



Zambia

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Submission by **CIVICUS: World Alliance for Citizen Participation**
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and

Governance, Elections, Advocacy, Research Services Initiative Zambia
(GEARS Initiative)

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1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 180 countries throughout the world.
- 1.2 Governance, Elections, Advocacy, Research Services Initiative Zambia (GEARS Initiative) is a not for-profit national CSO that was established in November 2016. Its main goal is defending, protecting and promoting democratic processes, human rights, rule of law, constitutionalism and electoral integrity in Zambia.
- 1.3 In this submission, CIVICUS and GEARS Initiative examine the Government of Zambia's compliance with its international human rights obligations to create and maintain a safe and enabling environment for citizens' enjoyment of their fundamental freedoms and human rights. Specifically, we analyse Zambia's fulfilment of the rights to the freedoms of association, peaceful assembly and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in November 2017. To this end, CIVICUS and GEARS Initiative assess Zambia's implementation of recommendations received during the 3rd UPR cycle relating to these issues and provide action-orientated follow-up recommendations.
- 1.4 During the 3rd UPR cycle, the Government of Zambia received 21 recommendations relating to the space for civil society (civic space). All 21 recommendations were accepted by the government. However, an evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrates that the Government of Zambia has partially implemented only two recommendations and has failed to put in place effective measures to implement 19 recommendations relating to civic space.
- 1.5 Although the new government that came to power in August 2021 enjoys considerable goodwill and has said it is committed to the rule of law and human rights protection, overall the government has persistently failed to address unwarranted restrictions on civic space since Zambia's last UPR examination. Acute implementation gaps were found with regard to the freedom of expression along with issues relating to peaceful assembly and the safety of HRDs.
- 1.6 We are deeply concerned about the lack of implementation of the recommendation to review laws that regulate peaceful assembly; the Government of Zambia has continued to maintain laws in their current state to limit and restrict civic space.
- 1.7 We are particularly concerned by the restrictive legal framework, which undermines the freedoms of association and expression and opinion.

- 1.8 We are also concerned about acts of intimidation and attacks on citizens, HRDs, CSOs and journalists in the period leading up to and during the presidential and parliamentary elections in August 2021. The continued use of excessive force by security forces in response to protests is another cause for concern.
- 1.9 As a result of these issues, civic space in Zambia is currently classified as obstructed by the CIVICUS Monitor, indicating the existence of significant civic space restrictions.¹
- Section 2 of this submission examines Zambia's implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of association.
 - Section 3 examines Zambia's implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
 - Section 4 examines Zambia's implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of expression, media freedom and access to information.
 - Section 5 examines Zambia's implementation of UPR recommendations and compliance with international human rights standards related to the freedom of peaceful assembly.
 - Section 6 contains recommendations to address the concerns raised and advance implementation of recommendations under the 3rd cycle.
 - An annex on the implementation of 3rd cycle UPR recommendations related to civic space is in Section 7.

2. Freedom of association

- 2.1 During Zambia's examination under the 3rd UPR cycle, Zambia received three recommendations on the right to the freedom of association. The government accepted all the recommendations.
- 2.2 As evidenced below, the government has partially implemented one recommendation regarding effective engagement and consultations with CSOs and all stakeholders on reviewing the legal framework for CSOs' operations. In 2018, a new National NGO Policy (2018) was adopted with the aim of strengthening effective coordination and collaboration among and between CSOs and government. The new policy further established comprehensive approaches for CSOs in managing the review and amendments of the NGO Act of 2009.² However, the government has failed to put in place effective mechanisms to implement other recommendations. For instance, without

¹ CIVICUS Monitor: Zambia, <https://monitor.civicus.org/country/zambia>.

² 'Government launches the National NGO policy', Lusaka Times, 11 October 2018, <https://www.lusakatimes.com/2018/10/11/government-launches-the-national-ngo-policy>.

broad-based processes to include all the relevant stakeholders, the government held consultations with some CSOs and other actors in adopting an NGO policy that sought to pave the way for review of the NGO Act of 2009 and related restrictive laws. Despite this, on 30 November 2020, the government hastily amended the NGO Act to include a more restrictive clause on monitoring CSOs' funding sources, particularly foreign funding, on the basis of preventing terrorism financing and other serious security offences.³

2.3 Efforts continue to be made to repeal and replace the NGO Act of 2009. For example, on 14 June 2022, the cabinet approved, in principle, the tabling before parliament of a repeal and its replacement with the NGO Bill, 2022, paving the way for further consultation with CSOs on the repeal process.⁴

2.4 Article 21 of the Zambian Constitution guarantees the right to the freedom of association. Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Zambia is a state party, also guarantees the freedom of association. Despite these commitments, the government continues to restrict the right to the freedom of association. For instance, the freedom of association is restricted by subsidiary laws, including the Penal Code Act, Public Order Act (1955), NGO Act (2009), Cyber Security and Cyber Crimes Act (2021), Preservation of Public Security Act and Emergency Powers Act.

