of PASME radio during a live broadcast and assaulted the broadcaster.

**Censorship or Content Restrictions for Members of the Press and Other Media, including Online Media:** The government showed high sensitivity to media criticism. There were reports that the government indirectly censored publications or threatened publishers, civil society watchdog institutions reported. According to Chapter One Foundation, the government restricted media through the state-run Independent Broadcasting Authority. In addition, GEARS alleged that private media dependence on government advertisements and public media reliance on government funding made media self-censorship inevitable.

**Libel/Slander Laws:** The government used a colonial-era law on defamation of the president to arrest numerous individuals who criticized the government in a manner deemed derogatory, and to restrict public discussion or retaliate against political opponents. President Hichilema announced December 23 that the government had repealed this law. Prior to the announcement, at least 13 persons were arrested and charged with defamation of the president and other related offenses during the year. For example, on April 21 and immediately after the inspector general of police had issued a statement warning the public against abusing freedom of expression, police arrested several individuals and charged them with defamation of the president and other related offenses. Police subsequently arrested Andsen Zulu and charged him with defamation of the president for allegedly calling the president “a member of the anti-Christ.” A court convicted and sentenced Zulu to one year imprisonment on his own admission of

the offense. In May police arrested evangelist Benson Tembo and charged him with defamation of the president for allegedly calling the president a “satanist.” In August, Tembo was convicted and sentenced to 15 months’ imprisonment.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content. Following a consent decree between Chapter One Foundation and the Zambia Information and Communications Technology Authority (ZICTA) in April, ZICTA was ordered to desist from disrupting internet access and to inform the public of the cause of any interruptions to internet access within 36 hours of such interruption. This followed a 2021 lawsuit by Chapter One Foundation when the Lungu administration restricted access to certain social media platforms, including WhatsApp, Facebook, Twitter, and Messenger, which were main sources of information and means of communication for most citizens, especially youth, during the 2021 elections. Access to all platforms was restored in August 2021 after the High Court issued an injunction.

## **b. Freedoms of Peaceful Assembly and Association**

The government at times restricted the rights of peaceful assembly and association, while generally respecting these rights.

### **Freedom of Peaceful Assembly**

The constitution provides for the right of freedom of peaceful assembly; however, the government restricted this right. The law does not require protesters to have a permit, but it obliges them to notify police of any planned protest or assembly, and police may stop a peaceful protest when they are not notified. On February 21, police in Lusaka blocked a peaceful protest by unemployed medical doctors who were seeking an audience with the president concerning the recruitment of health personnel in the public service. In May police also arrested and detained members of the Resident Doctors Association during their peaceful demonstration against the government’s nonpayment of their salary arrears, allowances, and other claims.

In July the government conducted a cleanup exercise of Lusaka’s Central Business District ahead of the African Union (AU) midyear coordination meeting in Lusaka.

During the operation, police destroyed mobile phone booths, a source of income for many unemployed youths. When the youths and the opposition Socialist Party announced plans for a peaceful protest during the AU summit, Minister of Home Affairs and Internal Security Jack Mwiimbu forestalled such plans by warning that any attempts to disturb the AU meetings would be dealt with harshly.

### **Freedom of Association**

The constitution provides for freedom of association. While the government generally respected the right to freedom of association, it retained some limits on this right through various mechanisms. The law requires all organizations to apply for registration with the Ministry of Community Development and Social Services and comply with other requirements, such as the filing of annual returns and disclosure of funding sources, but the law was loosely enforced. The registration process is stringent and lengthy and gives the ministry considerable discretion. The law places restrictions on funding from foreign sources. For this reason, donors, including some UN agencies, required all organizations to register before receiving funding. According to GEARS, the space for governance NGOs to engage with cooperating partners was more open, cordial, and free of political interference than in years past.

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

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement and the Right to Leave the Country**

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

### **e. Protection of Refugees**

Through the Office of the Commissioner for Refugees, 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,

returning refugees, asylum seekers, and other persons of concern.

