



RULING BY FEAR AND REPRESSION

THE RESTRICTION OF FREEDOM OF EXPRESSION,
ASSOCIATION AND ASSEMBLY IN ZAMBIA

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Cover photo: A police officer gestures towards supporters of the opposition party, United Party for National Development (UPND), on December 23, 2020. ©SALIM DAWOOD/AFP via Getty Images

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EXECUTIVE SUMMARY

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On 23 September 2011, the then main opposition Patriotic Front (PF) was declared the winner of Zambia's general election. This followed the defeat of the governing Movement for Multiparty Democracy (MMD) which had been in power since 1991 when it triumphed against the nationalist United National Independence Party (UNIP) led by Zambia's founding president, Kenneth Kaunda. Throughout its decade in opposition politics, the PF had committed itself to upholding human rights. However, throughout the PF's rule in the preceding decade, particularly during the last five years, Zambia's human rights situation has taken a deteriorating trend. People have increasingly been unable to assemble publicly, engage in public demonstrations or protest against government actions they see as illegitimate for fear, among other things, of police violence, arbitrary arrests, detention and repression. Criticism of senior government leaders or against government policies and decisions is frowned upon by authorities and often accompanied by threats of arrest – or even threats to the critics' lives. Fearful of reprisals, many people and the media have resorted to silence and self-censorship. Public meetings by political opposition and civil society are largely restricted on the grounds of public security or health. A number of critical media outlets have been shut down by the government over the last five years. The consequence of this persistent disregard for human rights by the authorities has been the creation of a general climate of fear and repression.

METHODOLOGY

This report is based on several sources, including interviews with 40 individuals representing victims of human rights violations, government officials and representatives of political parties, civil society organisations, and media outlets. Before and after conducting interviews, Amnesty International undertook desk research and examined newspaper accounts and official documents, where these were available, as well as secondary publications including journal articles and books. The report highlights four key rights that have been consistently undermined over the preceding ten years. These include the right to freedom of expression, association, peaceful assembly, and life.

SUPPRESSION OF FREEDOM OF EXPRESSION

In the past five years, there has been a systematic erosion of the freedom of expression. The State has mainly used the law to criminalise peaceful dissent and a wide range of offences including criminal defamation, incitement of public disorder and sedition have been brought against government critics. This is illustrated by the arrest of two opposition leaders in separate incidences for questioning certain government decisions. In July 2017, President of the United Progressive People (UPP) Party of Zambia Saviour Chishimba was arrested on a charge of criminal libel after he criticised President Edgar Lungu's decision to invoke a state of emergency to deal with acts of arson in the capital, Lusaka. Two years later, Patriots for Economic Progress (PEP) leader Sean Tembo was arrested on a charge of defamation for questioning the mental state of the President over the decision to purchase a US\$400 million Gulfstream jet for presidential use at a time when the country faced serious fiscal challenges.

CRACKDOWN ON MEDIA FREEDOM

The past decade has also seen the closure of leading private media outlets by the government. In June 2016, The Post newspaper, Zambia's leading private daily since 1991, was forcibly shut down and placed in liquidation over a disputed tax debt. More recently, in April 2020, the government revoked the broadcasting license of Prime Television, Zambia's leading private station since 2013, using a state institution, the Independent Broadcasting Authority (IBA). No specific reasons were given for the move, but the IBA stated that the action had been taken in the public interest, pursuant to the IBA (Amendment) Act of 2010 that empowers the body to 'cancel a broadcasting licence in the interest of public safety, security, peace, welfare, or good order.' Both The Post newspaper and Prime Television served as leading independent media houses championing the truth and exposing abuse of power by elected authorities.

VIOLATION OF THE RIGHT TO PEACEFUL ASSEMBLY

Despite the fact that the right to peaceful assembly is guaranteed by Article 21 of the Constitution of Zambia, over the last few years, the authorities have consistently undermined the right to peaceful assembly through the use of the Public Order Act (POA). Since 2016 in particular, Zambian authorities have invoked the POA and used tactics of intimidation and harassment to restrict people's right to peaceful protests and assemblies.



© SALIM DAWOOD/AFP via Getty Images

Police officers patrol the streets as supporters of the opposition United Party for National Development (UPND) protest outside the Lusaka Police Force headquarters in Lusaka, Zambia, on December 23, 2020.

VIOLATION OF THE RIGHT TO LIFE

The right to life is guaranteed by Article 12 of Zambia's Constitution, however, this provision has been violated as a number of people have been unlawfully and arbitrarily killed mainly by State officials and supporters of the PF. While Zambia's Human Rights Commission has investigated and found police culpability in respect of some cases of death at the hands of the police. The authorities have hardly prosecuted those responsible and not made information regarding police accountability in such cases publicly available. The failure by the State to promptly, thoroughly, impartially, independently and transparently to investigate cases of unlawful or arbitrary killing and to bring to justice suspected perpetrators constitutes a violation of the right to life.

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CURTAILING FREEDOM OF ASSOCIATION

Guaranteed by Zambia's Constitution, the right to freedom of association continues to be eroded. Since the 2011 election, the authorities have employed a series of legal instruments to undermine the right to freedom of association, resulting in the cancellation of organisations' registrations, especially political parties and trade unions. In March 2012, the Registrar of Societies deregistered the then main opposition party, the MMD arguing that it had not paid its registration fees amounting to US\$75,000 since 1993. The decision was only overturned months later by the High Court. In 2018 and 2019, the government attempted to deregister another two opposition parties, the Democratic Party (DP) and National Democratic Congress (NDC) whose respective leaders were both former cabinet ministers in the PF government. More recently, in February 2020, the government cancelled the recognition agreement between the University of Zambia management and the University of Zambia Lecturers and Researchers Union (UNZALARU). Although the decision did not cancel the registration of the trade union, the decision in effect meant that UNZALARU which had been sharply critical of the government's lack of adequate support towards the country's leading public university, could no longer formally represent its over 800 members.

CONCLUSION

The erosion of human rights in Zambia has worsened over the last ten years. In the words of Laura Miti, one of Zambia's foremost rights activists,

“What we are seeing in the country right now is an environment in which there is [a] complete denigration of the enjoyment of rights that Zambians were able to enjoy some years back. The human rights environment is going backwards. Rights we took for granted like holding public meetings and free speech are restricted. We also have a government that is of the view that rights should be granted or enjoyed at the government's pleasure.”

RECOMMENDATIONS

The government of Zambia must

- Immediately end the crackdown on freedom of expression, association and peaceful assembly, by removing all undue restrictions on the right of people to publicly assemble, associate with organisations of their choice, and freely receive and disseminate independent information and express peaceful dissent.
- Cooperate with the special procedures of the United Nations Human Rights Council including by issuing a standing invitation to ascertain the state of human rights in Zambia and the situation of human rights defenders.
- Take urgent steps to repeal Section 69 of the Penal Code, and amend the Public Order Act to ensure that it is compatible with human international human rights standards.

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