2.5 The process to register CSO in Zambia is governed by various legal frameworks, mainly the NGO Act No. 16 of 2009,⁵ Societies Act Cap 119⁶ and the Patent and Companies Registration Agency Act, 2020.⁷ The regulatory institutions (Ministry of Community Development and Social Services, Ministry of Home Affairs and Internal Security and Ministry of Commerce, Trade and Industry respectively) of these frameworks are mainly based in the capital, Lusaka with a few branches in the rest of the country. These institutions are responsible for overseeing the registration process for CSOs. Bureaucratic inefficiencies and the centralisation of the registration process in Lusaka are key obstacles faced by CSOs seeking to register. For example, fingerprints for applicants are centrally taken by the Zambia Police Service in Lusaka, which adds to delays for applicants from outside Lusaka.

2.6 Depending on the legal framework under which a CSO is registered or intends to register, registration applications can be processed within two months or less. Many of

³ 'Report of the Committee on Health, Community Development and Social Services on the Non-Governmental Organisation (Amendment) Bill, N.A.B. No. 13 of 2020', National Assembly of Zambia, 2020, https://www.parliament.gov.zm/sites/default/files/documents/committee_reports/REPORT%20-NGO%20AMENDEMNET%20BILL%202020%20-%20Final.pdf.

⁴ 'Cabinet Approves Introduction of NGO Amendment Act', QFM Radio Station Main News, 14 June 2022, <https://zambia.co.zm/news/headlines/2022/06/14/cabinet-approves-introduction-of-ngo-amendment-act>.

⁵ Republic of Zambia, the Non-Governmental Organisations' Act, 2009, Article 10(1), (2), and (4).

⁶ Republic of Zambia, the Societies Act Chapter 119 of the Laws of Zambia.

⁷ Republic of Zambia, the Patents and Companies Registration Agency Act, 2020.

these regulatory secretariats are now embracing or providing an online registration platform for their users, which has hastened the process significantly. However, in some cases, organisations still must wait months for the actual registration certificate to arrive via mail after registering online. Delays in reconstituting the dissolved boards of the registration entities, which approve applications, have also impacted negatively on the registration processes of CSOs.

2.7 Furthermore, the NGO Act gives authorities the power to monitor and restrict the legitimate activities of CSOs,⁸ as well as putting restrictions on funding from foreign sources.⁹

2.8 In March 2022, the government unilaterally cancelled the 2022 World NGO Day Celebrations even after officially launching the day. This attracted sharp reaction from the Council of NGOs in Zambia.

2.9 Zambia has no specific legislation that regulates the operation of political parties. Efforts to enact a political parties bill in 2017 and 2019¹⁰ failed.¹¹ Political associations have also been threatened with deregistration¹² by government regulatory institutions. This affected mainly political parties that strongly oppose the government and ruling political party.¹³

3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

3.1 Under Zambia's previous UPR review, the government received one recommendation on the protection of HRDs, journalists and activists. The government committed to the recommendation on complying with its obligation under international law to guarantee that HRDs, journalists and activists can carry out their work independently and free from attacks, harassment or intimidation. The government accepted the recommendation and has partially implemented it by initiating consultations with some CSOs, HRDs and other relevant stakeholders.

3.2 Although Zambia does not have any legislation that protects HRDs and journalists, article 11 of the Zambian Constitution provides for the protection and promotion of

⁸ 'Press Statement For Immediate Release – Postponement of the World NGO Day Celebrations', Ministry of Community Development and Social Services, 25 February 2022, <https://www.mcdss.gov.zm/?p=5052>.

⁹ 'The Spread of Anti-NGO Measures in Africa: Freedoms Under Threat', Freedom House, 2019, <https://freedomhouse.org/report/special-report/2019/spread-anti-ngo-measures-africa-freedoms-under-threat>.

¹⁰ 'Political Parties Bill, 2019', National Dialogue Forum, 2019, <https://www.ndf.gov.zm/wp-content/uploads/2019/05/THE-POLITICAL-PARTIES-BILL-2019.pdf>.

¹¹ 'The Political Parties Bill, 2017', National Assembly of Zambia, <https://www.parliament.gov.zm/sites/default/files/documents/articles/THE%20POLITICAL%20PARTIES%20BILL,%202017%20Consultative%20Process%20Document-1.pdf>.

¹² 'Deregistration of the National Democratic Congress Party (NDC) by the Registrar of Societies', Lusaka Times, 27 August 2019, <https://www.lusakatimes.com/2019/08/27/deregistration-of-the-national-democratic-congress-party-ndc-by-the-registrar-of-societies>.