**Access to Asylum:** The law provides for the granting of asylum or refugee status, and the government has a system for providing protection to refugees. The law gives the minister of home affairs wide discretion to deport refugees without appeal or to deny asylum to applicants having asylum status in other countries; however, there were no reported cases of asylum denial to applicants having asylum status in other countries or of refugee deportation.

**Freedom of Movement:** The country practices a settlement policy and facilitates the movement of asylum seekers, refugees, and other persons of concern within the country despite maintaining a formal encampment policy.

**Employment:** The law requires refugees to obtain work permits before they may engage in employment, including self-employment activities. Issuance of employment permits is subject to normal immigration procedures, including a government policy that requires the immigration department to ascertain that there is no qualified and available citizen to perform the job.

**Access to Basic Services:** The government provided basic social services including education and health care to refugees without discrimination. The government provided primary and secondary education in refugee settlements, and secondary school for refugees living in urban areas, but it required a student permit and the payment of school fees.

**Durable Solutions:** The government promoted safe voluntary return, third-country resettlement, and local integration of refugees. UNHCR reported that in recent years the government issued residence permits to refugees with Angolan and Rwandan passports and offered them land as part of a local integration program. The inability to secure passports and the cost of residency permits limited the ability of former refugees to participate in local integration efforts.

**Temporary Protection:** The government continued to provide temporary protection to stateless persons. The Office of the Commissioner for Refugees reported that, as of August 31, the government had granted protection to 4,981 asylum seekers awaiting status determination.

## **f. Status and Treatment of Internally Displaced Persons**

There were not large numbers of internally displaced persons. The government promoted the safe resettlement of the few groups displaced for construction or other government-sanctioned activities. In September media reported the case of seven decomposed bodies of unidentified males believed to be of Somali origin found in Nakonde district. The circumstances under which they died remained unclear and investigations were underway at year's end.

## **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

**Recent Elections:** The most recent national elections were held in August 2021, marking the country's third peaceful transition of power since the 1991 reintroduction of multiparty politics. They consisted of four separate ballots for president, members of parliament, mayors, and local councilors. UPND presidential candidate Hakainde Hichilema won a landslide victory with 59 percent of the vote. Incumbent president and PF candidate Edgar Lungu received 38.7 percent, and 14 other candidates received a combined 2.3 percent of the vote. The presidential election was conducted under a majoritarian electoral system requiring a candidate to receive more than 50 percent of votes to avoid a second-round runoff.

The preelection period was marred by abuse of incumbency; restrictions on freedoms of expression, assembly, and movement; and partisan intolerance resulting in sporadic violence across the country. Although the results were deemed a credible reflection of votes cast, media coverage, police actions, and legal restrictions heavily favored the ruling party and prevented the election from being genuinely free and fair. Notable problems included burdensome national voter registration time limitations and lack of transparency in procedures, including poor access for observers; opaque and inconsistent application of the electoral law;

and late changes to accreditation procedures, including new requirements imposed without prior consultation, which election experts and civil society observers assessed did not meet international standards for electoral process management.

Election observers and monitors reported the election results management process complied with transparency requirements at the polling stations and the election was relatively peaceful.

**Political Parties and Political Participation:** Since the reintroduction of multiparty democracy, political parties have largely operated without restriction or outside interference, and individuals have been able to run independently for office. In two recent by-elections, domestic observers reported that political parties were allowed to campaign freely, and the law was not used to prevent them from doing so. Campaigns were nearly violence-free, apart from three incidents in Kabwata. Candidates of both the opposition and the ruling party in the mayoral elections distributed small amounts of money. There were no reports of misuse of public funds or programs, but the government amplified announcements of new measures to be introduced by the government, including fuel price reduction. Membership in, or affiliation with, the ruling party often conferred privileges such as jobs in the civil and diplomatic services, parastatal companies, and state-owned enterprises.

**Participation of Women and Members of Minority Groups:** There are no laws preventing women or members of historically marginalized groups from voting, running for office, serving as electoral monitors, or otherwise participating in political life on the same basis as men or nonminority citizens, and women and members of minority groups did so. Nevertheless, observers reported that traditional and cultural factors prevented women from participating in political life on the same basis as men. The constitutional requirement of a high school education to qualify as a candidate for election to public office had the effect of disqualifying many woman candidates because they often were unable to complete secondary school due to traditional or cultural factors such as early marriage.

