



Creeping Towards Authoritarianism?
**IMPACTS ON HUMAN RIGHTS
DEFENDERS & CIVIL SOCIETY IN ZAMBIA**

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Executive Summary

Human rights defenders (HRDs) in Zambia are facing arrests, violent threats, intimidation tactics, surveillance, and smear campaigns as the government persecutes civil society and challenges the legitimacy of HRDs.

In interviews conducted by Front Line Defenders in Lusaka in November 2017, in phone conversations in December 2017 and January 2018, and in 4 provinces in Zambia in August 2018¹, HRDs explained that Zambia’s reputation as a stable democratic country is masking the country’s slide towards authoritarianism. In the past two years, President Edgar Lungu jailed his opponent in the recent presidential election on dubious charges, after disputed results; imposed a national ‘threatened state of emergency²’, nominally in response to a series of arson attacks; replaced civil servants with party loyalists as a means to ensure personal loyalty and limit scrutiny in the administration of government; and issued warnings and veiled threats to members of the judiciary, which remains one of the lone areas of government that remains

outside his full control. Finally, as with a number of other African presidents and rulers, President Lungu is trying to extend his rule to a third presidential term by seeking a Constitutional Court ruling effectively exempting his first term.³

HRDs report a range of increasing security risks including: targeted threats and intimidation made via social media by actors with links to the ruling party (‘Patriotic Front (PF) cadres’); harassment and intimidation by elected officials at provincial and local levels of government; surveillance; smear campaigns, defamatory public statements and social media posts by government officials and ruling party leaders, many of which have been broadcast in mainstream media increasingly controlled by the state;

1. Front Line Defenders Head of Communications and Visibility conducted the research missions for this report, meeting with HRDs from Lusaka (Lusaka Province); Ndola, Kitwe and Chingola (Copperbelt Province); Solwezi (North-Western Province); Kabwe (Central Province); and Choma and Monze (Southern Province). A number of the organisations consulted for this report are national in scope, with staff in other provinces not visited.
2. A threatened state of emergency may be declared by the President under Article 31 of the constitution in such circumstances “that a situation exists which, if allowed to continue may lead to a state of public emergency.” While in effect it gives the President sweeping powers of arrest without warrant and prevention of gathering it falls just short of suspending the rights of citizens. See: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/26620/90492/F735047973/ZMB26620.pdf>
3. President Lungu was elected to office in January 2015, following the passing of President Michael Sata. The Zambian Constitution limits presidents to two terms in office, but is silent with regard to this situation – if a ‘term’ begins and ends with elections or if an inherited term also counts as one of the two terms available for an individual. The issue has been put to the Constitutional Court to determine, a process that was initiated in January 2017 when the Popular Front (PF) filed a petition with the Court, and during which time, President Lungu and others from government and the PF party have made explicit public statements regarding the expected outcome and indicated at potential consequences if he was not successful in his bid for a Constitutional ruling.

measures to weaken or damage civil society institutions; closure or intimidation of independent media outlets; targeting of HRDs by corporate actors in meetings with authorities; and arrests of well-known HRDs that others feel was intended as a warning to HRDs and broader civil society.

As he consolidates his power, President Lungu has sought relationships with other authoritarian African leaders, including President Yoweri Museveni of Uganda, President Robert Mugabe (now deposed) of Zimbabwe

and President Paul Kagame of Rwanda. During President Lungu's time in office, China has greatly expanded its investments in Zambia⁴, putting the country's relationship with traditional Western partners, including the Commonwealth, into a lower profile, while leading to increasing levels and types of corruption.⁵

In June 2016, the government shut down the largest independent newspaper in Zambia, The Post, ostensibly for tax related issues. Later that summer, in August, the Independent Broadcasting Authority (IBA) – an agency run by officials appointed by the President – suspended the licenses of three private media outlets days after the country's political opposition filed a Supreme Court appeal contesting the reelection of President Lungu.



In March 2017, the Law Association of Zambia (LAZ) was targeted by an MP from the ruling party, who threatened to introduce measures to repeal the Law Association of Zambia Act and create multiple law societies to weaken LAZ, which is the main legal professional organization in the country. At the end of April 2017, reacting to the LAZ representing a threatened lawyer (who himself was representing The Post newspaper), groups of young activists from the PF stormed the LAZ offices and threatened the Association's President, Linda Kasonde.

On 11 April 2017, the government arrested Hakainde Hichilema (popularly known as 'HH'), leader of the opposition United Party for National Development (UPND), who had stood against the President in the election. The charges were ultimately dropped, but only after he was held in prison for almost five months, and following efforts by the Commonwealth to mediate.

4. According to East Asia Forum, Chinese investment in Zambia increased by US \$295 million in 2016, ranking first among African economies (<http://www.eastasiaforum.org/2017/03/31/china-and-zambias-resource-nationalism/>). According to Zambia Invest, in 2015, China became the leading investor in the country, with over USD \$5.3 billion worth of projects (<http://www.zambianvest.com/economy/china-becomes-zambia-number-one-investor>).

5. HRDs and others consulted for the report recognized that corruption did not begin with President Lungu, but rather that it has become more pervasive and has become a 'way of life' for getting things done in the country. Furthermore, the enrichment of officials and party leaders is no longer obscured, as it is too big to hide and it is not apparently seen as taboo by those on the take. The normalization and size of corruption is President Lungu's contribution to this endemic problem. According to Transparency International's Corruption Perceptions Index, Zambia has slipped in the rankings from 76th in 2015 to 87th in 2016 to 96th in 2017.

On 5 July 2017, President Lungu declared a 'threatened state of emergency' for 90 days (approved by Parliament on 11 July), which expanded police and security forces powers nominally in response to a number of arson attacks (for which no perpetrators had been arrested by the time the 90-day period ended).⁶

On 29 September 2017, police arrested six members of civil society for protesting against corruption on the day that the national budget was announced – the group had followed procedure for informing the police of its action. After a night in jail, the HRDs and protesters were released but are now on trial and face up to six years in prison, charged with violating the Public Order Act. As of August 2018, their trial continues, with delays caused by the prosecution.

Throughout this period, the rhetoric and statements of high government officials – from the President on down

– and senior officials with the ruling PF party have posed a direct threat to civil society organizations; targeted individual HRDs; and generated a dynamic in which any independent voice or perspectives is politicized as being partisan in order to silence, marginalize or intimidate.

From 3 to 7 November 2017 and 30 July to 5 August 2018, Front Line Defenders conducted field research missions to Zambia and met with HRDs from five provinces, civil society organizations, media professionals and members of the diplomatic community to better understand the dynamics at play and to get a sense of what expectations are for the next 18-24 months, leading up to the 2021 Presidential elections. Following the field missions, Front Line Defenders interviewed three additional Zambian HRDs who were not in the country at the time of the visit. A total of 26 HRDs were interviewed, representing five provinces, along with three diplomatic missions.