¹³ 'DP finally deregistered', The Independent Observer, 16 June 2018, <https://tiozambia.com/dp-finally-deregistered>.

fundamental rights and freedoms of every individual. Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure protection of HRDs. The ICCPR also guarantees the freedoms of association, peaceful assembly and expression.

3.3 Zambia is one of the few countries in the Southern African region and Africa in general that has a stable democracy. It has experienced regular elections and the peaceful transfer of power from one government to another since independence. However, during the period under review, Zambia's democracy has been threatened by attacks on, harassment, intimidation, arrests and prosecution of HRDs, CSOs, activists and the media.¹⁴

3.4 Attacks have been carried out state agencies, including security forces, politicians and non-state agencies, such as the opposition. The authorities restricted the activities of independent media houses before and during the 2021 general election, including banning them from covering political activities in districts of Ikeleng'i, Lusaka, Mpulungu, Nakonde, Namwala, among others, as imposed by the Electoral Commission of Zambia.¹⁵

3.5 On 26 March 2022, Eric Chiyuka, a journalist and activist, was arrested while covering an incident over a disputed piece of land that involved police and community leaders in the northwest town of Mufumbwe. He was arrested on the orders of the council official Gilliard Mwamba. Under the Penal Code section 28, Eric was charged with two counts of assault to do grievous bodily harm, which carries a penalty of five years in jail.¹⁶

3.6 In February 2020, suspected supporters of the Patriotic Front, the then-ruling party, beat up participants in a public meeting hosted by the Law Association of Zambia. The meeting was about the Constitutional Amendment Bill No. 10. This was the bill that proposed constitutional amendments to increase presidential power.¹⁷ On 13 March 2020, the Acting Chief Registrar, Prince Boniface Mwiinga, barred through judicial notice John Sangwaa, a prominent constitutional lawyer, from appearing in any court or representing any client in any court in Zambia after he criticised the bill and the Constitutional Court's failure to allow a petition challenging it.¹⁸

¹⁴ 'Shrinking Space in Zambia: Time for Action', ActionAid Zambia, 2019,

<https://actionaid.org/publications/2019/shrinking-space-zambia>.

¹⁵ 'Media Houses not to cover the suspended political parties-ECZ', The Independent Observer, 17 June 2021,

<https://tiozambia.com/media-houses-not-to-cover-the-suspended-political-parties-ecz>.

¹⁶ 'Zambian journalist Eric Chiyuka charged with assault after covering land altercation', Committee to Protect Journalists, 6 April 2022, <https://cpj.org/2022/04/zambian-journalist-eric-chiyuka-charged-with-assault-after-covering-land-altercation>.

¹⁷ '2020 Civil Society Organization Sustainability Index for Sub-Saharan Africa', International Centre for Not-for-Profit Law, 2021 <https://www.icnl.org/resources/civic-freedom-monitor>.

¹⁸ 'IBAHRI condemns disbarment of Zambian Constitutional lawyer John Sangwa', International Bar Association's Human Rights Institute, 26 March 2020, <https://www.ibanet.org/article/7F93B107-1D29-458F-9DFD-2F4BF6669E41>.

- 3.7 In November 2019, Derrick Sinjela, editor in chief of Rainbow Newspaper, received a presidential pardon after serving 327 days of an 18-month prison sentence for contempt of court, having published allegations of corruption in the Lusaka High Court.¹⁹ Sinjela should not have been prosecuted for doing his work of exposing corruption in public offices.
- 3.8 On 23 November 2018, the Supreme Court of Zambia sentenced anti-corruption campaigner Gregory Chifire to six years' imprisonment on contempt of court charges. Chifire had called for an investigation into potential judicial corruption involving the largest bank in Zambia and it is believed he was targeted as a result.²⁰ This judicial harassment forced Chifire to flee into exile. On 25 May 2022, he received a presidential pardon, enabling him to return to Zambia.²¹
- 3.9. On 19 October 2018, police arrested eight CSO officials from the Centre for Trade Policy and Development together with participants who had gathered at a hotel for the 2019 national budget conference and deliberations. The arrested officials were charged with unlawful assembly with intent to commit a crime under section 174 of the Penal Code.²²
- 3.10 On 5 January 2018, following attacks and threats Patriotic Front cadres, musician Fumba Chama fled Zambia for safety in South Africa. The harassment came on the heels of his song, 'Koswe Mumpoto' (Rat in the Pot), which drew attention to corruption and governance.²³ On his return to Zambia on 16 May 2018, Pilato was arrested at Kenneth Kaunda International Airport in Lusaka due to an arrest warrant issued against him for missing a court appearance while he was in hiding in South Africa. He was released on bail after spending three days in police custody.²⁴
- 3.11 Women HRDs have been a target for threats and harassment by government officials and politicians. Nalucha Nganga Ziba, executive director of ActionAid Zambia, has faced multiple threats and smear campaigns both personally and against the CSO. In November 2017 in relation to their work on tax justice and public finance accountability, Ziba and Engwase Mwale, executive director of the Non-Governmental Organizations' Coordinating Council, faced verbal attacks and harassment from government authorities for publishing information that called into question the use of

¹⁹ 'Zambia: Freedom in the World', Freedom House, 2019, <https://freedomhouse.org/country/zambia/freedom-world/2020>.