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

## Government

The law provides criminal penalties for officials convicted of corruption. The government attempted to enforce the law but did so inconsistently. There were numerous reports of government corruption.

The maximum punishment for corruption offenses is 14 years' imprisonment, but there is no minimum prescribed punishment. According to Transparency International Zambia (TIZ), this has resulted in courts giving custodial sentences that did not reflect the gravity of the alleged corruption offense committed. The law also provides for declaration of assets by members of parliament and ministers when entering and leaving public office, but there is no subsidiary legislation providing for sanctions for breach or for failure to declare assets. There is no verification system, and asset data were not available to the public. Other senior public officials, including permanent secretaries, heads of state-owned enterprises, and officials involved in public procurement are not required to declare. Although some institutions have institutionalized mechanisms for asset declaration, no one has ever been sanctioned for failure to declare, TIZ reported. Although the government collaborated with the international community and civil society organizations to improve capacity to investigate and prevent corruption, anticorruption NGOs observed the enforcement rate was low among senior government officials and civil service, and there was concern that the corruption fight was focused primarily on corrupt practices of the previous administration.

**Corruption:** The most serious allegations related to ownership of properties reasonably suspected to be proceeds of crime, embezzlement, and abuse of authority among former senior government officials.

There were also reports of corruption in the sitting administration. For example, there were allegations of corruption in fertilizer procurement by the Ministry of Agriculture, the procurement of 75 motor bikes by the Ministry of Community Development and Social Services at a total cost of 9,885,010 New Kwacha (\$588,000), and the issuance of mining licenses by the Ministry of Mines and Minerals Development involving the sitting administration, TIZ reported. In July President Hichilema fired the Ministry of Health's Permanent Secretary George Magwende, ostensibly over a corrupt tender involving the construction of seven

prefabricated COVID-19 isolation hospitals in Lusaka worth nearly \$100 million, which was signed by the previous administration in 2020 but never executed. According to media, officials of the Attorney General's Office and the Treasury had signed off on the legality and financial feasibility of the tender.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government consistently provided operational space for special envoys to monitor human rights and continued to cooperate with ongoing periodic reviews regarding human rights.

**Government Human Rights Bodies:** The HRC is an independent body established by the constitution to contribute to the promotion and protection of human rights in the country. The HRC monitored human rights conditions, interceded on behalf of persons whose rights it believed the government denied, and spoke on behalf of detainees and prisoners.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** The law criminalizes rape of women and men, and courts have discretion to sentence convicted rapists to life imprisonment with hard labor. The law does not include provisions for spousal rape. The law criminalizes domestic violence between spouses and among family members living in the same home. The law provides for prosecution of most crimes of gender-based violence, and penalties for conviction range from a fine to 25 years' imprisonment, depending on the severity of injury and whether a weapon was used. The law provides for protection orders for survivors of domestic violence and gender-based violence, and such orders were issued and enforced. Despite this legal framework, rape remained widespread. Although the law criminalizes rape and domestic



violence, the government did not consistently enforce the law.

To address gender-based violence, the government engaged traditional marriage counselors on gender-based violence and women's rights in collaboration with NGOs. The government and the Young Women's Christian Association (YWCA) worked to address these problems through community sensitization campaigns, shelters, toll-free lines, and one-stop centers where survivors accessed counseling and legal support services. Trained police officers in the Victim Support Unit (VSU) supplemented these efforts. Other efforts to combat and reduce gender-based violence included curriculum development for police training, roadshows to sensitize the public concerning gender-based violence, and instruction on how to file complaints and present evidence against perpetrators.

A gender-based violence information management system in the government's Central Statistics Office strengthened monitoring and reporting of cases of gender-based violence. The system, which allowed for effective and comprehensive reporting of gender-based violence and improved support, including legal services, social, economic, and overall national planning, has increased the number of reported cases. According to the VSU, 7,589 cases of gender-based violence had been reported as of September 30, of which 1,910 involved children.

