

Zambia

Country:

[Zambia](#)

Year:

2016

Freedom Status:

Partly Free

Political Rights:

3

Civil Liberties:

4

Aggregate Score:

60

Freedom Rating:

3.5

Overview:

In January, Zambian voters elected Edgar Lungu, the Patriotic Front (PF) secretary general and the defense and justice minister, as the country's sixth president, following the late 2014 death of President Michael Sata, also of the PF. Lungu narrowly defeated Hakainde Hichilema of the United Party for National Development (UPND), 48.8 percent to 47.2 percent, in a vote that left the nation divided along regional lines and, to a lesser degree, along tribal lines. During Lungu's first year in office, the PF continued many of Sata's restrictive laws and policies, including using the colonial-era Public Order Act to interfere with the activities of the opposition. Political violence, primarily between supporters of the PF and UPND, erupted sporadically during the year. Meanwhile, Lungu found himself confronted with dissent among a faction of PF members who had been aligned with Sata. Lungu's government also grappled with the effects of a sharp economic contraction caused in part by plummeting copper prices.

Zambians have been working on drafting a new constitution since the early 2000s, and under Sata, civil society and church groups were involved in a drawn-out constitution-making process. However, in late 2015, parliament instead approved a package of amendments to the existing 1991 charter. Following several months of public comment, the Constitution of Zambia (Amendment) Bill was introduced to parliament in December, and pushed through days later by a coalition of lawmakers from the PF and the Movement for Multiparty Democracy (MMD). Among other provisions, it requires presidential candidates to select a running mate who would take over the presidency in the event of the head of state's death—an event that triggered early elections in Zambia on two occasions in recent years. It also requires that the winner of a presidential election gain more than 50 percent of the vote. Constitutional experts and civil society organizations criticized the parliamentary debate of the bill as rushed, and argued that the government watered down some protections written into a draft constitution released in 2014, a document that many Zambians had expected to vote on in a national referendum. Lungu was expected to sign the legislation in early

2016. A national referendum on a bill of rights, which was not included in the amendment bill, is planned for August 2016, alongside general elections.

Political Rights and Civil Liberties:

Political Rights: 26 / 40 [Key]

A. Electoral Process: 8 / 12

The president and the unicameral National Assembly are elected to serve concurrent five-year terms. The National Assembly includes 150 elected members and 8 members appointed by the president. After his victory in the January 2015 presidential by-election, Lungu appointed PF chairwoman Inonge Wina as vice president, making her the first woman to hold the position in Zambia. The election was generally seen as free and credible by observers. However, voter turnout fell to historically low levels, reaching just 32 percent.

The PF won a plurality in 2011 parliamentary elections, and in 2015 continued to extend its majority in parliament through multiple by-elections. By-elections, triggered in part by a PF strategy of enticing opposition legislators to switch parties with offers of government posts (a party switch automatically leads to a by-election), have altered the balance of power in the National Assembly in favor of the PF since the 2011 general elections. In 2015, the PF held 87 seats, up from 61 in 2011; the MMD had 36 seats, down from 55 following the 2011 polls; and the UPND held 31 seats, from 29 previously. Although some by-elections have been characterized by violence between party cadres and the misuse of the media by the PF, observers have generally deemed voting credible.

In October 2015, reports emerged that electoral authorities in PF strongholds were permitting voters to register more than once. The Electoral Commission of Zambia (ECZ) pledged to investigate instances of electoral malpractice, and warned the voting public against registering multiple times. Additionally, in September Hichilema alleged that some people had been unable to register to vote because poor management by the PF had resulted in delays in the issuance of national identity cards, which are required in order to register.

B. Political Pluralism and Participation: 11 / 16 (-1)

The major political parties are the PF, the MMD, and the UPND. Since its 2011 election loss, the MMD—which had governed Zambia for the previous 20 years—has been weakened considerably by infighting and PF efforts to coopt its members. The MMD's loss of seats in recent by-elections means that no party currently meets the 53-seat threshold to be recognized as the official opposition in parliament.