²⁰ 'Human rights defender Gregory Chifire sentenced to six years in prison', Front Line Defenders, 2018, <https://www.frontlinedefenders.org/en/case/human-rights-defender-gregory-chifire-sentenced-six-years-prison>.

²¹ 'President Hichilema Pardons Gregory Chifire Jailed For Six Years', The Zambian Observer, 27 May 2022, <https://zambianobserver.com/president-hichilema-pardons-gregory-chifire-jailed-for-six-years>.

²² 'Arrested pastors, CTPD officials didn't digress from budget - Mundia', News Diggers, 1 November 2018, <https://diggers.news/local/2018/11/01/arrested-pastors-ctpd-officials-didnt-digress-from-budget-mundia>.

²³ 'Zambia: Musician Pilato flees home country amid fresh crackdown on dissent', Amnesty International, 2018, <https://www.amnesty.org/en/latest/news/2018/01/zambia-musician-pilato-flees-home-country-amid-fresh-crackdown-on-dissent>.

²⁴ 'Creeping Towards Authoritarianism: Impacts on Human Rights Defenders and Civil Society in Zambia', Front line Defenders, 2018, https://www.frontlinedefenders.org/sites/default/files/zambia_report_digital.pdf.

public finances and challenged the government to give full accountability over public funds.²⁵

4. Freedom of Expression, Independence of the Media and Access to Information

4.1 Under the 3rd UPR cycle, the government received 10 recommendations relating to the freedom of expression, media freedom and access to information. Among these was a recommendation that the government guarantee that journalists and other media workers can carry out their work independently and without fear of persecution, including by reviewing its defamation laws to make sure they are in full compliance with international human rights law. The government also committed to and engaged with some civil society activists, CSOs and the media in dialogue as a consultative approach to seek common ground on the draft Access to Information Bill, and more generally on democratic and governance issues.²⁶ All 10 recommendations were accepted by the Zambian government. However, it has only partially implemented them.

4.2 Zambia's Constitution, in articles 11 and 20, provides for the freedom of expression and access to information, including for the press. The Independent Broadcasting Authority Act 17 of 2002 regulates the private broadcasting sector. The Zambia National Broadcasting Corporation Act (Chapter 154) of 1987, as amended in 2010, regulates the state-owned broadcasting sector. ICCPR article 19 guarantees the right to the freedom of expression and opinion. However, a restrictive legal framework undermines the full enjoyment of the right to the freedom of expression.

4.3 In the period under review, several media outlets were threatened,²⁷ harassed,²⁸ intimidated, attacked by government officials,²⁹ suspended³⁰ or closed. For instance, on 8 April 2020, Prime TV station³¹ was closed on accusations of airing 'disparaging' remarks against then-President Edgar Lungu and his government. In a separate but similar instance, on 4 March 2019, the Board of the Independent Broadcasting Authority (IBA) suspended Prime TV for 30 days, allegedly for breach of the IBA Act and the Standard Operating Procedure through 'unbalanced coverage, broadcasting of

²⁵ '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>.

²⁶ 'Government calls for an inclusive approach to national dialogue', Lusaka Times, 19 January 2019, <https://www.lusakatimes.com/2019/01/19/government-calls-for-an-inclusive-approach-to-national-dialogue>.

²⁷ 'PF Women Threaten To Shut Down Prime TV', Radio Phoenix, 4 April 2018, <https://www.phoenixfm.co.zm/news/local/pf-women-threaten-shut-prime-tv>.

²⁸ 'Zambia Police Arrest PF cadres who stormed a Radio Station when HH was in opposition', Lusaka Times, 17 December 2021, <https://www.lusakatimes.com/2021/12/17/zambia-police-arrest-pf-cadres-who-stormed-a-radio-station-when-hh-was-in-opposition>.

²⁹ 'UPND cadres storm Mpika FM radio station, order a stop to a programme featuring PF MP', Lusaka Times, 4 December 2021, <https://www.lusakatimes.com/2021/12/04/upnd-cadres-storm-mpika-fm-order-a-stop-to-a-programme-featuring-pf-mp>.