Human rights-focused NGOs observed that the country's dual system of customary and statutory law made it difficult to combat and deter injustices against women.

**Female Genital Mutilation/Cutting (FGM/C):** The law prohibits FGM/C for women and girls. The NGO Women and Law in Southern Africa and other human rights-focused NGOs reported that labia elongation (the practice of pulling the labia to effect elongation) was widely practiced. There were indications the incidence rate was declining, especially in urban areas.

**Sexual Harassment:** Sexual harassment remained a problem, and the government took few steps to prosecute abusers during the year. Although the law contains provisions under which some forms of sexual harassment of women may be prosecuted, the provisions are inadequate to protect women effectively from sexual harassment. The NGO Gender Organizations' Coordinating Council received many reports of sexual harassment in the workplace but noted stringent evidence

requirements often prevented survivors from filing charges against their harassers. Family pressure on survivors to withdraw complaints, especially when perpetrators were also family members, also hampered prosecution.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Many women lacked access to contraception and skilled attendance during childbirth, including essential prenatal, intrapartum, and postpartum care. Barriers to accessing reproductive health services included misinformation and misconceptions regarding contraceptive use as well as inadequate reproductive health infrastructure, including insufficient skilled health care providers, communication, and referral systems. These barriers were greatest in remote, hard-to-reach rural areas, contributing to significant inequalities in access to and availability of maternal and reproductive services. Barriers to accessing postabortion care included lack of information and inadequate sensitization on the existence of services, limited resources to provide such services, and inadequate skilled staff, infrastructure, equipment, and commodities.

In collaboration with the UN Joint Program on Gender-based Violence, the government provided survivors of sexual violence access to sexual and reproductive health services. Although emergency contraception was available, government service delivery points did not stock it due to funding gaps in the procurement process and the stigma associated with getting the commodity in public health centers. There was, however, an increased use of emergency contraception in private health centers.

The maternal mortality ratio was 278 deaths per 100,000 live births in 2018. The three major causes of maternal mortality were postpartum hemorrhage, hypertensive disorders, and septicemia. According to the *Zambia 2018 Demographic and Health Survey*, the latest information available, 80 percent of childbirths were assisted by a skilled provider, the pregnancy rate for girls and women between ages 15 and 19 was 29 percent, and the median age of having the first child was 19, indicating limited contraceptive use among teenagers.

Access to menstrual health and hygiene remained limited due to inadequate

knowledge and poverty resulting in inadequate funds to purchase menstrual hygiene products. Teen pregnancy also remained a barrier to education, but, under the government's reentry policy, girls who drop out of school due to pregnancy are readmitted into school after delivery (see section 6, Children, Education).

**Discrimination:** In contrast to customary law, the constitution and other laws provide for the same legal status and rights for women as for men, including under family, labor, property, and nationality laws. The government did not adequately enforce the law, and women experienced discrimination, including in employment and occupation (see section 7.d.). Customary land tenure and patriarchal systems continued to discriminate against women seeking to own land, thus restricting women's access to credit, as they lacked the collateral that land ownership provides.

## **Systemic Racial or Ethnic Violence and Discrimination**

The law prohibits any form of discrimination including on ethnicity, and there were no reports of violence or discrimination based on ethnicity. The government generally permitted autonomy for ethnic minorities and encouraged the practice of local customary law.

## **Children**

In August parliament passed a new law harmonizing different child-related laws into a single comprehensive code.

**Birth Registration:** Citizenship is derived from one's parents or, except for refugees, by birth within the country's territory. Birth registration was neither denied nor provided on a discriminatory basis. Failure to register births did not result in the denial of public services such as education or health care to children, and there were no differences in birth registration policies and procedures between girls and boys. Birth registration rates remained low, at 11 percent of children younger than age five, UNICEF reported. Both state and nonstate institutions accepted alternative documents to access basic services. The government issued 2,895 birth certificates to residents of the Meheba and Mayukwayukwa Refugee Settlements.

**Education:** Although the law provides for free and compulsory education for children of “school-going age,” it neither sets a specific age nor defines what is meant by “school-going age.” These omissions left children particularly vulnerable to child labor (see section 7.b.). The numbers of girls and boys in primary school were approximately equal, but only 37 percent of children who completed secondary school were girls (see also section 6, Women, Reproductive Rights).