The two main opposition parties, as well as smaller parties, have also been weakened in recent years by harassment and intimidation from the PF, including use of the police and the Public Order Act to prevent them from holding both indoor and outdoor meetings and rallies. Such incidents were frequent in 2015. In one high-profile event in June, police broke up an indoor meeting at which UPND parliament member Stephen Katuka was addressing constituents; officials claimed that he had failed to secure police permission for the gathering. In October, Forum for Democracy and Development (FDD) leader Edith Nawakwi was detained by police in Kitwe after she held an indoor meeting with party members. She was questioned for several hours and later released with a warning; Nawakwi said officers had suggested that the meeting caused a breach of the peace. In December, police inspector general Kakoma Kanganja defended as legal the actions of police in Lundazi, who had thrown a tear gas canister into a meeting hall to break up a party meeting of the

MMD attended by its president, Nevers Mumba. Kanganja claimed that the MMD did not have a police permit to hold the meeting.

The constitution prohibits the formation of political parties aimed exclusively at representing the interests of a particular ethnic group. However, a number of political parties are affiliated with tribal groups, and the government in practice does not limit the political rights of people belonging to ethnic minorities.

C. Functioning of Government: 7 / 12 (+1)

The state of Sata's health had been the subject of speculation since 2012, raising questions among some observers about who was actually running the country. Following Sata's death in 2014, Lungu's January 2015 election marked the restoration of an environment in which Zambia's head of state was clearly in charge of the government.

Corruption is widespread. The PF has taken some steps to fight graft; in 2012, the National Assembly reinserted the key "abuse of office" clause of the Anti-Corruption Act, which had been removed by the MMD-dominated legislature in 2010. The clause allows for the prosecution of public officials for violations such as abuse of authority or misuse of public funds. However, many prosecutions and court decisions in Zambia are thought to reflect political motivations.

In March 2013, the National Assembly voted to lift former president Rupiah Banda's immunity from prosecution. Among other charges, Banda, of the MMD, was accused of abuse of power in connection with a \$2.5 million oil deal with a Nigerian company from which he allegedly benefited during his 2008–11 presidency. In June 2015, Banda was acquitted, with a Lusaka court saying there was insufficient evidence to convict him.

Access to information legislation was drafted in 2002, but neither the previous MMD administrations nor the PF government have taken action to approve it. In April, Lungu gave some indication that he was preparing to approve the legislation. However, in May, following a press article alleging that the government had contracted a foreign loan without declaring it, Lungu announced that he was "thinking twice" about enacting the access bill.

Nevertheless, 2015 saw some improvements in government openness and transparency. Throughout the year, ministers often issued unprompted statements in parliament, while in November Lungu held his first—albeit his only—press conference, the PF's first in four years.

Zambia was ranked 76 out of 168 countries and territories surveyed in Transparency International's 2015 Corruption Perceptions Index.

Civil Liberties: 34 / 60

D. Freedom of Expression and Belief: 11 / 16

Freedoms of expression and of the press are constitutionally guaranteed, but the government frequently restricted these rights in practice in 2015. Although the PF has pledged to free the public media—consisting of the Zambia National Broadcasting Corporation (ZNBC) and the widely circulated *Zambia Daily Mail* and *Times of Zambia*—from government control, these outlets have generally continued to report along progovernment lines. Many journalists reportedly practice self-censorship. The ZNBC dominates the broadcast media, though several private stations have the

capacity to reach large portions of the population. Roughly 17 percent of the population accessed the internet in 2014, according to the International Telecommunication Union.

Journalists at public, community, and privately owned outlets faced stepped-up harassment and attacks by government officials and PF supporters throughout 2015, especially in retaliation for hosting opposition figures or criticizing ruling party officials on the air. In July, armed PF supporters in Kitwe entered the offices of Radio Icengelo and disrupted its operations just before the UPND's Hichilema was scheduled to speak on one of its programs. In August, Central Province Minister Davies Chisopa of the PF ordered the dissolution of UN-supported Mkushi Radio's board over its alleged bias toward the UPND. The same month, ZNBC radio producer Martin Maseka, who also leads Zambia's broadcasters' union, was suspended from his job at the station for publicly criticizing Information Minister Chishimba Kambwili's threat to fire ZNBC staff who had been protesting questionable management practices at the broadcaster. In October, Kambwili threatened to revoke the broadcasting license of Lusaka's Radio Phoenix, saying it disseminated antigovernment propaganda. Also that month, Christine Ngwisha was dismissed from Radio Phoenix, days after interviewing Kambwili on one of the station's live programs; Kambwili had complained that the absence of callers-in during the interview indicated that the station supported the UPND.