³⁰ 'IBA shuts down Prime TV for 30 days', Lusaka Times, 4 March 2019, <https://www.lusakatimes.com/2019/03/04/iba-shuts-down-prime-tv-for-30-days>.

³¹ 'Prime TV problems deepen as the Station is closed with immediate effect', Lusaka Times, 9 April 2020, <https://www.lusakatimes.com/2020/04/09/government-2>.

opinionated news, airing of content/material likely to incite violence and use of derogatory language'.³²

4.4 In the run-up to the 2021 general election, several journalists and media houses were severely harassed for covering opposition events or hosting opposition politicians. For instance, on 11 March 2021, Patriotic Front supporters, facilitated by police, tear-gassed Chete FM Radio in Nakonde District of Muchinga Province for hosting opposition politicians Mathews Chilekwa and Goodson Sichone.³³ On 11 July 2021, 30 days before the election, Patriotic Front supporters stormed and threatened to burn down Mafken Radio in Mufulira District, Copperbelt Province, for hosting then-opposition leader Hakainde Hichilema.³⁴

4.5 The process to finalise the Access to Information Bill has stalled since 2002, despite its approval by cabinet in 2019.³⁵ Furthermore, Zambia has failed to honour its commitments to review existing restrictive legislation that adversely impedes and restricts the freedom of expression, media independence and access to information, such as the Penal Code Act. Instead, the new and oppressive Cyber Security and Cyber Crimes law of 2021³⁶ was adopted with overarching restrictive clauses that adversely affect the work of HRDs.

4.6 Using the Penal Code's defamation clause, clause 87, various actors have been arrested by police and charged by courts on charges of defamation of the president. In May 2022, Chilufya Tayali, a political party leader, was charged with publishing defamatory remarks against the president on his Facebook page.³⁷ In January 2022 Raphael Nakacinda, an opposition party member, was charged with 'violence and defamation' against the president.³⁸ A 15-year-old boy was charged with defaming the president in Facebook posts in 2020.³⁹

4.7 According to a 2019 report by the Wall Street Journal, a government cybercrime squad intercepted encrypted communications and tracked data from the mobile phones of

³² 'Prime TV Suspension Lifted', Zambia National Broadcasting Corporation, 29 March 2019, <https://www.znbc.co.zm/news/prime-tv-suspension-lifted>.

³³ 'PF cadres teargas Chete FM in Nakonde', News Diggers, 11 March 2021, <https://diggers.news/local/2021/03/11/pf-cadres-teargas-chete-fm-in-nakonde>.

³⁴ 'PF cadres storm, threaten to burn down Mafken Radio for hosting HH', News Diggers, 11 July 2020, <https://diggers.news/local/2020/07/11/pf-cadres-storm-threaten-to-burn-down-mafken-radio-for-hosting-hh>.

³⁵ 'Cabinet approves Access to Information Bill', Lusaka Times, 19 March 2019, <https://www.lusakatimes.com/2019/03/19/cabinet-approves-access-to-information-bill>.

³⁶ 'The Cyber Security and Cyber Crimes Act', 2021, <https://www.parliament.gov.zm/node/8832>.

³⁷ 'Chilufya Tayali Charged for publishing defamatory remarks against the President on his Facebook page', The Lusaka Times, 21 May 2022, <https://www.lusakatimes.com/2022/05/21/police-in-lukulu-formally-charge-chilufya-tayali-with-the-offence-of-defaming-the-president>.

³⁸ 'Zambia Police Arrest and Charge Nakacinda for Defamation of the President.. Again', The Lusaka Times, 13 July 2022, <https://www.lusakatimes.com/2022/07/13/zambia-police-arrest-and-charge-nakacinda-for-defamation-of-the-president-again/>.

³⁹ 'Zambia: boy arrested for allegedly defaming president on Facebook', The Guardian, 11 March 2020, <https://amp.theguardian.com/world/2020/mar/11/zambia-boy-arrested-allegedly-defaming-president-facebook>.

some opposition bloggers and media actors who had repeatedly criticised the president.⁴⁰ In the run-up to the August 2021 election media actors and key journalists were increasingly targeted by state agencies including security forces.

4.8 In 13 August 2021, Petauke District Commissioner Velenasi Banda ordered the closure of the Petauke Association of Small and Medium Entrepreneurs FM radio station in Eastern Province for broadcasting a programme featuring Hakainde Hichilema.⁴¹ In June 2021, ruling party officials disrupted a live radio broadcast featuring Hichilema in Chama by cutting off the station's electric power.⁴² On 13 May 2021, Mpika District Commissioner Moses Katebe prevented broadcast journalists from hosting Hichilema on the radio and Patriotic Front supporters disrupted a live broadcast featuring Hichilema on Isoka's Community Radio Station.