**Child Abuse:** The punishment for conviction of causing bodily harm to a child is five to 10 years’ imprisonment, and the law was generally enforced. The new children’s code introduced measures to prevent and enable early responses to any form of violence against children. The code mandates all organizations directly interacting with children without parental presence to implement policies safeguarding children.

**Child, Early, and Forced Marriage:** The new children’s code prohibits child marriages (those contracted by children under the age 18) and practices that undermine a child’s development, such as female genital mutilation. It further introduces child protection procedures for all services and organizations working with children to ensure that children have channels to report cases of physical, sexual, or emotional abuse.

**Sexual Exploitation of Children:** The minimum age for consensual sexual relations is 16. The law provides penalties of up to life imprisonment for conviction of statutory rape or defilement, which the law defines as the unlawful carnal knowledge of a child younger than age 16. The minimum penalty for a conviction of defilement is 15 years’ imprisonment. The new children’s code criminalizes sexual abuse or sexual exploitation of children, exploitation of children in commercial sex, and exposing children to obscene or pornographic material.

The law criminalizes sex trafficking of children and child pornography and provides for penalties of up to life imprisonment for convicted perpetrators. The government enforced the law effectively. Following amendments this year to the trafficking-in-persons law, demonstration of threats, force, intimidation, or other forms of coercion is no longer required to constitute a child sex-trafficking offense.

The law requires prosecution of perpetrators, and referral to care for survivors of sex trafficking.

According to UNICEF, transactional sexual exploitation, defined as engaging in sexual activity in exchange for basic needs such as food, clothes, or shelter, remained prevalent among extremely vulnerable girls. As of September 30, the YWCA recorded a total of 71 cases of sexual violence against children younger than age 18, out of whom 16 were abused by their fathers, 20 by their uncles, 13 by their grandfathers, and the remainder by other male family members.

## **Antisemitism**

There were fewer than 500 persons in the Jewish community, and there were no known reports of antisemitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics**

**Criminalization:** The law criminalizes consensual same-sex sexual conduct, and penalties for conviction of engaging in “acts against the order of nature” are 15 years’ to life imprisonment. Conviction of the lesser charge of “gross indecency” carries a penalty of up to 14 years’ imprisonment. The government continued to ignore calls to recognize and protect the human rights of lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons. There were no credible efforts to rescind discriminatory laws that targeted LGBTQI+ persons. According to LGBTQI+ groups, when police arrested or detained their members, they often threatened to charge them under other laws to extort bribes from them in exchange for their release.

**Violence against LGBTQI+ Persons:** There were no credible reports that police or other government agents incited, perpetrated, condoned, or tolerated violence

against LGBTQI+ persons or those reporting such abuses. Government, politicians, media figures, and religious leaders regularly used inflammatory public rhetoric to express opposition to basic protections and human rights for LGBTQI+ persons and same-sex marriage, resulting in a spike in hate speech, threats, and assaults by members of the public. For example, on May 30, President Hichilema said publicly his administration did not support LGBTQI+ rights. On September 19, Hichilema reiterated his opposition to LGBTQI+ rights. “Our position on this issue has been very clear and consistent from our days in opposition,” he said in a Facebook post. In a September pastoral letter, Lusaka Roman Catholic Archbishop Alick Banda expressed concern regarding the “increase in the number of incidents and events that promote LGBTQI+ tendencies contrary to the laws of Zambia and Zambian culture.” Banda criticized the government and law enforcement agencies for being lax in enforcing criminal laws against LGBTQI+ practices, which he said were “offensive” to the country’s cultural and Christian values. A group of junior resident doctors led by former Resident Doctors Association President Brian Sampa held a peaceful protest and demanded zero tolerance for homosexuality.

Societal violence against LGBTQI+ persons continued. LGBTQI+ groups reported frequent harassment of LGBTQI+ persons and their families, including threats via text message and email, vandalism, stalking, and outright violence against individuals perceived to be LGBTQI+ and entities perceived as providing healthcare services to them.

