

ZAMBIA

NO MODEL FOR DEMOCRACY

Continuing Human Rights Violations

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I. SUMMARY AND RECOMMENDATIONS

Summary

Political tensions began to rise in Zambia soon after the conclusion of the June 1997 Consultative Group (CG) meeting on Zambia. Two weeks after the meeting closed, the opposition United National Independence Party (UNIP) found its Lusaka headquarters besieged by police and filled with tear gas. Some passersby were caught up in the police attack and at least one market stallholder was badly beaten. Twenty-three UNIP supporters who left the building were arrested, some whom were badly beaten with batons at the Force Headquarters of the police in Lusaka. Eleven detainees, including UNIP Central Committee member Rabbison Chongo, were reportedly seriously injured, among them, two women spent five days in hospital, one with a broken leg, and the other with an injured knee. One detainee was reportedly tortured with electric shocks.

In Kabwe police intervened on August 23 to stop an opposition rally. UNIP had obtained permission for the rally in advance but paramilitary police dispatched by Force Headquarters in Lusaka arrived in Kabwe late on August 22 and ordered that the meeting be cancelled. On August 23 the police raided UNIP's offices in Kabwe and ordered that it be vacated. They then proceeded to the rally site and dismantled the podium, confiscating the tent and other rally equipment. At this time they arrested thirty-nine opposition supporters and informed the opposition leadership that they would only be released if the rally was cancelled. When the organizers went ahead with the rally police used a large amount of tear gas to disperse it and two members suffered sprains and two others had knee injuries because of police beatings.

The police reportedly became more aggressive when a number of opposition leaders arrived in Kabwe to address the rally. As opposition leaders Kenneth Kaunda, the former president, and Rodger Chongwe fled in a vehicle, a 762 x 51mm bullet from an assault rifle struck and seriously injured Rodger Chongwe and reportedly slightly wounded Kaunda and an aide. According to eyewitnesses interviewed by Human Rights Watch no warning was given prior to live ammunition being used by police. A small number of police that day carried AK-47 assault rifles, senior officers had revolvers, and a few G-3s were held by the mobile unit.

The Zambian government imposed a twenty-four hour news black-out on reporting of the Kabwe shooting, although foreign radio reports are accessible to most Zambians. On August 26 President Chiluba denied that the Kabwe shooting was a state-sponsored assassination plot and said that the Zambian police had begun an investigation and that Nungu Sassasali, the commanding officer at Kabwe, was suspended. However, he rejected calls for an independent inquiry saying that the police inquiry was sufficient. On November 13 President Chiluba admitted police fired live ammunition in the air but challenged Kaunda and Chongwe to prove they were shot and wounded in Kabwe. He also challenged the government appointed Human Rights Commission to carry out an independent probe into the incident. This has not yet happened, and the police have made no public statement concerning their own inquiry's findings.

On October 28 a number of soldiers seized the national radio station in the government's Mass Media Complex in an attempt to stage a coup. A few hours later Zambian army commandos stormed the complex, regaining control and capturing the rebel soldiers. The following day, a state of emergency was declared by President Chiluba and a crackdown began on suspected accomplices in the coup attempt. A number of opposition politicians were targeted, including Zambia Democratic Congress (ZDC) leader Dean Mung'omba and on December 25, ex-president and UNIP leader Kenneth Kaunda.

In the months that followed the coup attempt, constitutional guarantees of many basic human rights were suspended. In early January 1998 the number of detainees peaked at 104 people; by May this had declined to eighty-two as detainees were gradually released.

A number of the detainees were tortured. In early November a number of the detainees were reportedly tortured by being put on the "kampelwa" (or "swing"). This was described as being suspended from a metal rod thrust between two tables, with hands handcuffed to the rod and rope binding their legs to it. The officers reportedly beat

them while they hung. Human Rights Watch received information that at least fourteen of the detainees, including Mung'omba, were tortured or beaten by police while in detention, although the government does not acknowledge this. One of the detainees, Corporal Robert Chiulo, died on November 7 at Lusaka's Maina Soko Military Hospital. The hospital told Human Rights Watch that he had died of malaria, but other medical sources at the hospital told us that he died of injuries endured during torture. Human Rights Watch was also told that a post mortem had not been done.