In December, PF supporters in Chipata disrupted a live broadcast on Breeze FM featuring opposition Rainbow Party president and former PF secretary general Wynter Kabimba, assaulting a security guard and inflicting property damage. Following the incident, the station cancelled all its political news programming for fear of becoming a target of violence. A week later, *Post* newspaper journalist Peter Sukwa and Feel Free Radio journalist Kelvin Phiri were attacked by PF supporters while investigating allegations that non-Zambians were being registered as voters in Vubwi, on the border with Malawi. One of the journalists reported that an attacker had urinated into his mouth, and had poured fuel on him and threatened to set him alight. A deputy home affairs minister, Colonel Panji Kaunda of the PF, condemned the attack and called on police to make arrests.

Government officials frequently bring lawsuits in response to critical or unfavorable reporting. In July, *Post* newspaper owner Fred M'membe was arrested along with one of the newspaper's reporters for publishing a letter from the Anti-Corruption Commission indicating that a presidential aide was being investigated. They were charged with publishing classified information, and the case against them remained open at the year's end. Although artistic expression is generally free, in June artist Fumba Chama (also known as Pilato) was arrested and charged with conduct likely to cause a breach of the peace in connection with his satirical song about Lungu. His case was discontinued in July.

Constitutionally protected religious freedom is respected in practice. The government does not restrict academic freedom. Private discussion is generally free in Zambia. However, in 2015, two journalists sued a local mobile phone service provider, alleging that between 2013 and 2014 it had placed wiretaps on their phones and rerouted their text messages to undisclosed recipients. Both journalists had previously faced obscenity or sedition charges, reputedly filed in connection with their alleged involvement with the *Zambian Watchdog*, an independent news outlet that has been periodically blocked in Zambia.

E. Associational and Organizational Rights: 7 / 12

Freedom of assembly is guaranteed under the constitution but is not consistently respected by the government. Under the Public Order Act, police must receive a week's notice before all demonstrations. While the law does not require people to obtain a permit for a demonstration, the police in 2015 continued to break up rallies and indoor meetings led by opposition political parties and activists, claiming that organizers lacked such permits. The police can choose where and when rallies are held, as well as who can address them.

Freedom of association is guaranteed by law but is not always respected in practice. Nongovernmental organizations (NGOs) are required to register and reregister every five years under the 2009 NGO Act, which was signed into law by Banda but not implemented. In 2013 the PF attempted to implement the law, initially requiring every group to register or face a ban. While many NGOs complied with the registration requirement, others resisted it as a violation of the right to free association, and mounted a legal challenge. In 2014, the government and some NGOs agreed to resolve the dispute out of court, leading to a suspension of the forced registration provision and negotiations on a self-regulatory framework. No amendments had been made to the law by the end of 2015.

The law provides for the right to join unions, strike, and bargain collectively. Historically, Zambia's trade unions were among Africa's strongest, but the leading bodies, including the Zambia Congress of Trade Unions (ZCTU), have faced marginalization under PF rule. In May 2015, Lungu agreed to lift a salary freeze affecting public-sector workers, which was issued in 2013 and had prompted outrage from the ZCTU. In October, following negotiations with the government, public-sector workers received salary increases ranging from 9 to 29 percent.

F. Rule of Law: 8 / 16

While judicial independence is guaranteed by law, the government often does not respect it in practice. Zambia's courts lack qualified personnel and resources, and significant trial delays are common. Pretrial detainees are sometimes held for years under harsh conditions, and many of the accused lack access to legal aid, owing to limited resources. In rural areas, customary courts of variable quality and consistency—whose decisions often conflict with the constitution and national law—decide many civil matters.