**Discrimination:** According to LGBTQI+ advocacy groups, healthcare providers in public health institutions discriminated against LGBTQI+ persons, and the government took no actions against such injustices or to sensitize healthcare providers to LGBTQI+ rights. These groups also reported discrimination in employment and housing.

**Availability of Legal Gender Recognition:** Legal gender recognition was not available, and there were no reports that the government allowed individuals to change their gender identity marker on legal and identifying documents to bring them into alignment with their gender identity.

**Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals:** There were no reports of forced or coercive

medical practices, but there were several reports of “forced spiritual exorcism of the ‘homosexual spirit.’” For example, the Women’s Alliance for Equality (WAFE) reported they received information about six cases of forced exorcism during the year which involved “families taking their children for prayer for them to change.” Additionally, the NGO Transbantu and the Southern Africa Litigation Centre reported that “many” LGBTQI+ individuals in Zambia experienced forced exorcisms.

### **Restrictions of Freedom of Expression, Association, or Peaceful Assembly:**

Although there is no specific law restricting freedom of expression, association, or peaceful assembly for members of the LGBTQI+ community, there were reports of self-censorship and an intentional reduction of gatherings due to fear of retaliation or persecution. For example, WAFE reported the country’s LGBTQI+ community postponed their annual Pride events “due to the ban on the homosexuality movement” and instead resorted to holding smaller, more discrete events.

### **Persons with Disabilities**

Persons with disabilities could not access education, health services, public buildings, and transportation on an equal basis with others. The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, transportation, access to health care, and the provision of other government services. According to the Zambia Agency for Persons with Disabilities (ZAPD), the government did not enforce the law. The government provided information and communication on disability concerns in accessible formats. Lack of accessibility in public transportation and infrastructure and information access remained a problem. Public buildings, including schools, prisons, and hospitals, rarely had facilities to accommodate persons with disabilities.

The Ministry of Community Development and Social Services oversees the government’s implementation of policies that address general and specific needs of persons with disabilities in education, health care, buildings access, and electoral participation. A lack of consolidated and disaggregated data remained a major impediment to the inclusion of persons with disabilities in government programming and policy.

By law the government must provide reasonable accommodations for all persons with disabilities seeking education, and that “any physical facility at any public educational institution be accessible.” Persons with disabilities had limited access to education and correspondingly low literacy levels. Five schools were designated for children with disabilities. Some children with physical disabilities attended mainstream schools, but long distances to school restricted others from accessing education. According to ZAPD, three types of education systems were accessible to children with disabilities: segregated education (special schools), integrated education (special units), and inclusive education. Most children with disabilities attended special schools, while the rest attended special units. There were 150 schools practicing inclusive education in selected provinces.

Persons with disabilities also faced significant societal discrimination in employment (see section 7.d.). The government developed and promoted employment recruitment strategies for persons with disabilities seeking to enter the civil service and offered a university student loan program to students with disabilities.

While the government did not restrict persons with physical or mental disabilities from voting or otherwise participating in most civic affairs, progress in facilitating their participation remained slow. According to observers, most polling stations were not accessible to persons with disabilities. For example, of the 965 polling stations observed, 354 were not accessible to persons with disabilities. During the August 2021 elections, information on voter registration and elections was accessible and the government provided ballots in braille or digitally accessible formats.

## **Other Societal Violence or Discrimination**

The government actively discouraged discrimination against persons with HIV and AIDS. Most employers adopted nondiscriminatory HIV and AIDS workplace policies. Training the public sector, including the judiciary, on the rights of persons with HIV and AIDS increased public awareness and acceptance, but societal and employment discrimination against such individuals persisted. The government continued to make slow progress in changing entrenched attitudes of discrimination against persons with HIV and AIDS.