4.9 In February 2021, Patriotic Front officials attempted to disrupt a Liberty Radio broadcast featuring Democratic Party leader Harry Kalaba, causing damage to property. That same month, they also disrupted a live Radio Luswepo programme that hosted Kalaba, again causing damage to the studio's property. In March 2021, they fired teargas into the studio of Radio Chete in Nakonde, which was broadcasting a programme featuring opposition officials. In June 2021, unidentified individuals set fire to the Kalungwishi radio station in Chiengi district.⁴³

4.10 In August 2020, Pasmé community radio station in Petauke, Eastern Province, accused the district commissioner of illegally disrupting the broadcast of a pre-recorded interview with Hichilema.⁴⁴ In July 2020, Patriotic Front supporters threatened to burn down Mafken Radio in Mufulira, and similar incidents were reported at other radio stations in Muchinga Province earlier in the year. On 13 May 2020, police and Patriotic Front supporters interfered with an Isoka Community Radio Station live broadcast to prevent opposition leaders appearing on the programme.

4.11 In January 2020, Minister of Justice Given Lubinda, Minister of Lands and Natural Resources Jean Kapata and President Lungu's daughter, Tasila Lungu, sued the News Diggers Newspaper, its editor Mukosha Funga and the Environmental Investigation Agency (EIA), a CSO, for libel.⁴⁵ The suit was filed in response to the publication of an EIA

⁴⁰ 'Huawei Technicians Helped African Governments Spy on Political Opponents,' The Wall Street Journal, 2019, <https://www.wsj.com/articles/huawei-technicians-helped-african-governments-spy-on-political-opponents-11565793017>.

⁴¹ ActionAid Zambia, 2019, op. cit.

⁴² Ibid.

⁴³ '2021/22: The state of the world's human rights', Amnesty International, 2022, <https://www.amnesty.org/en/documents/pol10/4870/2022/en>.

⁴⁴ 'Zambia: Freedom in the World', Freedom House, 2021, <https://freedomhouse.org/country/zambia/freedom-world/2021>.

⁴⁵ 'Two ministers, Lungu's daughter sue Diggers over Mukula smuggling exposé', News Diggers, 15 January 2020, <http://diggers.news/courts/2020/01/15/two-ministers-lungus-daughter-sue-diggers-over-mukula-smuggling-expose>.

report alleging their involvement in the illegal harvesting and export of timber from protected Mukula rosewood trees.

5. Freedom of Peaceful Assembly

5.1 During Zambia's examination under the 3rd UPR cycle, the government received seven recommendations on the right to the freedom of peaceful assembly. These included a recommendation to 'ensure that the right to peaceful assembly is respected and protected by promoting better implementation of the Public Order Act'. The government accepted all the recommendations but has failed to implement any of them.

5.2 Article 21 of Zambia's Constitution guarantees the right of peaceful assembly. Article 21 of the ICCPR also guarantees the freedom of peaceful assembly. However, in policy and practice, legal frameworks and the authorities continue to undermine the exercise of the freedom of peaceful assembly through the misapplication and misinterpretation of restrictive laws.

5.3 The right to peaceful assembly is regulated by the Public Order Act (POA) of 1955. The Act requires organisers of assemblies to provide seven days' notification to the police for public meetings, processions or protests. Organisers or participants suspected of contravening the provisions of the POA may be arrested without a warrant and on conviction can be jailed for six months, fined, or both.⁴⁶ The police frequently and wilfully misinterpret the notification procedure stipulated by the POA by insisting they have the power to grant or withhold approval of any assembly, and use this to prevent members of opposition political parties and CSOs from holding public meetings, whether indoors or in open air.

5.4 Zambian authorities continue to use the POA to clamp down on any protest actions against the government.⁴⁷ The government has used the POA to prevent independent citizens, activists⁴⁸ associations and members of the political opposition⁴⁹ from exercising their right to assembly. It has even been used against individual protests: on 2 June 2022, Jayson Musonda, a former police officer, was arrested for staging a one-person protest against the Inspector General of Police for abuse of office.⁵⁰

⁴⁶ Chapter 113 the Public Order Act,

<https://www.parliament.gov.zm/sites/default/files/documents/acts/Public%20Order%20Act.pdf>.

⁴⁷ 'Police Clamp Down on Protests Leading Up to 2021 Elections', CIVICUS Monitor, 28 May 2021,

<https://monitor.civicus.org/updates/2021/05/28/police-clampdown-protests-leading-2021-elections>.

⁴⁸ 'Zambian activist, Chama Fumba arrested at rally', Vanguard, 2019,

<https://www.vanguardngr.com/2019/12/zambian-activist-chama-fumba-arrested-at-rally>.