Human Rights Watch was denied access in late November to the detainees to independently verify the allegations of torture. In March we gained access to two detainees, Kenneth Kaunda and Princess Nakatindi Wina, but failed again to gain access to the majority, although we monitored their presence in court. Amnesty International was also denied access to the detainees in April, although like Human Rights Watch, it gained access to Kaunda.

The state of emergency was also marked by restrictions of freedom of expression, assembly and association and prolonged arbitrary detentions. The state of emergency was extended on January 29, 1998 but lifted on March 17, following strong EU and U.S. donor protest and a clear message from the World Bank that a consultative group meeting could only occur once the state of emergency ended. President Chiluba announced the measure as intended to assure the outside world that Zambia is a democratic country.

The recently established Human Rights Commission showed some initiative in this period and publicly condemned the use of torture in December. However, after making this statement the government withdrew its offer of a government property, Ndeke House, as the commission's premises, a warning to the semi-autonomous commission to be more compliant. The commission's composition and its limited resources and power still raise questions concerning its independence. The commission also lacks permanent premises and resources are short.

The international community's efforts to press for improved human rights protection and governance in Zambia remain exemplary. The Southern African Development Community (SADC) and especially the governments of Botswana, Mozambique, South Africa, Tanzania, and Zimbabwe have played an important role in pushing for rights improvements in Zambia. The bilateral donors' resolve to offer balance of payments support in return for positive actions by the Zambian government has continued to have some results in the run-up to the May 1998 Consultative Group meeting in Paris. At this meeting in Paris, donors agreed that balance of payments resumption needs to be phased in accord with specific benchmarks of human rights improvements so that these successive improvements become meaningful and sustainable.

This report, based on three Human Rights Watch visits to Zambia, in November 1997 and in March and April 1998, looks at the human rights record in Zambia since June 1997.

Recommendations to the Zambian Government

Based on the findings of this report, Human Rights Watch calls on the Zambian government:

- To make public the findings of its investigations of allegations that detainees have been tortured by police and to ensure that any officials responsible for such actions are suspended from office and brought to justice;
- To support an independent inquiry into the Kabwe shooting and to publish the results and make those accountable for human rights abuses accountable;
- Strengthen the powers of the Human Rights Commission to compel cooperation of the authorities when it investigates human rights violations, and enforce its recommendations through a court of law;
- Investigate allegations of police ill-treatment of those in detention and hold those found responsible accountable before the law;
- Adopt legislation which will bring any future declaration of a state of emergency into line with the ICCPR;

- Abide by the international human rights treaties to which Zambia is a party, notably the International Covenant on Civil and Political Rights, taking action to this effect to:
 - respect freedom of expression, lifting arbitrary restrictions on the print media and public broadcasting and ceasing harassment and arbitrary detention of journalists, political commentators and others solely for the expression of their opinions;
 - respect freedom of assembly, lifting the arbitrary restrictions imposed in law and practice on public meetings and halting arbitrary police actions to ban or disperse such meetings and demonstrations;
 - respect freedom of association, halting arbitrary arrests, intimidation, and acts of violence targeting participants in nonviolent civil organizations;
 - recognize the rights of human rights defenders in Zambia to monitor, investigate, and speak out on human rights concerns and freely associate with others nationally and internationally in the promotion and protection of human rights;
 - provide government officials and police with special training about human rights standards and protection, while instituting procedures that ensure the effective investigation and criminal prosecution of violations of human rights, especially through the permanent Human Rights Commission.
- Ratify the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and incorporate relevant provisions of the convention into domestic law.