## **Section 7. Worker Rights**

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

The law provides for the right of most workers to form and join independent unions, conduct legal strikes, bargain collectively, and seek election for any leadership position or appointment as an officer in trade unions. Statutory restrictions regulate these rights. The government has discretionary power to exclude certain categories of workers from unionizing, including prison staff, judges, court registrars, magistrates, and local court justices. The law also requires the registration of a trade union with the Ministry of Labour and Social Security (Ministry of Labour), which may take up to six months. The ministry has the power to refuse official registration on arbitrary or ambiguous grounds. The law provides the labor commissioner with authority to deny registration of a trade union if it is determined to be prejudicial to national security interests, or if the trade union's objectives contradict the purpose for which it was formed. The law prescribes stringent fines for officers of the trade union that partake in union activities before a trade union is fully registered.

Trade union membership is limited to individuals within the sector in which the union is registered. The labor commissioner has authority to monitor the accounts of trade unions and recommend dissolution of trade union boards if the union has violated the law or is dormant. The law provides the labor commissioner with authority to appoint an interim committee to oversee the operations of a trade union. If trade union registration is cancelled or denied, the law limits officers of that union from holding union position, unless cleared by the labor commissioner. The law sets requirements for collecting union membership fees and obligates trade unions to notify the labor commissioner in case they receive any material, technical, or financial assistance from outside sources. Managerial and supervisory staff are prohibited from joining trade unions.

No organization may be registered as a trade union unless its application is signed by at least 50 employees or a lesser number as may be prescribed by the Minister of Labour and Social Security. With some exceptions, a trade union may not 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, but

the law provides for notice, reconsideration, and right of appeal to an industrial relations court.

The government, through the Ministry of Labour, brokers labor disputes between employers and employees. Casualization and unjustifiable termination of employment contracts are illegal. The law defines a casual employee as one engaged for less than a day.

In cases involving the unjustified dismissal of employees, the Ministry of Labour settles disputes through social dialogue, and any unresolved cases are sent to the Industrial Relations Division of the High Court. Penalties were not commensurate with those for other similar violations. The law also provides a platform for employers, workers, and government to discuss matters of mutual interest through the Tripartite Consultative Labor Council.

The law provides for collective bargaining. In certain cases, however, either party may refer a labor dispute to a court or for arbitration. The law also imposes a three-month time frame for concluding a collective bargaining agreement, which is counted from the start of negotiations, failure of which results in fines against the trade union officers involved in the negotiations. The law obligates employers to bargain in good faith, but also provides employers with the option of referring disputes to court for binding determination. The law provides the labor minister with authority to approve the collective bargaining agreements before they become binding. The law excludes managerial and supervisory personnel from being represented in collective bargaining agreements. The International Labor Organization raised concerns the law did not require the consent of both parties involved in the dispute for arbitration. The law also allows for a maximum period of one year for a court to consider the complaint and issue a ruling. The parties to the collective agreement must conclude negotiations within three months or face fines. Collective bargaining agreements must be filed with the commissioner and approved by the minister before becoming binding on the signatory parties.

Except for workers engaged in a broadly defined range of essential services, the law provides for the right to strike once all legal options are exhausted. The law defines essential services as fire departments, the mining sector, sewage removal, and any activity relating to the generation, supply, or distribution of electricity and

water. Employees in the defense force and judiciary as well as police, prison, and intelligence service personnel are considered essential. Essential employees do not have the right to strike; disputes involving workers engaged in essential services are referred directly to the Industrial Relations Division of the High Court. The process of exhausting the legal alternatives to a strike is lengthy. The law also requires a union to notify employers 10 days in advance of strike action and limits the maximum duration of a strike to 14 days. According to the Zambia Congress of Trade Unions (ZCTU), this process is “too lengthy, requires declaration of a dispute, mediation process, litigation, and finally, members must take a vote on whether to strike or not.” This makes it “almost impossible” to have a legal strike in the country, the ZCTU reported.

If a dispute remains unresolved, it is referred to the court. The government may stop a strike if the court finds it is not “in the public interest.” Workers who engage in illegal strikes may be dismissed by employers. The law prohibits antiunion discrimination and employer interference in union functions, and it provides for reinstatement and other remedies for workers fired for union activity. Except for workers in “essential services,” no other groups of workers are excluded from relevant legal protections. The law covers workers in the informal sector but is seldom applied. The government did not effectively enforce the law. Penalties for employers were not commensurate with those for similar violations. Penalties were rarely applied against violators. According to ZCTU, there were noticeable abuses targeting union leaders and members.