⁴⁹ 'Hh Blocked By Police In Chipata Eastern Province Of Zambia But Stands Them Off', YouTube, 2021,

<https://www.youtube.com/watch?v=xwg2s62sKNA>.

⁵⁰ 'Zambia 2021', Amnesty International, 2021, <https://www.amnesty.org/en/location/africa/southern-africa/zambia/report-zambia>.

- 5.5 Additionally, provisions of the Penal Code and public health regulations aimed at preventing the spread of COVID-19 restricted the freedoms of assembly and limited the ability of CSOs and private citizens to monitor political processes.
- 5.6 On 5 June 2021 in Copperbelt Province, police used live ammunition and teargas to disperse unarmed United National Party for Development supporters who were accompanying Hichilema's convoy.⁵¹
- 5.7 On 30 May 2021, Chikonde Mukula, Secretary General of the Resident Doctors Association of Zambia (RDAZ), was arrested by police and charged with espionage following his mobilisation of a strike over poor working conditions and non-payment of arrears of doctors' salaries and allowances. Although the charges were dropped following interventions by civil society activists, Brian Sampa, the president of RDAZ, was sacked from a government post by the Ministry of Health and his practising licence was revoked, on the basis that he incited doctors to participate in a week-long go-slow strike. In the same month, the Police Inspector General threatened to arrest anyone attending Zoom meetings under the newly enacted cybercrimes law.⁵²
- 5.8 On 29 September 2017, six CSO activists were arrested for protesting against government corruption in procurement processes following the purchase of 42 fire trucks for US\$42 million. The six were charged with disobeying lawful orders and contravening the POA.⁵³

6 Recommendations to the Government of Zambia

CIVICUS and GEARS Initiative call on the Government of Zambia to create and maintain, in law and in practice, an enabling environment for CSOs, HRDs, media actors and journalists to enjoy their rights to the freedoms of association, peaceful assembly and expression, as enshrined in the Zambian Constitution, the UN Declaration on Human Rights Defenders, Human Rights Council resolutions 22/6, 27/5 and 27/31 and the ICCPR.

At a minimum, the following conditions should be guaranteed: the freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to access information and communicate, and the state's duty to protect HRDs, journalists, activists and opposition leaders. The following specific recommendations are made:

⁵¹ Ibid.

⁵² 'Civil Society alarmed at Inspector General of Police's threats to arrest Doctors for attending a Zoom meeting', Lusaka Times, 2021, <https://www.lusakatimes.com/2021/06/01/civil-society-alarmed-at-inspector-general-of-polices-threats-to-arrest-doctors-for-attending-a-zoom-meeting/>.

⁵³ 'Case of Zambia's 42-for-42 tests freedom of expression and assembly', CIVICUS, 2018. <https://www.civicus.org/index.php/fr/component/tags/tag/zambia>.

6.1 Freedom of Association

- Take measures to foster a safe and enabling environment for civil society, including by removing legal measures that unwarrantedly limit the right to association.
- Undertake necessary reforms to guarantee the effective protection of the right to the freedom of association, including by reviewing the NGO Act.
- Involve and consult civil society in discussions on amending the NGO Act and other relevant legislation.
- Make the necessary legislative changes, including restricting the scope of the Public Order Act, to ensure the freedom of association is protected.
- Ensure that the police and other government agencies enforce these and other laws in accordance with international standards.
- Investigate and prevent unwarranted raids on CSOs and unjustifiable disruptions to legitimate activities organised by CSOs.

6.2. Freedom of expression, media freedom and access to information

- Guarantee that journalists and other media workers can carry out their work independently and without fear of persecution, including by reviewing defamation laws to make sure they are in full compliance with international human rights law.
- Ensure the freedom of expression and media freedom by bringing all national legislation into line with international standards, including by repealing or amending all restrictive laws, including the criminal defamation clauses in the Penal Code Act, Public Order Act and the Cyber Security and Cyber Crimes Act and applying the Model Law on Access to Information for Africa adopted by the African Commission on Human and Peoples' Rights.
- Ensure that journalists and writers can work freely and without fear of retribution for expressing critical opinions or covering topics that the government may deem sensitive.
- Take adequate steps to lift restrictions on the freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation, and harassment.
- Engage civil society, activists, and the media in dialogue to seek common ground on the draft Access to Information bill and broader governance issues.

6.3 Protection of Human Rights Defenders

- Guarantee that HRDs, activists and journalists can carry out their work independently and free from attacks, intimidation, undue obstruction and harassment, including legal and administrative harassment.
- Provide civil society members, HRDs and journalists with a safe and secure environment in which to carry out their work, conduct impartial, thorough and

effective investigations into all cases of attacks, harassment and intimidation against them and bring the perpetrators of such offences to justice.