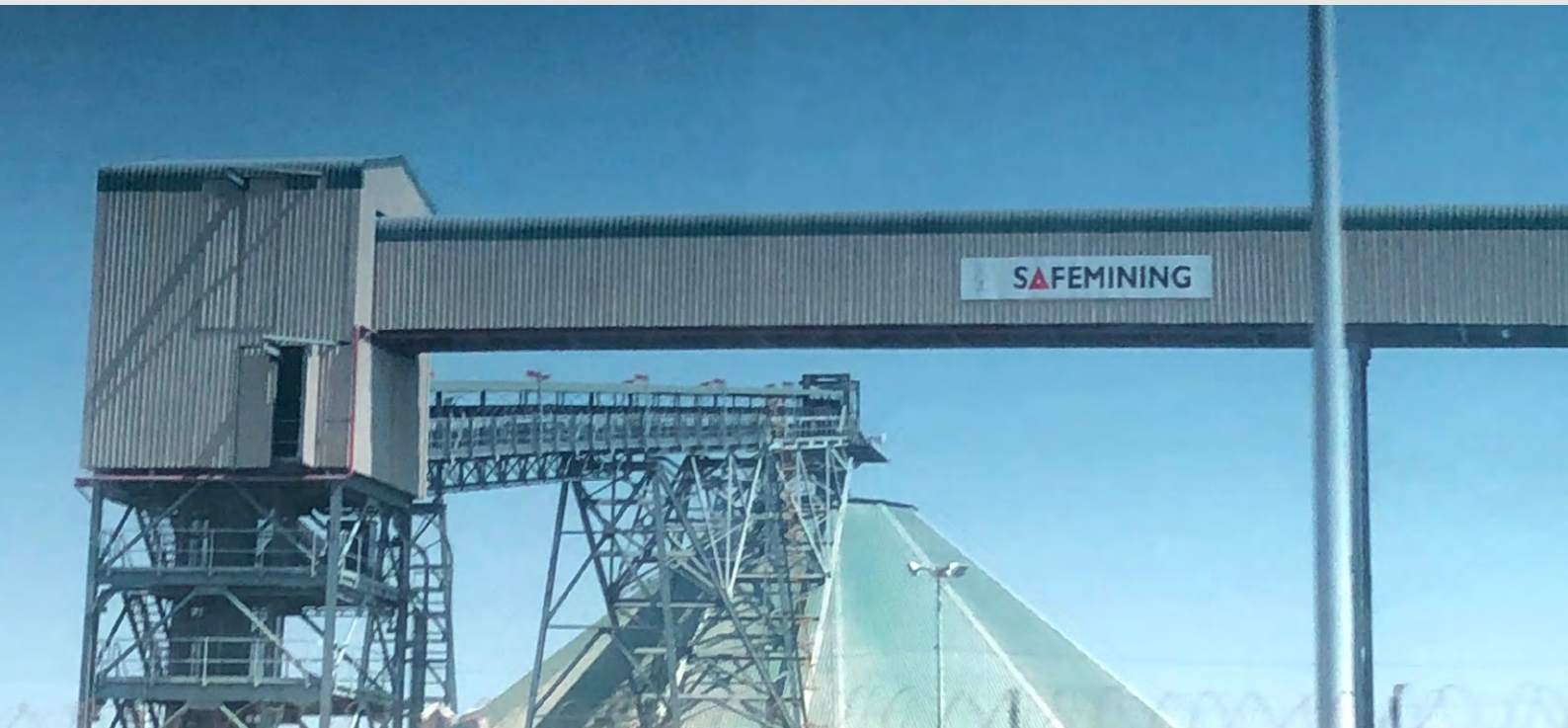
Key Findings

- After years of having earned a reputation as being a stable democracy, Zambia is facing one of its most important constitutional crises, instigated by the determination of the President and ruling PF party to hold onto power. The result is a weakening of the country's institutions and moves towards authoritarian rule – both developments that will have dire consequences for HRDs, who are already being targeted.
- The Public Order Act (1955), legislation that provides for the maintenance of public order by the police and security forces, has been interpreted by the government and police to give them wide latitude to silence critics and target civil society; reform is badly needed, but unlikely given the 'capture' of state institutions by the ruling party.
- Violent threats against HRDs are increasing, according to interviews. These are primarily threats from cadres of the ruling party and delivered via social messaging, pro-government media outlets and direct messages to individuals. At the end of 2017 an activist musician had to escape the county after his life was directly and openly threatened for releasing a song critical of the president.
- The ruling PF party, led by President Lungu, has publicly blurred the distinction between itself and the government, replacing career civil servants with party members who are unqualified for the positions. Positions, including diplomatic posts, have been given to party loyalists. Article 3 of the PF party constitution states explicitly, "The Party shall ensure that all the public institutions, State-owned enterprises and popular mass and similar organizations are led by persons who are members of the Party⁷ and who are uncompromisingly committed to achievements of the Party. Simultaneously, the ruling party/government has blurred distinction between the opposition political parties and civil society – to the detriment of the latter. Any critic of government corruption, policies, or political appointees is labeled 'opposition' and usually suffers abuse as a result. This is one of the biggest threats to HRDs in Zambia.

6. In fact, during the 90-day emergency ruler period, no information related to the arson attacks was disclosed to the public and many came to see the entire exercise either as: a) a ruse to deflect attention from corruption scandals; or b) more sinisterly as a test to gauge public reaction to emergency rule, or c) as both.

Key Findings (cont.)

- The public broadcaster in Zambia, Zambia National Broadcasting Corporation (ZNBC), has the largest reach of any media outlet in the country, as well as influence. It has become a mouthpiece for the government, and by extension the ruling party, despite being a publicly funded institution. This distorts the entire media landscape, and has resulted in independent media outlets being labeled 'opposition'. ZNBC is the only media outlet that can reach the entire population; this means that millions of citizens receiving their news only from ZNBC.
- All HRDs Front Line Defenders spoke to expressed concern that Zambia's relatively stable reputation in the region was making the international community "slow to respond" to the brewing crisis. HRDs recognized that the situation is not dire in terms of physical violence or large scale rounding up and imprisoning of HRDs, but stressed that because Zambia does not have such a history of repression, the current civil society crackdown – unprecedented since the establishment of a multiparty democratic system in Zambia in 1991 – should raise greater alarm.
- HRDs and civil society organizations are starting to mobilize to meet the new threat environment, but readily admit that they lack capacity, resources and experience of dealing with such situations and therefore remain extremely vulnerable. The human rights sector and rights-based development organizations have received little resources and capacity support from donor agencies, which have tended to focus on direct support to the government and support for service delivery NGOs rather than rights based NGOs. Donor agencies have not responded effectively to increased corruption, the attacks on independent media and the shrinking space for independent civil society.
- The arrest of six HRDs in 2017 for demonstrating against corruption was an escalation in the persecution of civil society and a warning to other HRDs. The ongoing judicial harassment of the arrested defenders forces them to spend time and resources on the trial, and is compounded by the lack of Zambian lawyers willing to take up human rights cases.



7. Constitution of the Patriotic Front, <http://www.lusakavoice.com/2014/11/16/constitution-patriotic-front-election-pf-party-president/>

8. This section lists key recommendations per actor; the full list of recommendations are in section VI of this report.

Given the deteriorating situation for civil society in Zambia and the potential for things to worsen at a more accelerated pace in the context of the effort to secure a third term for President Lungu, Front Line Defenders is seriously concerned for the safety and protection of human rights defenders, and for their ability to continue their work in an effective manner. As such, a number of steps can be taken by the government of Zambia, the international community and intergovernmental entities (the Commonwealth, African Union, the Southern Africa Development Community, etc.).



Front Line Defenders makes the following recommendations (full list at end of report), after close consultation with Zambian HRDs.

1. To the Government of Zambia:

- Implement the recommendations of the 2017 UPR Report, particularly those directly effecting human rights defenders and their work – notably recommendations 129.4 (reforming the Public Order Act) and 129.49 (regarding civil society and media input into the draft Access to Information bill), which were accepted by the government.⁹
- Accept and implement recommendation 131.82 (calling on government to fulfil international obligations for the safety of human rights defenders) which was officially only noted as a response in the UPR Report.¹⁰
- Repeal and amend the Public Order Act to allow for full rights of expression and assembly. Train police and other arms of the state on civic space and the provisions of the law.
- Stop persecution of HRDs using charges derived from the Public Order Act (1955) that criminalize protest.
- Open meaningful consultations for CSOs and the public to form laws, and take the recommendations of civil society on cyber laws, including concerns related to freedom of expression. Further, introduce dialogues with CSOs through relevant ministries (eg: Justice, Women’s Affairs) and with the office of the President.
- Strengthen the mandate of the Zambia Human Rights Commission to specifically address the protection and security of human rights defenders, including a period report on the status of HRDs.

9. See Report of the Working Group on the Universal Periodic Review – Zambia, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/005/26/PDF/G1800526.pdf?OpenElement>

10. Ibid.

2. To the Commonwealth:

- The Commonwealth should take a more proactive role in promoting human rights standards among member states, with specific focus on respect for and protection of human rights defenders.
- Continue to facilitate and mediate the holding of a broad-based dialogue to resolve issues in the governance and democratic process of the country, and to ensure a platform for civil society organisations and HRDs to be able to maintain space in which to work in a secure manner, as per its commitment articulated as part of the Commonwealth Human Rights Initiative.

3. To donor nations and institutions:

- Support the strengthening of the independence and professionalism of the judiciary.
- Call on the government of Zambia to reform national laws that are inimical to democratic growth and progress in Zambia such as the Penal Code (1938), Public Order Act (1955), and the NGOs Act (2009), as well as monitor the proposed Cyber Law.
- Frame the safeguarding of civil society space and protection of human rights defenders as a key focus of efforts to achieve the SDGs. Prioritise SDG 16 – promoting peaceful and inclusive societies, by investing in civil society partnerships and interventions.
- Support and protect civil society actors and networks through direct programme support and diplomatic channels, including a focus on protecting human rights defenders to speak out and hold governments and other duty bearers to account.
- Support independent media in Zambia.
- While CSOs and HRDs in Zambia are still able to conduct programmes, the current trajectory is in a direction that other nations in the region have taken to restrict the ability of civil society organise effectively – it is important to reverse the deterioration at the earliest possible point or even prevent it entirely. This is critical in order to fight corruption and avoid that funds provided directly to the Government of Zambia are wasted. In 2016 the Nairobi Outcome Document for Effective Development Cooperation¹¹ acknowledged the shrinking civil society space around the world, and committed Global Partnership members to accelerate progress in creating an enabling environment for civil society.
- Support capacity building of CSOs, movements and HRDs in physical and digital protection, as well as campaigning and effective advocacy skills.
- Support programmes and organisations that are led by and/or specifically help WHRDs, and support upcoming WHRDs who have limited access to resources and support, and who are operating in a difficult, patriarchal context.

11. <http://effectivecooperation.org/wp-content/uploads/2016/12/OutcomeDocumentEnglish.pdf>

4. To the African Union:

- Ensure that Zambia is compliant with the provisions of the African Charter on Democracy, Elections and Governance (ACDEG) and other regional protocols and treaties of people's rights and freedoms.
- Engage the Zambian government on the ACHPR Guidelines on Freedom of Expression and Association and encourage domestication of these principles via new legislation and policies.

5. To the Southern Africa Development Community (SADC):

- SADC should reinstate the suspended SADC Tribunal which was an avenue for SADC citizens to seek redress against their governments.
- SADC should provide opportunities for civil society engagement with the regional body, including consulting with CSOs and HRDs with regard to government actions that are harmful to rule of law and reduce civil society space.