On a positive note, Lungu in March 2015 dissolved a tribunal established by Sata in 2013 that had probed alleged misconduct by judges, including several who had ruled against Sata's allies in a high-profile case involving Zambia's national airline; the tribunal appeared to violate constitutional provisions for judicial independence. Several judges who were suspended as a result of the tribunal's operations saw those suspensions lifted following Lungu's order. In October, a court ordered the government to pay the legal costs of one of the judges who had been investigated.

Separately, Lungu in February appointed Irene Mambilima as Zambia's chief justice, and her candidacy was unanimously ratified by the National Assembly shortly afterward. She replaced Lombe Chibesakunda, Sata's ally and cousin, who was widely considered to be biased in favor of the PF. Chibesakunda's appointment had never been ratified because she was past the constitutionally mandated retirement age of 65.

Allegations of police corruption and brutality are widespread, and security forces have generally operated with impunity. There are reports of forced labor, abuse of inmates by authorities, and deplorable health conditions in the country's prisons.

Some leaders in Western Province, a traditionally poor and marginalized region, have repeatedly demanded to secede from Zambia. Successive national administrations have had a contentious relationship with the Lozi, the province's largest ethnic group. In 2012, a small group of separatists in the region declared independence after Sata reneged on a campaign promise to honor the 1964 Barotseland Agreement, which promised the area limited local self-governance and provided for future discussions of greater autonomy or independence. (Presidents since independence have not honored the agreement.) Several people accused of leading the separatist movement are currently on trial for treason.

Consensual sexual activity between members of the same sex is illegal under a law criminalizing “acts against the order of nature,” an offense punishable by prison sentences of between 15 years and life. LGBT (lesbian, gay, bisexual, and transgender) people have faced increased public harassment and legal prosecution under the measure in recent years. In October 2015, Hatch Brill, a transgender woman, was convicted under the law in the western town of Mongu, after a man reported her to police following a sexual encounter. Her accuser was not charged.

G. Personal Autonomy and Individual Rights: 8 / 16

The government generally respects the constitutionally protected rights of free internal movement and foreign travel. However, movement is often hindered by petty corruption, such as police demands for bribes at roadblocks, for which perpetrators are rarely prosecuted.

Most agricultural land, on which the majority of citizens conduct subsistence farming, is administered according to customary law; while technically such land is communally held, certain individuals and families exercise very strong use rights, and traditional chiefs have substantial power over land allocations. However, the president retains ultimate authority over all land in the country and can intercede to block or compel its sale or transfer. Executive branch powers have been used to buttress a land privatization scheme since the mid-1990s that has undermined traditional land rights and resulted in the accumulation of large estates by commercial agriculture and mining concerns. Zambia ranks low on indexes of economic freedom; processes for starting and operating businesses can be opaque and time-consuming.

Societal discrimination, low literacy levels, and violence remain serious obstacles to women’s rights. In the 2011 polls, women won just 17 of the 150 elected seats in the National Assembly. At the end of 2015, women occupied 22 of 150 elected seats, or 14 percent. Women are denied full economic participation, and rural, poor women often require male consent to obtain credit. Discrimination against women is especially prevalent in customary courts, where they are considered subordinate with respect to property, inheritance, and marriage. Rape, while illegal and punishable by up to life in prison with hard labor, is widespread, and the law is not adequately enforced. Spousal rape is not considered a crime. Domestic abuse is common, and traditional norms inhibit many women from reporting assaults. Zambia’s child marriage rate is among the highest in the world; 42 percent of women between the ages of 20 and 24 were married before they turned 18. Child rape is not traditionally punished under customary law. In December 2015, Lungu named Clifford Dimba, who in 2014 was convicted of raping a 14-year-old girl, the country’s ambassador against gender violence, after pardoning him.

There is significant labor exploitation in some sectors of the economy. In particular, labor abuses in Chinese-operated copper mines, including unsafe working conditions and resistance to unionization, have been reported.

The use of child labor in dangerous industries, including mining, is a problem in Zambia. According to the U.S. State Department’s 2015 *Trafficking in Persons* report, the most prevalent forms of exploitation in Zambia were internal trafficking of women and children for domestic servitude and forced labor in agriculture, mining, textile work, construction, and small businesses. The report notes that the government does not fully comply with the minimum standards for the elimination of trafficking, but is making efforts to do so.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology

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