- Enact legal provisions that promote a safe and enabling environment for HRDs in accordance with Human Rights Council resolution 27.31 and implement UN General Assembly resolution A/RES/74/146 by strengthening the protection of women HRDs.
- Publicly condemn at the highest levels of government instances of harassment and intimidation of CSOs and activists.

6.4 Freedom of peaceful assembly

- Create and maintain, in law and in practice, an enabling environment that guarantees the freedom of peaceful assembly.
- Adopt and implement best practices on the freedom of peaceful assembly, as put forward by the 2012 report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, which calls for simple processes for the notification of assemblies being held rather than permission being required, and by General Comment No. 37 on the right to peaceful assembly adopted by the UN Human Rights Committee in 2020.
- Ensure that necessary reforms are undertaken to guarantee the effective protection of the rights to freedom of assembly. This includes ensuring that the Public Order Act is implemented objectively and with professionalism by the police.
- Amend the Public Order Act in order to guarantee fully the right to the freedom of peaceful assembly and ensure that its enforcement is consistent with Zambia's human rights obligations, including through training of its security forces.
- Publicly condemn at the highest levels all instances of the use of excessive and brutal force by security forces in response to protests, launch formal investigations into such instances and bring the perpetrators to justice.

6.5 Access to UN Special Procedures mandate holders

- Present a standing invitation to United Nations special rapporteurs to visit Zambia, including the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the situation of human rights defenders, Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, and Special Rapporteur on the independence of judges and lawyers.

6.6 State engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable a more effective involvement of civil society, media actors and relevant stakeholders in the preparation of law and policy, including in the UPR processes.
- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, considering the proposals of all stakeholders, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

7. Annex: Assessment of implementation of civic space recommendations under the 3rd cycle

Recommendation	Position	Assessment/comments on level of implementation
<p>131.39 Present a standing invitation to United Nations special rapporteurs, including the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, to visit Zambia</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Section 4</p>
<p>131.79 Live up to the highest standards of international law by repealing or amending the criminal defamation clauses in its Penal Code</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Sections 2, 4, and 5</p>
<p>131.69 Improve and make clearer the legislation to support the freedom of assembly.</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Section 4</p>
<p>129.49 Engage civil society, activists, non-governmental organizations and the media in dialogue to seek common ground on the draft Access to Information bill and governance issues, such as corruption</p> <p>Source of position: A/HRC/37/14 - Para. 129</p>	Supported	<p>Status: partially implemented</p> <p>Source: Section 2 (2.1)</p>
<p>131.81 Guarantee that journalists and other media workers can carry out their work independently and without fear of persecution, including by reviewing its defamation laws to make sure they are in full compliance with international human rights law.</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Section 4</p>
<p>131.74 Ensure media freedom by providing full editorial independence to publicly-owned media. Ensure the impartiality of the Independent Broadcasting Authority and enact legislation to facilitate access to information.</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Section 4</p>
<p>131.78 Ensure that necessary reforms are undertaken to guarantee the effective protection of the rights to freedom of expression, assembly and association. This includes enacting without delay an expanded Bill of Rights and Access to Information Bill and ensuring that the Public Order Act is implemented objectively and with professionalism by the police</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Sections 2, 4 and 5</p>
<p>131.68 Create and maintain, in law and in practice, an enabling environment that guarantees freedom of expression and peaceful assembly.</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Section 4</p>

<p>131.72 Make efforts to ensure access to information of public interest to citizens and guarantee the rights of freedom of assembly.</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Section 5</p>
<p>131.67 Ensure that freedom of association and the right to peaceful assembly are respected and protected, to include promoting better implementation of the Public Order Act.</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Sections 4 and 5</p>
<p>131.71 Make the necessary legislative changes, including restricting the scope of the Public Order Act, to ensure the freedoms of association and expression are protected; and to ensure the police enforce these and other laws in a proportionate manner.</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Sections 4 and 5</p>
<p>131.73 Guarantee respect for the rights of the opposition, in particular freedom of assembly and demonstration, the freedom of the press and the media, by making the necessary corrections to the Constitution, the electoral commission, the status of the parties, as well as to the legal framework on the maintenance of public order.</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Sections 4 and 5</p>
<p>131.70 Reform the current Public Order Act to include measures that fully uphold the rights to freedom of expression and peaceful assembly, making it more conducive to political participation by all Zambians and ensure that enforcement of the Act is consistent with Zambia's human rights obligations, including through training of its security forces.</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Sections 4 and 5</p>
<p>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.</p> <p>Source of position: A/HRC/37/14 - Para. 131 & A/HRC/37/14/Add. 1, para. 2b</p>	Supported	<p>Status: Not implemented</p> <p>Source: Sections, 2, 3, 4, and 5</p>