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

The law prohibits and criminalizes 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 war, national emergencies, or disasters. The government also may require citizens to perform labor associated with traditional, civil, or communal obligations. Disobeying a lawful order or command to perform labor in such instances is an offense punishable by up to two years of imprisonment.

Penalties for conviction of forced labor violations range from a fine, up to two years’ imprisonment, or both. Penalties were not commensurate with those for similar violations, such as kidnapping. Penalties were rarely applied against

violators.

The government did not investigate cases of forced labor in the year. According to ZCTU, there was no standard system for collecting data on forced labor.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>

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

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>, and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

### **d. Discrimination with Respect to Employment and Occupation**

The employment code prohibits employment discrimination based on race, religion, national origin, color, sex, ethnicity, disability, age, or refugee status but does not specifically prohibit such discrimination based on HIV and AIDS status, sexual orientation, or gender identity. Different companies had policies that protected individuals with HIV and AIDS. Although the employment code provides for maternity leave, it requires a worker be continuously employed for two years before being eligible for such leave. Some NGOs warned the code was likely to have a negative impact on women because potential employers would see hiring them as a financial risk, since the increased maternity leave allowance provides for up to 14 weeks with full pay. The law prohibits termination or imposition of any penalty or disadvantage to an employee due to pregnancy.

Women's wages were lower than men's for equivalent work, and training opportunities were less available for women. Women were much less likely to occupy managerial positions. Persons with disabilities also faced significant societal discrimination in employment, education, and access to the workplace.

The government did not effectively enforce laws against discrimination in employment and occupation. Penalties were rarely applied against violators. The Ministry of Labour did not record any reports of discrimination in, or barriers to,

employment based on race, religion, national origin, color, sex or gender identity, HIV or AIDS status, or refugee or stateless status. Undocumented migrant workers are not protected by the law and faced discrimination in wages and working conditions.

### **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The law allows the Ministry of Labour to set minimum wages by sector; the category of employment determines the minimum wage and conditions of employment. Except for an updated minimum wage order for truck and bus drivers, minimum wages were last revised in 2019 and were at the official poverty income level. Before an employee starts working, or when the nature of employment changes, an employer is required to explain employee conditions of employment, including regarding wages. For unionized workers, wage scales and maximum workweek hours were established through collective bargaining and regulation. Almost all unionized workers received salaries considerably higher than the nonunionized minimum wage.

The law provides for a workweek of no more than 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 that employees who work more than 48 hours in one week (45 hours in some categories) be paid 1.5 times the regular hourly rate for overtime hours. 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.

**Occupational Safety and Health:** The law regulates minimum occupational safety and health (OSH) standards in industry and the government effectively enforced regulations. The Ministry of Labour undertook 2,900 OSH inspections countrywide. The Department of Occupational Safety and Health under the Ministry of Labour has the mandate to enforce OSH laws. Other government institutions with responsibility to enforce OSH laws are the Institute of Occupational Safety and Health and the Environmental Management Agency.

**Wage, Hour, and OSH Enforcement:** Penalties for violations of wage and hour

laws were commensurate with those for similar violations. The government sometimes applied penalties against violators. The government effectively enforced minimum wages and overtime laws through contracts attestation and labor dispute resolutions. According to the ZCTU, however, the government did not adequately enforce the minimum wage and overtime laws due to limited capacity. High unemployment made workers hesitant to report cases to the ministry.

Penalties for OSH violations were commensurate with crimes such as negligence. The government rarely applied penalties against violators.

**Informal Sector:** The government reported this year that most informal-sector workers, accounting for 70 percent of a total workforce of three million workers, worked in agriculture, forestry, mining, wholesale and retail trade, and motor vehicle repair. Labor laws, including the Employment Code Act, apply to the informal sector, but they were rarely enforced. Informal-sector workers are also excluded from the social insurance system unless they have previously held mandatory coverage for at least 60 months. According to the National Pension Scheme Authority, only 40,000 out of the two million informal sector workers were covered under the scheme as of December 6.