Recommendations to the International Community

Human Rights Watch recommends *the international community* to:

- Continue to tie assistance, particularly balance of payments support, to clear and firm benchmarks of Zambia's progress in the protection and promotion of human rights. This strategic use of aid to promote human rights and good governance is all important;
- Provide further moral, financial, and technical support for the efforts of organizations of civil society so they may play a more active role, in monitoring, lobbying and campaigning for improved human rights standards;
- Channel aid to support an independent judiciary, the development of a robust and independent Human Rights Commission, and the independent media;
- Human rights conditionality should not be applied to humanitarian or development aid; poverty alleviation projects should be furthered and encouraged. This aid should be channelled through NGOs where possible;

Human Rights Watch calls on *the World Bank's Consultative Group for Zambia* to:

- Continue the 1997 Paris meeting's agreed pressure on the Zambian government for future balance of payments support to be "Premised on satisfactory economic and governance performance," and include specific reference to human rights as integral to this;
- Maintain unity in the continual pressure for improved Zambian government performance on human rights as integral to good governance.

Human Rights Watch calls on *Canada, EU member states, Japan, Norway, and the United States* to:

- Encourage their diplomatic representatives in Lusaka to continue to show their commitment to the vigorous promotion of human rights in Zambia by meeting regularly with the Zambian human rights community, publicly denouncing human rights abuses and using their bilateral assistance to Zambia to achieve maximum leverage to promote human rights.

II. BACKGROUND

Zambia has been the scene of a serious human rights crisis since the government forced a radical amendment to the 1991 constitution through the Movement for Multiparty Democracy-dominated parliament in May 1996, rejecting demands that major constitutional reforms be agreed by a Constituent Assembly and subjected to a referendum, as proposed by the Mwanakatwe Constitutional Review Commission in 1995. Particularly controversial was a provision in the Constitutional Amendment Act (1996) that imposed new requirements on persons seeking to hold the office of president. These included that the person be a Zambian citizen born to parents who were Zambian by birth or descent and that the person not be a tribal chief. These requirements appeared to be precisely tailored to disqualify specific opposition leaders from running for president, including former president Kenneth Kaunda. Some of the new restrictions appeared to violate the International Covenant on Civil and Political Rights, to which Zambia is a party.

The constitutional amendment was vigorously challenged by opposition political parties, civic associations, human rights and women's groups, in part because it would damage the opposition's chances to effectively participate in the November 18 1996 multiparty elections. The article in effect banned UNIP leader Kaunda—who is partially of Malawian heritage—and UNIP's vice presidential candidate—a tribal chief—from running. UNIP and seven other opposition parties in late October announced a boycott.

On November 18, 1996, presidential and parliamentary elections were held in Zambia. The election results returned President Frederick Chiluba and his Movement for Multiparty Democracy (MMD) to power with the majority of the contested seats in what was presented as a landslide victory; but in reality, it was a hollow defeat of an opposition that had chosen to boycott the electoral process.

Respect of human rights has only slightly improved since President Chiluba was re-elected for a second-term in office.¹ At his inauguration speech on November 21, 1996, President Chiluba warned nongovernmental organizations (NGOs) that they should not "instruct" the authorities, and in following days, the government threatened to pass anti-NGO legislation if NGO's continued to act in an "anti-patriotic" manner. Following the announcement by the Committee for a Clean Campaign (CCC) that the November 1997 multiparty elections had not been free and fair, the situation deteriorated.² On November 24 and 25, police raided the Lusaka offices of the Zambia Independent Monitoring Team (ZIMT)³, the CCC, and the offices of the Inter-Africa Network for Human Rights and Development (AFRONET). The Foundation for Democratic Process (FODEP)⁴, which also concluded that the elections were not

¹See, "Zambia: Elections and Human Rights in the Third Republic," *A Human Rights Watch Short Report*, December 1996, vol.8, no.4(A); James Polhemus "Democracy Betrayed: Zambia's Third Republic," *Southern African Political and Economic Monthly* (Harare), December 1997.