Toxic Environment

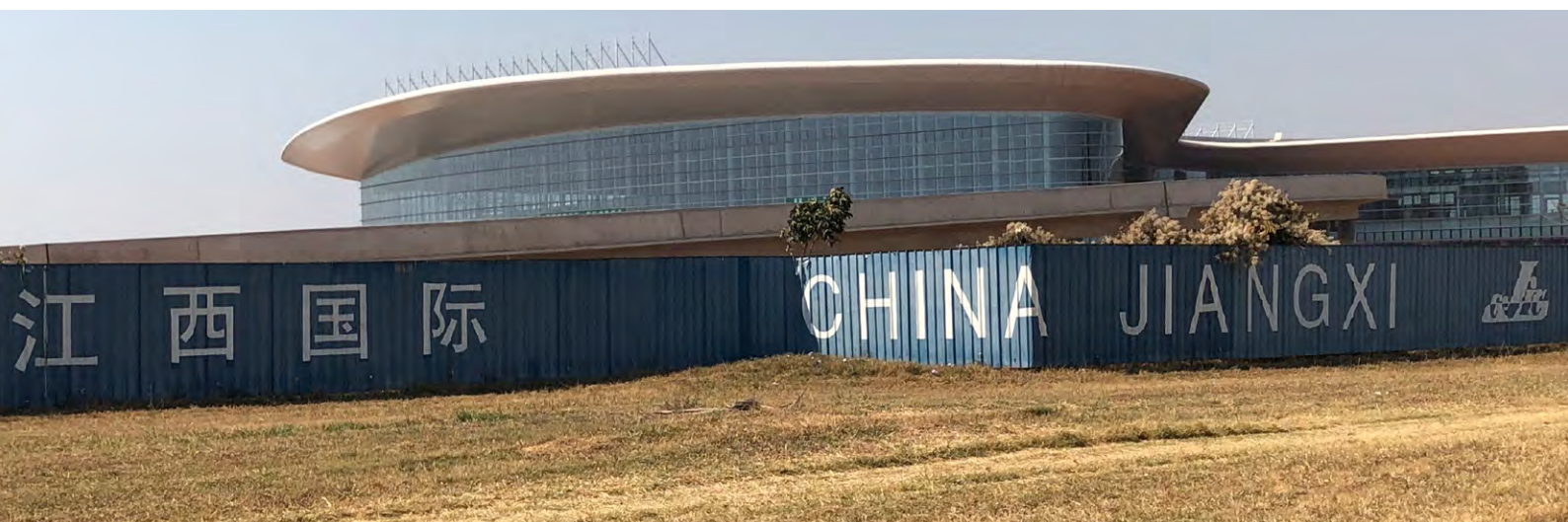
I. Political Context

In 2016, President Edgar Lungu won the strongly contested presidential election over Hakainde Hichilema (aka 'HH'), leader of the opposition United Party for National Development. The election's aftermath, in which the opposition challenged the results and HH was jailed, has polarized Zambian politics since 2016, with President Lungu now working to secure legal authority to stand for a third presidential term in 2021.

The government and ruling Patriotic Front (PF) party portray legitimate work by civil society, media outlets and human rights defenders (HRDs) as part of the political opposition. The expansion of the use of social media has given a bigger platform for smear and defamation efforts against HRDs and fuelled a hyper-partisan atmosphere.

Not long after winning the 2016 election, President Lungu started indicating that he would seek another term in 2021. His ability to do so has been challenged on constitutional grounds, with legal scholars somewhat split over his ability to stand in the next election. Virtually all legal observers who have written publicly on the subject, however, do indicate that clarification of the constitution is needed by the Constitutional Court, as

it seems the specifics of President Lungu's case are not adequately addressed by the existing provisions of the law. President Lungu took over as President in January 2015 as a result of a presidential by-election, following the death in office of former President Michael Sata in October 2014. In August 2016, he won election again, meaning that he won two presidential elections. President Lungu maintains that he has only served one term as President, as the first 18 month period was not a full term. Others, including the political opposition, contend that the Constitution considers this as a full term and thus he is barred from seeking reelection. The matter has been sent to the Constitutional Court for review. In the meantime, MPs, traditional leaders, members of the PF and President Lungu have made public statements¹² that indicate that they would not accept a ruling that does not favour the President, thus creating additional political tension. The National Assembly of Zambia maintains legislative power and the judiciary is independent, but by virtue of the majority that the PF maintains President Lungu has effectively unchecked power, including on his appointments to the judicial branch. The system is vulnerable to corruption.¹³



12. In August 2018, President Lungu addressed a rally in Kitwe, clearly indicating his intentions regarding 2021: <https://www.lusakatimes.com/2018/08/27/president-lungu-should-be-cited-for-contempt-over-his-2021-remarks-mapani/>. Also in August, Senior Chief Mboloma of Luano district in Central Province, called for a third term: <https://diggers.news/local/2018/08/16/lungu-should-rule-beyond-2021-says-chief-mboloma/>

13. For more on Zambia's governmental structure: <http://thecommonwealth.org/our-member-countries/zambia/constitution-politics>

The strains of this highly contentious political environment have challenged the reputation of Zambia as being a stable, institutionally sound democratic country, even as the country has largely avoided the kind of electoral violence seen elsewhere in Africa. Zambia's stable reputation is serving the government: international concern over the pending constitutional crisis has been minimal, mainly raised in relation to the detention of HH. A widely anticipated and watched interview with HH on BBC's HardTalk, hosted by Stephen Sackur, epitomized the international community's failure to appreciate the gravity of Zambia's trend towards authoritarianism. While discussing HH's arrest and detention, Sackur queried:

"Nobody could say that this was a pleasant experience, but the bottom line is you were treated with respect, you were ultimately free after what, just over three months in captivity and that charge of treason which initially was put against you was dropped, so I am just wondering why you have made such a fuss about what happened to you."

He continued:

"...let's now discuss what this overall incident tells us about Zambia today because as I say, in some countries I can think of, you might still be languishing in prison but the bottom line is, after a degree of intervention from the outside including from the Secretary General of the Commonwealth, Baroness [Patricia] Scotland, and a degree of compromise, let's put it that way, you emerged from prison and now you are a free man and you have just traveled to London conducting your political work, so what is the message of all of this do you think?"¹⁴

Sackur implied – in line with government rhetoric – that Zambia has a solid democratic system and reports of political violence are overinflated.

This kind of approach to Zambia was also evident in Front Line Defenders meetings with diplomats in Lusaka. While resident diplomats were forthcoming in reporting some of the negative trends observed in the country, including increased pressure on media outlets, institutional interference by the PF and the government, the

replacement of civil servants by politically connected individuals, rising levels of corruption, and concern over the full independence of the judiciary, there was unanimous expression that private, behind-the-scenes discussions with government officials were better than any public expressions of concern.

The rampant corruption and political consolidation by the President and the PF party, combined with the increased pressure on HRDs, media and civil society and the quiet diplomatic approach¹⁵ taken by Western diplomatic missions must also be placed in the context of China taking an increasing investment and trade role with Zambia, thus allowing the government to rely on an economic and political partner that offers no concern for democratic norms and institutions, including human rights. Diplomats in Lusaka referred to the expanded role of China and the competition it has generated in areas of trade and investment in the country as a challenge to being able to influence the government away from autocratic measures.

These political dynamics portend a dangerous future for Zambia, as political power is consolidated, facilitated by access to economic and financial backers that do not prioritise transparency and accountability. A July 2017 report by the Economist Intelligence Unit, published after the announcement of the 'threatened state of emergency, and assessing these political dynamics concluded: "All this suggests that a strong-man governing style is here to stay, despite it dragging Zambia onto an increasingly unstable path."¹⁶



14. Transcript of the interview is available here: <https://www.zambiawatchdog.com/word-for-word-what-hh-said-on-bbc-hard-talk/> and the video can be viewed here: <http://www.bbc.co.uk/programmes/n3ct2km6>

15. While the Commonwealth did intervene to help negotiate an end to the political crisis of the imprisonment of HH, it has stayed silent with regard to the steady attacks on civil society and human rights defenders.

16. Economist Intelligence Unit, EIU Views Wire, "Zambia politics: Lungu's increasingly strong-man approach is here to stay," 14 July 2017.



II. Legal Context

The Public Order Act (1955) is a colonial-era relic that has lingered on in public life because it largely suits the needs of those in power, even if it is widely recognized as being problematic and needing amendment.

Over the years, there have been numerous public announcements about reforming the law or replacing it entirely, with former President Michael Sata at one point even terming it ‘evil’ and campaigning against it when he was in opposition.¹⁷ The Supreme Court has ruled on the unconstitutionality of elements of the Act, notably in relation to freedom of assembly and the responsibilities of the police.¹⁸

Police forces regularly use the provisions of the Act to restrict freedom of expression, assembly and association, and have increasingly violated the human rights of citizens citing the Act as justification. The most blatant examples of deployment of this Act to repress has been around the 2016 elections, when there was suppression of opposition gatherings and rallies prior to the vote and

prevention of gatherings and censorship of media outlets related to the allegations of election fraud and vote rigging. Another instance in which police use the Public Order Act to suppress is in relation to ongoing student protests, which are largely around increased tuition fees, decreased and delays in paying student allowances and sanitary conditions at the institutions of higher learning. The fear among the security forces and government is that these protesters could expand their focus, and there is a strong history of student protest in the country. In May 2017, the government banned student union activities at the University of Zambia in Lusaka.¹⁹

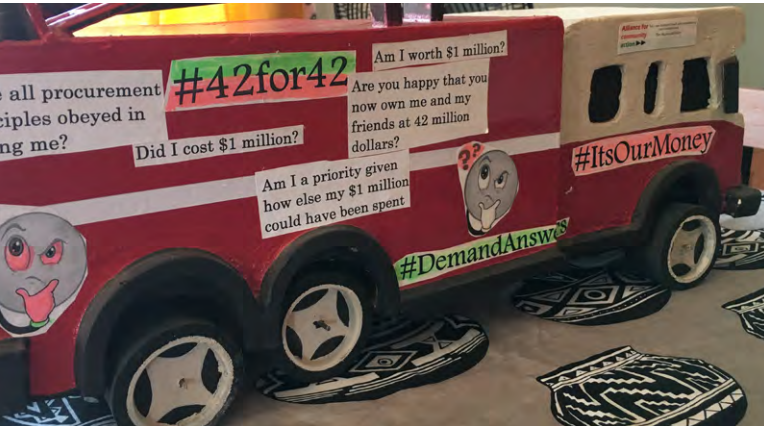
Despite the fact that the Public Order Act is understood to be out of sync with Zambia’s democracy, democratically-elected officials maintain the law either by inaction, or by sanctioning its abuse by police and security officials.