²Committee for a Clean Campaign, *Presidential and Parliamentary Elections in Zambia: November 18, 1996* (Lusaka: CCC, 1997).

³Zambia Independent Monitoring Team, *Presidential and Parliamentary Elections in Zambia: 18 November 1996* (Lusaka: ZIMT, 1997).

⁴Foundation for Democratic Process, *Final Election Monitoring Report. Zambia's November 18, 1996 Presidential and Parliamentary Elections* (Lusaka: FODEP, 1997).

free and fair, was also targeted by the government. FODEP had tax exempt status from the Zambia Revenue Authority because it was operating on a grant aimed at strengthening the democratic process, including election monitoring. But on December 19, 1996, it received a tax demand for outstanding tax arrears for K27 million (approximately U.S.\$21,000): shortly afterwards, tax authorities confiscated all of the funds in FODEP's bank account. After international protest, the money was finally returned in 1998.

For much of 1997, a petition challenging the fairness of the elections and President Chiluba's constitutional right to the presidency before the Supreme Court was the focus of Zambian political life. Some of the witnesses brought to testify in this case were harassed and have been continued to be harassed in 1998 such as Tom Musendeka. Several have received death threats. The case is awaiting judgment.

In the run-up to the Paris CG meeting in July 1997, the number of human rights abuses declined and at the end of the meeting participants indicated that balance of payments resumption was conditional upon a number of economic, governance, and human rights bench marks being met.⁵

Contrary to expectations, soon after the CG meeting ended political tensions began to rise in Zambia again. Two weeks after the meeting, on July 30, a protest demonstration was violently dispersed by police, UNIP found its Lusaka headquarters under police siege, and a number of opposition supporters were beaten and arrested. Some of those detained were reportedly tortured.

⁵See, "Zambia: The Reality Amidst Contradictions. Human Rights Since the 1996 Elections," July 1996, *A Human Rights Watch Report*, vol.9, no.3 (A).

A riot by street vendors in Lusaka followed, on August 13, 1997 when vendor's "tutemba"⁶ stands were found burnt to ashes. The protesting vendors suspected that the government was responsible, trying to force them into the newly opened Lusaka City Market, while the government blamed the opposition for the fires.⁷ Police responded with large amounts of tear gas, beatings and indiscriminate arrests: police reportedly seized and beat anyone found on the street.⁸ Seventy-five protesting vendors were arrested, eight of them juveniles.⁹ At least two people died during the police operation, reportedly from severe beatings by police.¹⁰ Police also moved into Chibolya, Misisi, John Howard, and other townships near the old Soweto market and beat up people and fired tear gas. Jane Mwamba, a market trader at the burnt Soweto market was reported by the press to have said the tear gas suffocated her baby when she could not run away to safety.¹¹ The *National Mirror's* acting-editor, Beatwell Chisala, who was taking pictures of the riot, was also reportedly roughed up by the police, who demanded he hand over his film.¹²

In Kabwe, police intervened on August 24 to stop an opposition rally, using tear gas and live ammunition. As opposition leaders Kaunda and Rodger Chongwe fled in a vehicle, Chongwe was seriously injured by a bullet, which apparently also slightly injured Kaunda's aide and Kenneth Kaunda. The shooting incident heightened opposition anger. The nature of Kaunda's injury, initially said to have been a bullet wound to the head was later disputed.

The Kabwe shooting was followed by a spate of mysterious fires in Lusaka, which again resulted in the country's two main political groups blaming each other for suspected arson attacks.