However, in the wake of the post-election crisis and subsequent ‘threatened state of emergency’, a renewed

17. “Is this the end of Zambia’s Public Order Act,” Open Society Initiative of Southern Africa, 2 November 2012, <http://www.osisa.org/law/zambia/end-zambias-public-order-act>

18. In July 2016, the Human Rights Commission authored a Facebook post titled ‘Fact Sheet on Public Order Act’ outlining developments since a number of Supreme Court rulings and what the rights and responsibilities were for police, organizers of public mobilizations, and participants. See: <https://www.facebook.com/www.hrc.org.zm/posts/1026300914156748>

19. “Zambia bans union activities at its oldest university after protests,” africanews. 31 May 2017, <http://www.africanews.com/2017/05/31/zambia-bans-union-activities-at-its-oldest-university-after-protests/>



focus on amending the Public Order Act emerged in 2017. In April 2018, Minister of Justice Given Lubinda announced that the amendment would be brought forward for consideration in the current sitting of Parliament, a move that was hailed as a significant development by the Human Rights Commission, noting that the “public order act has been used more to violate civil rights, political rights and freedoms than to protect and promote them.”²⁰

Beyond the Public Order Act, President Lungu introduced a new legal manoeuvre in 2017 that seemed aimed at testing the waters for expanding his political control, notable in the context of the dispute over whether or not he can stand for another term as president. Given the regional trend of presidents amending constitutions and other laws to accommodate extended holds on power,²¹ President Lungu’s announcement of a Threatened State of Emergency on 5 July 2017 – nominally in response to a series of suspected arson attacks – was a break from political norms in the country.

At the time President Lungu invoked Article 31 of the Constitution (Declaration Related to Threatened Emergency), there were fears that he was planning to invoke Article 30 (Declaration of Public Emergency), so the fact that he did not take the more extreme measure was met with some degree of relief. Effectively, the president formally requested extra powers to prevent a state of emergency rather than actually declaring one.

The Parliament rubber-stamped the measure a few days after receiving the notification. Despite the two different measures in the Constitution, the expanded powers of the president are similar – President Lungu was able to restrict freedom of assembly, implement a curfew, curtail parliament, ban publications, order detention without trial, and search any property without a search warrant. HRDs were exposed to much greater risk without room for recourse during the 90-day period, though ultimately no HRDs reported being targeted during this period. At the end of the 90 days, no further action was taken, leaving many to wonder what the purpose of the manoeuvre was – with most analysts, diplomats and HRDs consulted for this report suspecting some measure of political consolidation, a test of the response of Zambian society and the international community, and a warning to both the political opposition and civil society.

The context for HRDs in Zambia, in terms of broad policy, is not encouraging. In 2017, Zambia underwent review as part of the Universal Period Review (UPR) process in the UN Human Rights Council. Among the recommendations made by other states, only one dealt with human rights defenders, indicating a lack of awareness of the changing dynamic for HRDs in the international community.²² Though the government did accept the recommendation, it is notable that it was just over a month before the final UPR working group report was issued on 15 November 2017²³ that six HRDs were arrested and charges filed against them for holding an anti-corruption protest (see cases of Laura Miti and Pilato below). The Zambia Human Rights Commission (ZHRC) worked behind the scenes on this case, but did not issue public statements with regard to the ongoing prosecution of the HRDs. The ZHRC does not have any mention of HRDs in its most recent published strategic plan,²⁴ and although Florence Chibwasha, Director of the ZHRC, who was interviewed by email for this report, explained that HRDs are considered within the overall work of the Commission, there is a lack of explicit strategy or work focused on the protection of HRDs.²⁵

20. “Human Rights Commission welcomes plans to amended Public Order Act,” Lusaka Times, 3 April 2018, <https://www.lusakatimes.com/2018/04/03/human-rights-commission-welcomes-plans-to-amended-public-order-act/>

21. Examples include: Burundi, Rwanda, Zimbabwe, Cameroon, etc.

22. The recommendation was made by The Netherlands (“131.82 Comply with its obligation under international law to guarantee that human rights defenders, journalists and activists can carry out their work independently and free from attacks, harassment or intimidation (Netherlands)” https://www.upr-info.org/sites/default/files/document/zambia/session_28_-_november_2017/responses_to_recommendations_upr28_zambia.pdf

23. See “Responses to Recommendations – Zambia” https://www.upr-info.org/sites/default/files/document/zambia/session_28_-_november_2017/responses_to_recommendations_upr28_zambia.pdf

24. See: Zambia Human Rights Commission Strategic Plan, 2014-2016, <http://www.hrc.org.zm/index.php/publications/strategic-plan/file/53-hrc-strategic-plan-2014-2016>

25. Interview with Ms. Florence Chibwasha, conducted via email, received on 25 September 2018.

III. Lack of Resources for Civil Society & HRDs

While Zambia’s stable political track record and governance institutions are widely recognized, its civil society is under attack from the government and ruling party. Compounding this struggle is the historic lack of international and domestic investment in and support for civil society organizations that work on civil and political rights, social justice, accountability, rule of law, LGBTI rights, and minorities rights. For this report, Front Line Defenders interviewed HRDs working on civil and political rights, economic and social rights (including those impacted by the extractive sector), labour rights, sexual orientation and gender identity and expression (SOGIE), transparency and anti-corruption, women’s rights and the rights to freedoms of expression, association and assembly.

Zambia has an extensive network of development, poverty reduction and health civil society organizations operating effectively in the country, but these are not rights-based groups and are focused on delivering services or generating improved economic and health conditions. Given the need, vast investment has been made by donor

agencies, such as USAID, the EU and Irish Aid, but this has not substantially extended to rights-based civil society organizations and HRDs.²⁶

According to MacDonald Chipenzi, Executive Director of Governance, Elections, Advocacy, Research Services (GEARS) Initiative, there has been a persistent shift in funding priorities by donor agencies from human rights and democracy to trade and private sector investment. In his recollection, after 1991, there was a good level of support, but over the years, due to “donor wariness and some bad actors in civil society,” funds began to dry up (see footnote 5 above). As Mr. Chipenzi explained, certainly since President Lungu’s ascendancy in January 2015, and starting before under President Sata, labour unions, student groups and even the church have become weakened or co-opted, and fear has started to permeate society. The lack of resources dedicated to the civil society and human rights sector make recruiting younger generations to engage that much more difficult. This was echoed by other HRDs interviewed throughout the country.



26. According to USAID (<https://explorer.usaid.gov/>), the agency’s funding for ‘Government and Civil Society’ went from \$3.7 million in 2015 to \$3.1 million in 2016, despite an overall increase in aid from USD \$147 million in 2015 to USD \$257 million in 2016, thus the decrease was from 2.5% of total allocation in 2015 to 1.2% of total in 2016. For 2017, the amount allocated to ‘Civic Participation’ was reduced to just over USD \$1 million, despite the overall allocation of aid being increased to USD \$273 million. Irish Aid provided €1.65 million in ‘Human Rights and Accountability’ assistance in 2015 (<https://www.irishaid.ie/media/irishaid/allwebsitemedia/20newsandpublications/annualreport2015/IA-Annual-Report-2015.pdf>), reduced to €1.4 million for ‘Human Rights and Governance’ in 2016 (<https://www.irishaid.ie/media/irishaidpublications/Irish-Aid-Annual-Report-2016.pdf>) – a 15% reduction.



Zambian HRDs working on political and economic governance played a critical role in opposing former President Frederick Chiluba's attempt to change the constitution and run for a third term.²⁷ According to Lewis Mwape, Director of the Zambia Council for Social Development (ZCSD), even though civil society proved its ability to organize and challenge previous authoritarian trends, funding began to be reduced for rights-based groups and independent media in the early to mid-2000s, with a prioritization on health and other development agenda goals. This left the sector vulnerable when both President Michael Sata and President Lungu, as leaders of the ruling PF party, turned their efforts towards consolidation of political and economic power.²⁸ The added factor of increased investment in the country by China, displacing some of the aid dependence on Western nations, has also had consequences for civil society, as many HRDs see traditional civil society partners as having abandoned the space in seeking to 'compete' with China for investment and trade deals. The quid pro quo of African political support for China on the international stage yielding Chinese investment and aid has been cited by analysts as a continent-wide trend, but the impact in Zambia is significant.²⁹

Civil society has been a favourite target of ruling governments as they move to consolidate and entrench power. During the rule of President Michael Sata (2011-2014, PF), civil society also came under attack from government. In 2014, Finance Minister Alexander Chikwanda stated during an event commemorating the 50th anniversary of Zambia's independence that:

*"People just rise one day and they form an organisation and they call it a civil society organisation for the purposes of living, most likely they have failed to make ends meet, they have never had anything that has made a contribution to the development of Zambia and probably this group they have formed is driven by external interest who provide the funding for them and then they think that only they themselves are entitled to have a view on Zambia."*³⁰

Mr. Chikwanda, now retired as Minister of Finance, is still a member of the PF Central Committee and maintains influence in the country. The public verbal attacks, reported by Zambia's major media outlets, which are largely either government-run or pro-government, have continued unabated. In February 2018, Lusaka Province PF Youth Chairperson, Kennedy Kamba, told the Lusaka Times, that "Civil activist Laura Miti is a UPND [United

27. See, "Zambia's President Abandons Re-election Bid", 5 May 2001, <https://www.nytimes.com/2001/05/05/world/zambia-s-president-abandons-re-election-bid.html>

28. President Michael Sata died in office, unexpectedly, and so is not seen as having done as much damage to Zambia as President Lungu.

29. Economist Intelligence Unit, EIU Country Reports (Uganda Edition), "China-Africa Relations: a 'new stage,'" 22 January 2018. Notably, the report found, "African governments have a partner that can offset the influence of the West, and the Chinese government has a continent of countries upon whom it can depend for support on the international stage. The correlation between Chinese aid flows and African countries' voting patterns in the UN General Assembly will probably continue, with a predictive model developed by US-based AidData suggesting that voting with China at the UN an extra 10% of the time yields, on average, an 80% boost in aid inflows for African countries."

30. "Civil Society organisations are formed by people who have failed to make ends meet- Chikwanda" Lusaka Times, 13 March 2014 - <https://www.lusakatimes.com/2014/03/13/civil-society-organisations-formed-people-failed-make-ends-meet-chikwanda/>



Party for National Development] stooge who is hiding behind the veil of running a civil society organisation to propagate her funders' ideals by demonising Government every day". Laura Miti is the Director of the Alliance for Community Action (ACA), a civil society organisation established in 2013 that promotes community participation and accountability in development.

Since the elections in 2016, there has been a reduction in funding for governance, civil society and human rights projects. Memory Masaka is the Project Coordinator of the Zambia Extractive Industry Project for Caritas Zambia, based at the Catholic Diocese of Ndola. Caritas Zambia had run a democracy program in the Copperbelt Province, but funding for it ended in 2017 and the project was not renewed. Additionally, due to resource constraints as a result of reduction of available donor funding, Caritas has been forced to limit its programming to Chingola, including work to monitor the extractive sector and organize communities affected by mining.

According to other HRDs from Copperbelt Province and the North-Western Province, civil society organisations

and HRDs working on rights-based agendas located outside Lusaka have even greater challenges of limited capacity due to the lack of funding available from donors. These HRDs and organisations continue to work in spite of huge challenges, with many HRDs often sacrificing other professional opportunities in order to continue their efforts to support their communities. According to Pamela Nachalwe (Anti-Voter Apathy Project – AVAP), Chris Bwalya (Southern Africa Centre for the Constructive Resolution of Disputes - SACCORD) and Haggai Nyambe (Civil Society For Poverty Reduction – CSPR), the lack of funding for human rights advocacy and awareness raising has kept the impact of HRDs minimal and left them vulnerable to attack and smearing.

Though tension between those in power, on the one hand, and HRDs, civil society and media working to hold power to account and uphold rule of law, on the other, is a necessary feature of vibrant democratic nations, the regular targeting of HRDs and civil society in Zambia is eroding their standing and ability to be effective, particularly when combined with scarcity of resources.

31. "Laura Miti is a UPND stooge – Kamba," Lusaka Times, 11 February 2018 - <https://www.lusakatimes.com/2018/02/11/laura-miti-upnd-stooge-kamba/>

Threats & Attacks

I. Defamation Campaigns

The targeting of civil society leadership and HRDs is part and parcel of government and PF strategy of treating civil society organizations and defenders as 'the opposition'. The effort to blur lines between civil society and HRDs on one hand and the formal political opposition (UNPD) on the other, represents not only an attempt to erode the trust of the public in civil society organizations and HRDs and question their motives, but also to fundamentally transform any concern about what the government is doing into a question of political affiliation, rather than one of rights and laws, and the obligations of government to the citizenry.

MacDonald Chipenzi – head of GEARS, one of the few remaining organizations that work on democracy and governance issues in the country – has been under constant pressure and threat since 2013, when he was arrested for making a statement at the time related to the recruitment of police. He previously headed Foundation

for Democratic Process (FODEP), which faced legal and administrative challenges in an effort to de-register the organization on the grounds that it is not an NGO, but rather an agent of the opposition UNPD party. LAZ and its President Linda Kasonde regularly come under public attack in the national media with allegations that they are part of the opposition, despite opinions issued by the organization that are rooted in legal analysis of the Constitution and legal code. The fact that the LAZ is calling for the Constitutional Court to resolve the question of whether the constitution allows President Lungu to stand for a third term has become the main point by which it is smeared as being partisan.

Nalucha Nganga Ziba, Country Director of ActionAid Zambia, explained how her organization, and others, have come under sustained assault by the government, aimed at undermining civil society credibility and reputation. Though the main public attacks against ActionAid have





HRDs increase in frequency and brazenness. SACCORD maintains a national network of activists working to promote peace, democracy, human rights, good governance and access to justice. SACCORD has been targeted by previous governments for its work, including being de-registered in 2004, though the organization successfully managed to get re-registered by challenging the ruling in court. However, Boniface reports a shift in smear tactics and threats with individual HRDs now being singled out for attack and defamation. Being targeted by the government has not spared SACCORD from also being targeted by the political opposition. Following the 2016 elections. Social media combined with partisan media fabricated information and spread rumours about SACCORD and Boniface in an attempt to both smear and to fracture civil society. Following the 2016 elections, that were monitored by SACCORD, rumours began circulating that the organization, along with FODEP and Young African Leaders Initiative – Zambia (YALI) had embezzled funds donated by the UK Department for International Development (DFID) for election monitoring. These social media postings were picked up opposition-affiliated media (such as The Zambian Observer and Zambia Watchdog), which had alleged vote-rigging in the election. According to DFID, which conducted a forensic audit, this reporting is incorrect.

“One of the youth leaders belonging to the ruling party issued a statement – a totally false statement – that my organization, through me, was utilizing support from the cooperating partners to organize student movements to undertake activities against the government. Total fabrication of reality. I can tell you, when our structures around the country, my family around the country, everybody associated to SACCORD heard that statement, everybody was perturbed, everybody was wondering if that statement was true. And we had to spend so much time and energy defending [against] a statement that was totally false. So we have seen a very good tactic that has been put in place to basically issue statements to try to discredit civil society activists and these statements are total fabrications of reality.”
- Boniface Cheembe, Director, SACCORD

The targeting of HRDs and civil society organizations is a means of eroding public trust and support for those entities and eliminating any voice that can effectively question and challenge the government.

been personal attacks on Nalucha (see below), the organization is, nonetheless, target of a concentrated effort to intimidate and harass. ActionAid has been the victim of attempted infiltration, as staff members have reported being approached by intelligence officers seeking to turn them into ‘informants’. Nalucha also reported that the ruling party and the government consistently seek to portray any work or reports by civil society groups and HRDs that documents corruption or other issues critical of the government as being motivated by allegiance to the opposition. Yet in mid-November 2017, when ActionAid Zambia identified questionable practices regarding possible tax avoidance by main opposition leader, Hakainde Hichilema (aka ‘HH’), Ms. Ziba came under direct attack by social media sites in the opposition camp, claiming that she had received bribes from the PF party and attacking her personally.

According to Boniface Cheembe, Director of SACCORD, “everyone is living in fear” in civil society as attacks against

32. See, for example: <https://www.lusakatimes.com/2017/11/15/ngocc-asks-economists-financial-experts-provide-direction-tax-havens-debate/>

33. See Zambia Watchdog: <https://www.zambianwatchdog.com/now-pf-hires-actionaid-misa-boss-to-accuse-hh/comment-page-1/> and Zambian Observer: <https://www.zambianobserver.com/arrest-hh-for-his-economic-vision-actionaid-zambia/>

II. Target: HRDs – Raids, Arrests, Threats & Intimidation

Case: Linda Kasonde

On 3 March 2017, youth affiliated with the Patriotic Front (PF) ruling party stormed the offices of the Law Association of Zambia (LAZ) and demanded that its President, Ms. Linda Kasonde, resign. The government subsequently declared the action by the youths illegal, but no arrests were made in connection, and a year later, Ms. Kasonde continues to receive threats and derogatory messages challenging her competence and morality via social media. These attacks typically follow any statements that challenge the government position on national legal issues.

Virtually every time her organization puts out a statement about the actions of the government in any way related to elections, the judiciary or pending legislation,, and often when she is quoted in the media, she receives a barrage of hate-filled messages on social media – both in public postings on news websites and messages sent to her personally. While Ms. Kasonde has not moved location with her family, she worries greatly about her safety and has begun paying closer attention to possible surveillance.

“While I have been targeted publicly and my communications are surely monitored, it is hard to say what exactly the risk is, and that causes anxiety and stress.”
- Linda Kasonde, former President, Law Association of Zambia (LAZ)

Case: National Budget Protests

On 29 September 2017, during the presentation of the 2018 national budget by Finance Minister Felix Mutati, six HRDs were arrested for protesting government corruption in procurement processes following the purchase of 42 fire trucks for USD \$42 million. The organizers of the protest alerted the police in advance of their intention to peacefully demonstrate, as per the regulations of the Public Order Act. They were told that they could not gather, in contravention of the Act, which requires informing the police, but does not grant the police the authority to deny freedom of assembly. Yet, on the day of the action, counter-protesters gathered

unmolested by the police. Laura Miti (ACA), Lewis Mwape of the Zambia Council for Social Development (ZCSD), and musician-activist Fumba Chama (known by his performing name ‘Pilato’) were among the group arrested and kept overnight in detention. All are out on bail and have since been to court many times, but the prosecution continues to delay the case, with hearings postponed time and again (as of the publishing of this report, the case has yet to be resolved – more than one year since the initial arrests).