Despite assurances at the July 1997 CG meeting that a Media Council Bill was dead, Deputy Minister of Information Ernest Mwansa on August 18 announced that the government still supported the bill. However, the Lusaka High Court blocked the government's decision to regulate the media on August 23. Justice Anthony Nyangulu ruled that the intention to create a Media Council abrogated constitutional safeguards on freedom of expression and association.¹³

On October 28 a number of soldiers attempted to stage a coup by seizing the national radio station in Lusaka's Mass Media Complex. A few hours later Zambian army commandos stormed the complex regaining control and capturing the rebel soldiers. The following day, a state of emergency was declared by President Chiluba and a crackdown began on people suspected of involvement in the coup attempt. A number of opposition politicians were targeted, including Zambia Democratic Congress (ZDC) leader Dean Mung'omba, and on December 25, UNIP leader

⁶Wooden stands used by informal market traders.

⁷ *Chronicle* (Lusaka), August 15-18, 1997; *Zambia Daily Mail* (Lusaka), August 15, 1997.

⁸Human Rights Watch interviews with some of those detained: Elias Tembo, Golden Ngalande, Davies Moyo, Isaac Sakala, Lusaka, March 10, 1998.

⁹By late April 1998 only twenty-five were in detention, the rest had been released.

¹⁰"Second person dies from wounds sustained in Zambian riots," SAPA news agency, August 15, 1997.

¹¹Jane Mwamba is quoted: "I was standing innocently watching the damage caused by the fire with several other women when the police fired teargas canisters at us. While trying to run, I fell down and a policeman came and kicked me repeatedly to an extent where I could not walk and in the process my baby suffocated due to the tear gas smoke." *National Mirror of Zambia* (Lusaka), August 17 -23, 1997.

¹²Ibid.

¹³Zambian journalists on January 20, launched a self-regulatory Ethics and Complaints Commission. The new body was born out of the a media coalition that was formed by journalists against the Media Council Bill in 1997.

Kenneth Kaunda. Some of the detainees, including Mung'omba, were tortured, although the government has made no public statement on this.

Since May 1996 there has been no official dialogue between the main opposition parties and the government. In 1997 the Sweden-based International Institute for Democracy (IDEA) tried to facilitate dialogue. A series of closed meetings were held from January to March in Lusaka between the ministers of finance, home affairs and foreign affairs, and individual leaders of the opposition. These meetings culminated in a June meeting in Sweden where leading opposition members met with a Zambian government delegation.¹⁴ However, after June, the initiative began to unravel. Although IDEA tried to save the initiative in September and the Swedish Ambassador to Zambia, Kristina Svensson, hosted a dinner to boost IDEA's efforts in October, little further progress was made.¹⁵ IDEA tried to host a "talks about talks" meeting in London on November 28 but this failed to happen.¹⁶

Although IDEA's efforts failed because of a lack of political will to see the initiative succeed on the part of Zambia's political actors, after twenty months of stalemate opposition parties met ruling MMD officials on December 10, 1997. On December 11, the ruling MMD and thirty-one opposition parties adopted a four-point theme agenda and agreed to meet again on January 1, 1998.¹⁷ The talks included discussion on the constitutional amendment and electoral procedures. The talks were aimed at drafting an agenda for a meeting of all opposition groups and President Chiluba. However, following the arrest of UNIP leader Kaunda on December 25, the main opposition parties have pulled out from talks.¹⁸ Attempts in late December to save the talks failed with fifteen parties pulling out in protest at the arrest of Kaunda. UNIP had vowed to go nowhere near the talks as long as their leader was still in detention.¹⁹

Under these unfavorable conditions a follow up to the July 1997 CG meeting was postponed in December and again twice in 1998. The World Bank made a CG meeting conditional upon the state of emergency being lifted, which occurred on March 17 and was widely welcomed.

A CG meeting is scheduled for Paris for May 12 and 13. A meeting on governance and human rights issues will be held the day before. As happened in 1997 the number of human rights abuses occurring in Zambia has declined in the run-up to the CG meeting, but there are few guarantees that after the meeting has ended the cycle of human rights abuses will not start up again.

III. HARASSMENT OF THE OPPOSITION BEFORE THE COUP ATTEMPT

The full participation of Zambians in the political process has been obstructed by restrictions of the right to assemble peacefully. Zambian authorities have since June 1997 periodically invoked legal provisions regulating demonstrations to institute arbitrary bans on opposition activity. They also twice used excessive force to break up rallies, as discussed below.