Many HRDs interviewed, particularly those outside Lusaka, raised this case. In particular, HRDs stressed that the arrest of HRD Laura Miti served as a warning to HRDs to not speak out and challenge the government. Haggai Nyambe, Provincial Coordinator for CSPR in the North-Western Province, said Ms. Miti’s arrest contributed to fear of arrest or closure for organising protests. In 2014, Mr. Nyambe organised protests against a mining company. Even though protesters were detained then, he cited the more recent prosecution of Laura Miti and the other HRDs, which has received a lot of media coverage, as a more significant deterrent to current efforts to organise protest against corruption, impact of mining and other issues.

Case: Pilato

Fumba Chama, a.k.a. Pilato, a rap musician and social activist based in Ndola, located in the Copperbelt region, was one of the HRDs arrested with Laura Miti. His music, which is popular with youth across the country, addresses human rights issues including corruption and has called out public figures for criticism. While Zambia has long touted its free speech laws, Pilato receives direct and persistent threats for his music. In June 2015, he was arrested for a song (‘A Lungu Anabwela’) and charged with defaming President Lungu.³⁵ He has faced retribution and loss of income and ability to earn a livelihood when the ruling party pressured concert venues and event organizers to cancel bookings. He has also had permits revoked by local authorities for public events. Radio stations – both commercial and community run – have been ordered to not play his music by individual government officials and ruling party cadres and have had their licenses threatened if they do not abide by the demand. Pilato’s

35. See “Zambian singer Chama Fumba arrested over song that ‘mocks’ President Lungu,” The Guardian, 8 June 2016, <https://www.theguardian.com/world/2015/jun/09/zambian-singer-chama-fumba-arrested-over-song-that-mocks-president-lungu>

young children have been approached outside school by strangers who have sought to pick them up, only to be thwarted by school administrators – this happened each of the two days prior to the anti-corruption protest in September 2017; he consistently receives death threats by phone and on social media; and in March 2016 a gang affiliated with the ruling party abducted one of his childhood friends and interrogated him about Pilato’s location after the musician had released a hard-hitting song, “Kulanwanwafye” that riled up the local PF youth wing in his town.

On 5 January 2018, Pilato left Zambia for safety in South Africa after receiving a video message in December recorded by cadres of the ruling PF who threatened to beat him for releasing the song, “Koswe Mumpoto” (Rat in the Pot), which has been a huge hit since it came out in December. In a public statement, the chairperson of the PF party for Central Province ordered Pilato to stop singing the song on 11 December, and authorities issued orders to radio and TV stations to stop playing the song.³⁶ The song addresses the rampant corruption in the country,

*Kubwendo bwakwa King Cobra kwalingila ba Koswe, apa inchito yabo Kwiba
(A rat’s job is stealing and the Cobra’s hole has been invaded by rats whose job is stealing)*

Apa kubako careful naba Koswe, twalafwa bonse nga tatwa kose.

Nabengila na mufipatala, ukufuma kumisebo amatala; bena monse kano balyemo.

Ukufwaisha sana fi cheese nabaya nomba nakuma Chinese. Bushe kwena ni mbeba iyi, mukusamwa yasuma imbwili

(We should be careful with these rats, we shall die if we are not strong.

They have now gone in hospitals just after leaving roads. They want kickbacks in everything and in search of ‘cheese’.



They are now dealing with the Chinese; is this a bush mouse or a rat?

*In its gloating, it has beaten a leopard.*³⁷

Upon returning to Zambia on 16 May 2018, Pilato was arrested at Kenneth Kaunda International Airport in Lusaka, due to an arrest warrant having been issued against him for missing a court appearance while he was in hiding in South Africa. He was subsequently released on bail, after spending three days in a jail cell in police custody.

According to Pilato, the government and PF party are out to make an example of him, to ensure that no one else speaks out. Even though his music has gone viral, he is a target and people avoid him, “When they look at me, they see the government eye; they see danger because the government is looking at this guy.”

*“We [HRDs] are an endangered species in this country. There is no safe space, under the watch of the PF.”
- Pilato*

36. See Amnesty International, <https://www.amnesty.org/en/latest/news/2018/01/zambia-musician-pilato-flees-home-country-amid-fresh-crackdown-on-dissent/>

37. See “Pilato’s new song ‘Koswe Mumpoto’angers PF,” *Zambian Eye*, 12 December 2017, <http://zambianeye.com/pilatos-song-koswe-mumpoto-angers-pf/>

Case: Eugene Mulenga

Eugene Mulenga is Coordinator for Caritas Zambia in Chingola, Copperbelt Province, working on a number of issues, but most prominently supporting communities affected by mining. He documents labour conditions of miners, as well as the mining industry's health, social and economic impacts on communities. He has been summoned by the Provincial Minister six times in the last two years – as recently as January 2018 – after making public statements or presenting documentation of abuses. Often after speaking to local radio, he has been met by plainclothes state security or police and brought to the Minister's office, where was threatened and told to stay quiet by the Minister himself.

He has also been targeted by corporate officials, including at a meeting between an official from Vedanta Resources (one of the two main mining companies in Chingola) and the Provincial Minister, in which he was identified as a proxy of the opposition – an allegation meant to smear him and taint his work. At another meeting between the Provincial Minister, representatives of KCM (the other major mining company in Chingola) and Caritas, the Minister named Mr. Mulenga and his colleagues as 'enemies of the government'. Local PF Councillors also have criticised Mr. Mulenga on social media after his media appearances, trying to identify him as acting on behalf of the political opposition. All of these attacks have led to him being avoided by friends and former colleagues, as he is seen as being targeted by the ruling powers. In his interview with Front Line Defenders, Mr. Mulenga expressed his belief that "the only reason I have not suffered actual physical harm to date is probably because I work for a church-based organisation."

Memory Masaka (Caritas Zambia) explained how she had organised a community meeting in 2017 around governance issues, at the end of which the participants wished to present a statement to the local mayor. As they would be bringing a large group of people, she informed the police, in order to comply with the Public Order Act. Contrary to the Act, however, the police refused to permit the activity, on the grounds that it was 'political'; the Act does not grant police authorities to permit public demonstrations, only that police are to be informed, nor does it allow for police to sanction free speech. In addition to the sanction, the police threatened to investigate individuals involved in the activity, thus implicitly threatening organisers.

In the meetings in the provinces outside of Lusaka, many HRDs reported a common experience of having received phone calls from a local 'representative of the Office of the President'. HRDs report that these calls often reveal some level of surveillance of the HRD and her/his activities. These people are understood by HRDs to be working under the authority of the President's office and are part of the state security apparatus, but do not have any kind of publicly acknowledged office. They utilise informants and send individuals to infiltrate meetings held by CSOs and HRDs. Mr. Nyambe (CSPR) reported that his organisation had experienced this in North-Western Province, and HRDs from Copperbelt Province also confirmed this experience. Two hours following the meeting Front Line Defenders held with HRDs from Copperbelt Province, the organizer received a phone call from the local representative of the President's office, asking questions about the purpose of the meeting, why there was someone from Ireland with him, and seeking other details. Southern Province HRDs Armytage Mumbwalo (Youth Development Organization) and Bright Jalila (Positive Action for Human Rights, Freedom and Development – PAHFD) from Choma, and Kebby Salisimu (CSPR) from Monze all reported calls from the local representative of the President's office, as well as having visits from state security/intelligence officers.

In general, HRDs in smaller cities and towns outside the capital seemed to be more vulnerable to pressure, intimidation and interference from local officials and PF cadres, especially in the provinces where mining companies are present and can exert influence as well.

Almost all HRDs interviewed reported receiving direct threats. While many threats were anonymous, sent via various forms of messaging and in the media, others came from highly visible public officials, prominent members of the PF party, PF cadres or the police and security officials.

Threats to HRDs do not only impact their work. One HRD reported that she had to move to a new home with her young children because of the numerous threats she was receiving and that her home address had been made public. Another HRD reported that although she has not moved home, the privacy of her home is critical and a source of great worry because of the threats and because she takes care of her elderly and ill mother. She also reported that her son, who has faced pressure as well, is a target and that his protection is an overriding source of anxiety for her.

III. Target: Women Human Rights Defenders



Nalucha Nganga Ziba is Executive Director of ActionAid Zambia, the local NGO of the international Action Aid network. She has faced threats and smear campaigns both personally and against the NGO. This is part of a pattern she, Linda Kasonde and Laura Miti all experienced and recognized – that women HRDs (WHRDs) and civil society leaders are targeted by high ranking male officials in public media to discredit the individual defender, her organization or media outlet and civil society at large. Playing to traditional patriarchal norms in the society, the WHRDs are portrayed as negligent mothers and wives, potentially promiscuous and otherwise immoral or corrupting to family and society. The attacks include threats and slandering with a sexual or gendered dynamic; threatening or targeting the children of WHRDs; and working to undermine the reputation of women who are leaders in society. Ms. Ziba came under attack in November 2017 in relation to Action Aid’s work on

tax justice and public finance accountability – issues the organization has worked on for years.³⁸ Ms. Ziba and her colleagues explained that any time Action Aid published information that called into question the use of public finances or challenged government claims regarding economic development, attacks would be unleashed against her personally.

Laura Miti recognizes that even as the NGO she leads, the Alliance for Community Action, comes under pressure, it is her as a WHRD and the leader of the organization who is singled out for intense targeting – including through attempts to smear her reputation in order to generate negative information about her in her community and family pressure. She has faced online media articles claiming she has personally been paid off by both opposition political figures as well as by foreign diplomatic missions in the country.³⁹ Other articles claimed that she and her organization receive all available funding for civil society, in what appears to be an attempt to sew divisions between civil society groups.⁴⁰ She has also received direct threats to her and her children. According to Ms. Miti, because of the pervasive corruption in Zambia, those who perpetrate these smear campaigns know that “all accusations are believable,” thus enabling such false news to generate doubt, even among allies. Additionally, Ms. Miti identified the use of the tabloid press as a vehicle to attack her reputation as a female leader, in a society that still has traditional views regarding the role of women. In addition to threats to her children that put her under constant pressure, stories have been published about her ex-husband, as a means to silence her with the intention of smearing her personal reputation.

“We are not breaking any law, so arrests are a lot more difficult. So instead, vilify, and smear the people involved in it – that’s the way they do it...The idea here is let’s silence me as a person, to try to prevent the growth of what they realize is the first resistance in a very, very long time.”
- Laura Miti, Alliance for Community Action

38. See “NGOCC asks economists and financial experts to provide direction on Tax Havens debate,” Lusaka Times, 15 November 2017, <https://www.lusakatimes.com/2017/11/15/ngocc-asks-economists-financial-experts-provide-direction-tax-havens-debate/>

39. See “Laura Miti Attention Seeker”, Daily Nation, 29 March 2018, <https://www.dailynation.info/laura-miti-attention-seeker/> and “Laura Miti is a UPND Stooage – Kamba”, Daily Nation, 11 February 2018, <https://www.dailynation.info/laura-miti-is-a-upnd-stooage-kamba/> and “Africa’s CON-FIDENTIAL and Laura Miti: A Case of Recklessness and Incompetence”, Lusaka Times, 9 September 2018, <https://www.lusakatimes.com/2018/09/09/africas-con-fidental-and-laura-miti-a-case-of-recklessness-and-incompetence/>

40. See “Laura Miti Takes Over Donor Funding”, Zambian Watchdog, 3 November 2017, <https://www.zambianwatchdog.com/laura-miti-takes-over-donor-funding/>

IV. The Media Sector & Attacks Against Press Freedom

Zambian Media Sector

Many HRDs lamented the state of affairs of the media sector in the country. Recognising the limited capacity and resources available, there was nonetheless a shared sentiment that the media sector was largely partisan, and susceptible to pressure. The lack of independence and effective capture of the public broadcaster (ZNBC) by the government and ruling party helps fuel the partisanship and effectively sets up competition in the media sector based on this political divide. The Board of Directors of ZNBC is appointed by the President, and in a break from precedent, the current Director General is not someone with a journalistic background (rather, he is trained as an engineer⁴¹). The Independent Broadcast Authority, which is under the Ministry of Information was originally set up to have executive members nominated by media houses as well as government. However, to date, all executive members of the IBA and management are government appointed. The IBA has authorized the closing of media outlets when reporting has been critical of the government, notably some of the private TV and radio stations.

Journalists seeking to report on human rights issues face a myriad of challenges. According to HRD Joseph Ngosa of Good Samaritan in Kabwe, Central Province, journalists fear reporting on human rights abuses for being accused of being anti-government; are followed and harassed by security personnel or PF party cadres; and do not have resources to go and cover stories, even needing transportation costs covered in order to report on a story. Mr. Ngosa was detained and questioned in 2016 after meeting with a journalist to discuss his work – and the journalist was warned against meeting with human rights activists.

Journalist Wilson Pondamali has been an investigative journalist for over twenty years and is currently editor-in-chief of The Zambia Punch, an online news outlet that investigates and reports on corruption. Due to safety concerns, only a few journalists for the outlet are identified publicly, and Mr. Pondamali has come under repeated targeted attack over the years. Earlier this year, while reporting on police abuse, he was arrested, charged with 'breach of peace' and fined because he was filming the police using physical force against civilians. He was ultimately acquitted of all charges, but this was the latest in a series of arrests, false charges, intimidation, harassment – including searches of his house – and threats since 2013.

According to Sally Chiwama, independent journalist and former Free Speech Programme Officer at the Media Institute of Southern Africa (MISA), journalists face threats, intimidation and loss of employment. Community radio,



41. See "Mwanza is New ZNBC Boss," Times of Zambia, 3 October 2014, <http://www.times.co.zm/?p=37942>

one of the media spaces that have existed to an extent outside the pressure of government and ruling party pressure, are increasingly falling victim to the same forces of toxic partisanship that other media has experienced, and those refusing to abide by the government line are threatened with closure (removal of license). MISA's State of the Media in Zambia, For the First Quarter 2017 concluded, "What is evident though, is that the hope for a freer media in Zambia is ever getting farfetched...Political interference, sheer police and political cadres' brutality against journalists has continued."⁴² A year later in the report on the first quarter of 2018, MISA's assessment remained dire, "The private media are still not free to publish information deemed critical of government as they are constantly under censorship and surveillance by the state. Cadres also threaten the operations of the media with calls by the PF and some government officials to have media houses to cover government related issues positively."⁴³

The Post Newspaper

On 21 June 2016, the Zambian Revenue Authority closed The Post newspaper, a widely respected independent media outlet widely regarded as beyond the control of any political actor or party, for alleged tax evasion. The Post had come afoul of government interests many times because of its independent, critical reporting and investigations, but had never faced closure before 2016. Authorities also arrested the owner and Chief Editor, Fred M'membe and the Deputy Managing Editor, Joseph Mwenda (as well as Mr. M'membe's wife, Mutinta Mazoka-M'membe) after police raided the newspaper's offices.

According to nearly all HRDs interviewed, the closing of The Post was partly intended as a strong signal to civil society to intimidate and silence. The government made clear that critical voices would not be tolerated. The Post had been a platform for HRDs and civil society to get visibility for key issues related to women's rights, governance, corruption, and other human rights issues. The loss of this space left the media landscape relatively barren for quality, independent, non-partisan news coverage of human rights issues.



"The Post would report and investigate – now there is a gap in the media."

- Laura Miti, Alliance for Community Action (ACA)

Journalist and HRD Joan Chirwa was a correspondent and then Managing Editor at The Post and is now Editor-in-Chief and CEO of The Mast, an independent newspaper established after the closing of The Post. She reports facing a full panoply of surveillance, including being followed, having her phone monitored and having had her email account hacked. In response to threats and the continued surveillance, she was forced to move her residence at the end of 2016 and to keep the new location secret.

Print media has not been the only target, however. Independent television and radio stations have fallen foul of the government and faced consequences as a result. MUVI TV is the first private commercial television station in Zambia, established in 2002. Melody Mwala, now News Editor at Prime TV (another independent TV outlet), but who was News Editor at MUVI TV until March 2018, explained how MUVI TV was suspended in 2016 following its reporting on the results of the 2016 presidential election, the legitimacy of which were challenged in court by the opposition. The police closed the TV station for three weeks, though no journalists were detained, on orders from the Independent Broadcasting Authority. The TV station and Melody herself receive constant attacks on social media and she has faced threats as a result of her news reporting.

Threats to HRDs After Media Appearances

HRDs were targeted for harassment, receiving threats and, in some cases, notably in cities and towns outside

42. Media Institute of Southern Africa – Zambia, State of the Media in Zambia, For the First Quarter (January – March 2017, p. 30: <http://crm.misa.org/upload/web/State%20of%20the%20Media%20in%20Zambia%20Q1%202017%20.pdf>

43. Media Institute of Southern Africa – Zambia, State of the Media in Zambia, For the First Quarter (January – March 2018, p. 18: <http://crm.misa.org/upload/web/State%20of%20the%20Media%20in%20Zambia%20Q1%202018.pdf>

44. See "IBA Shuts Down MUVI TV, Komboni Radio and Itezhi Tezhi Radio", Lusaka Times, 22 August 2016, <https://www.lusakatimes.com/2016/08/22/iba-shuts-muvi-tv-komboni-radio-itezhi-tezhi-radio/>

Lusaka, being picked up by police or security forces after appearing in media to discuss their work or to speak to human rights issues. Bright Jalila, Executive Director of Positive Action on Human Rights Freedom and Development (PAHRFD), based in Choma, Southern Province, uses radio, print media and local television as a means of raising public awareness of human rights issues. He often appears on local and national radio and television, including discussing cases of abuse and corruption by officials and police. He has been repeatedly threatened after such appearances, and police in his town have publicly criticised him and his organisation as a means of isolating it from the community. After a visit in early 2018 to a local prison to document complaints from inmates about conditions and violations, Bright was summoned by the warden of the prison who accused of publicising information about the prison and threatened

the HRD against making further 'trouble'.

Kebby Salisimu, Monze-based Southern Province Chairperson of Civil Society For Poverty Reduction (CSPR), also uses radio to raise public awareness on issues of governance and social and economic rights, including issues related to development and corruption. Police have threatened him with arrest following his media appearances, and in 2017 an unprecedented incident occurred when the host of the 'BBC Platform' radio programme was called by the senior district intelligence officer to cancel the programme that Mr. Salisimu was scheduled to appear on that day, on the grounds that the HRD would 'incite the public'. The programme had been scheduled to discuss the police handling of a protest earlier that week. Mr. Salisimu was contacted as well and warned about his work.





Conclusion

As President Lungu takes steps to consolidate power and marginalise the political opposition, HRDs demanding accountability, transparency, and fiscal justice are increasingly demonized for their legitimate human rights work. The ruling party is working to undermine HRDs' credibility through smear and defamation campaigns, portraying them as political opposition.

The impact of these tactics is to erode public trust in HRDs and civil society. Distrust has become a form of political currency for the ruling party and is used as a whipping tool to entrench political and economic power. Further, the authorities are using outdated colonial laws, such as the Public Order Act (1955) to shut down civil society space and to judicially harass HRDs.

The changes are not occurring overnight, and have been given little attention by external observers. HRDs say the decline is slow but steady, and their resources to cope with an authoritarian transition are insufficient. HRDs are facing increasing pressure and challenges to their work and legitimacy, but lack the international support that often only comes at the height of a crisis.

HRDs and civil society are in need of resources, advocates and increased capacity and capabilities to meet the

challenge they face by a determined political party. The country is in retreat with regard to respect for human rights, democratic norms and fundamental freedoms. The international community, including international human rights organizations, are often used to responding to acute crises; the challenge Zambia presents is one that demands a response before such a crisis emerges.

As highlighted by the Funder Initiative for Civil Society, without an intensive effort to push back against closing space, development interventions will become progressively less effective at assisting those living in poverty. Achieving the Sustainable Development Goals is contingent on an independent, effective civil society to play key roles in providing practical support and assistance, mobilising communities, strengthening local knowledge and skills, and holding governments accountable.⁴⁵ Without a solid civil society foundation on which to build development, many of the other efforts will remain in vain. In addition, having strong local civil society organisations who can represent the interests of the most excluded in the development of regulatory and institutional environment is a key factor to securing inclusive economic development.

45. <http://global-dialogue.eu/wp-content/uploads/2017/07/FICS-Booklet.pdf>

Recommendations

Given the deteriorating situation for civil society in Zambia and the potential for things to worsen at a more accelerated pace in the context of the effort to secure a third term for President Lungu, Front Line Defenders is seriously concerned for the safety and protection of human rights defenders, and for their ability to continue their work in an effective manner. As such, a number of steps can be taken by the government of Zambia, the international community and intergovernmental entities (the Commonwealth, African Union, the Southern Africa Development Community, etc.).

Front Line Defenders makes the following recommendations, after close consultation with Zambian HRDs.

1. To the Government of Zambia:

- Implement the recommendations of the 2017 UPR Report, particularly those directly effecting human rights defenders and their work – notably recommendations 129.4 (reforming the Public Order Act) and 129.49 (regarding civil society and media input into the draft Access to Information bill), which were accepted by the government.⁴⁶
- Accept and implement recommendation 131.82 (calling on government to fulfil international obligations for the safety of human rights defenders) which was officially only noted as a response in the UPR Report.⁴⁷
- Repeal and amend the Public Order Act to allow for full rights of expression and assembly. Train police and other arms of the state on civic space and the provisions of the law.
- Stop persecution of HRDs using charges derived from the Public Order Act (1955) that criminalize protest.
- Open meaningful consultations for CSOs and the public to form laws, and take the recommendations of civil society on cyber laws, including concerns related to freedom of expression. Further, introduce dialogues with CSOs through relevant ministries (eg: Justice, women’s affairs) and with the office of the President.
- Implement recommendations accepted as part of the UPR process at UNHRC on civic space.
- Formulate a law on the protection of human rights defenders as recommended to all states by the ACHPR.
- Transform the national public broadcaster, ZNBC, to become an independent media institution, free from political influence and control, to gain full public trust and to be a credible news source.
- Commit to dialogue with political opposition parties and civil society through the Commonwealth facilitated dialogue process in order to reduce political tension in the country. At the same time, the government and ruling party should publicly distinguish between political actors and civil society organisations and HRDs, and accept the legitimacy of CSOs and HRDs as independent actors.



46. See Report of the Working Group on the Universal Periodic Review – Zambia, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/005/26/PDF/G1800526.pdf?OpenElement>

47. Ibid.

2. To the Commonwealth:

- The Commonwealth should take a more proactive role in promoting human rights standards among member states, with specific focus on respect for and protection of human rights defenders.
- Continue to facilitate and mediate the holding of a broad-based dialogue to resolve issues in the governance and democratic process of the country, and to ensure a platform for civil society organisations and HRDs to be able to maintain space in which to work in a secure manner, as per its commitment articulated as part of the Commonwealth Human Rights Initiative.

3. To donor nations:

- Support the strengthening of the independence and professionalism of the judiciary.
- Call on the government of Zambia to reform national laws that are inimical to democratic growth and progress in Zambia such as the Penal Code (1938), Public Order Act (1955), and the NGOs Act (2009), as well as monitor the proposed Cyber Law.
- Frame the safeguarding of civil society space and protection of human rights defenders as a key focus of efforts to achieve the SDGs. Prioritise SDG 16 – promoting peaceful and inclusive societies, by investing in civil society partnerships and interventions.
- Support and protect civil society actors and networks through direct programme support and diplomatic channels, including a focus on protecting human rights defenders to speak out and hold governments and other duty bearers to account.
- Support independent media in Zambia.
- While CSOs and HRDs in Zambia are still able to conduct programmes, the current trajectory is in a direction that other nations in the region have taken to restrict the ability of civil society to organise effectively – it is important to reverse the deterioration at the earliest possible point or even prevent it entirely. This is critical in order to fight corruption and avoid that funds provided directly to the Government of Zambia are wasted. In 2016 the Nairobi Outcome Document for Effective Development Cooperation⁴⁸ acknowledged the shrinking civil society space around the world, and committed Global Partnership members to accelerate progress in creating an enabling environment for civil society.
- Support capacity building of CSOs, movements and HRDs in physical and digital protection, as well as campaigning and effective advocacy skills.
- Support programmes and organisations that are led by and/or specifically help WHRDs, and support upcoming WHRDs who have limited access to resources and support, and who are operating in a difficult, patriarchal context.
- Support programmes that can educate CSOs on regional mechanisms available (such as participation in SADC NGO forum, participation in ACHPR sessions, etc.), so that the situation in Zambia is better understood regionally.
- Support programmes that build solidarity among various HRDs, CSOs and movements in Zambia since restrictions and attacks on HRDs and limitations on civic space affects women's movements, governance CSOs, anti-corruption and accountability efforts, climate change initiatives, humanitarian work, etc.
- Mainstream civic space goals into programmes that deliver humanitarian funding.

48. <http://effectivecooperation.org/wp-content/uploads/2016/12/OutcomeDocumentEnglish.pdf>

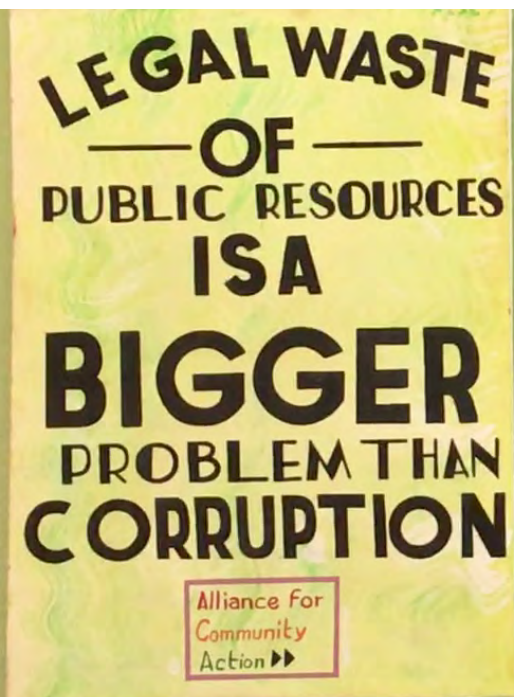
- Support the development of a network of lawyers for human rights who are readily available and have resources to defend HRDs without additional burden to the HRDs and their organisations who face criminalisation.
- Support the implementation of recommendations from the EU Election Observer Mission (2016) on how to conduct and manage credible, free and fair elections.⁴⁹
- Support the development of the nascent Zambia Human Rights Defenders Network in terms of capacity-building, particularly around areas of protection and advocacy, including opportunities to participate in and learn from other national HRD networks in the region (i.e. Tanzania, South Africa, etc.).
- Provide greater support to non-Lusaka based organisations, particularly those led by and involving youth and women, which tend to have restricted access to resources and are more vulnerable to pressure by the state and ruling party cadres.

4. To the African Union:

- Ensure that Zambia is compliant with the domestic provisions of the African Charter on Democracy, Elections and Governance (ACDEG) and other regional protocols and treaties of people's rights and freedoms.
- Engage the Zambian government on the ACHPR Guidelines on Freedom of Expression and Association and encourage domestication of these principles via new legislation and policies.

5. To the Southern Africa Development Community (SADC):

- SADC should reinstate the suspended SADC Tribunal which was an avenue for SADC citizens to seek redress against their governments.
- SADC should provide opportunities for civil society engagement with the regional body, including consulting with CSOs and HRDs with regard to government actions that are harmful to rule of law and reduce civil society space.



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DUBLIN

Front Line Defenders - Head Office
Second Floor, Grattan House
Temple Road, Blackrock, A94 FA39
Co. Dublin, Ireland

Tel: 00 353 1 212 37 50
Fax: 00 353 1 212 10 01
Email: info@frontlinedefenders.org

BRUSSELS

Front Line Defenders – EU Office
Square Marie-Louise 72
1000 Brussels
Belgium

Tel: 00 32 230 93 83
Fax: 00 32 230 00 28
Email: euoffice@frontlinedefenders.org

WWW.FRONTLINEDEFENDERS.ORG



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