¹⁴"The Stromborg Statement on building sustainable democracy in Zambia," Zambia Roundtable, Stockholm, Sweden, June 9-10, 1997.

¹⁵Embassy of Sweden, Lusaka, "Statement Regarding Today's Article in 'The Post'," Lusaka, September 7, 1997.

¹⁶Interview with UNIP foreign affairs spokesperson Rupiah Banda, Lusaka, November 19, 1997.

¹⁷SAPA news agency, December 10, 1997.

¹⁸SAPA news agency, December 29, 1997.

¹⁹SAPA news agency, January 1, 1998.

International Standards

"The right of peaceful assembly shall be recognized," according to Article 21 of the ICCPR. The only permissible restrictions are those in conformity with law and necessary in a democratic society, including those necessary for public order. "The right of assembly is subject only to one condition, that it be exercised peacefully," according to one legal authority.²⁰

Under Zambian law any group of citizens wishing to hold a public demonstration must obtain a police permit seven days before they hold the demonstration. The police are authorized to turn down an application "to assemble" up to five days before the date of the public meeting. Any rejection can be appealed against. In this event, the law requires the minister of interior to make a decision on the issue within five days of the appeal.

²⁰Partsch, "Freedom of Conscience and Expression," in *The International Bill of Rights*, pp.222-23., citing Tomuschat, U.N. DOC. CCPR/C./SR. 128, para 20 (1979).

Standards in the form of U.N. General Assembly resolutions, such as the U.N. Code of Conduct for Law Enforcement Officials,²¹ provide a practical interpretation of the norms laid down in international treaties, such as the ICCPR, and should guide the conduct of law enforcement officials in controlling crowds and demonstrations. Article 3 of that Code of Conduct provides, "Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty."²² The commentary on that article, which forms an integral part of the code, states:

The use of firearms is considered an extreme measure....In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.²³

A set of basic principles later clarified and developed these guidelines further, prohibiting use of firearms except in three specific cases: 1) self-defence or defence of others against the imminent threat of death or serious injury; 2) to prevent the perpetration of a particularly serious crime involving grave threat to life; and 3) to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape.²⁴ Even in such circumstances, these principles permit the use of firearms "only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life." (Principle 9).

These basic principles impose additional requirements for the use of firearms: prior identification of the law enforcement officer as such, a clear warning of intent to use firearms, and sufficient time for warning to be observed (unless it would unduly place the officer at risk or death or serious harm to others or "would be clearly inappropriate or pointless in the circumstances of the incident"). (Principle 10).

There are also limits on the force that can be used even when law enforcement officials are confronted with an illegal assembly:

13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.

²¹A.G. Res. 34/169 of December 17, 1979.

²²U.N. Code of Conduct for Law Enforcement Officials.

²³Ibid., Commentary on Article 3.

²⁴United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 (1990), Principle 4: "Law enforcement officials, in carrying out their duty, shall as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result."

14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such, except under the conditions stipulated in principle 9.²⁵

Even when use of force and firearms by law enforcement officials may be deemed unavoidable, law enforcement officers must consider some other factors:

Whenever the lawful use of firearms is unavoidable, law enforcement officials shall:

- a) Exercise restraint in such use and act in proportion to the seriousness of the offense and the legitimate objective to be achieved;
- b) Minimize damage and injury, and respect and preserve human life;
- c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
- d) Ensure that relatives or close friends of the injured or affected persons are notified at the earliest possible moment.²⁶

Nor may "[e]xceptional circumstances such as internal political instability or any other public emergency....be invoked to justify any departure from these basic principles."²⁷

The Freedom House Incident

UNIP and other members of the opposition alliance, the National Patriotic Coalition, staged a peaceful protest in Lusaka on July 30, 1997 to protest the Supreme Court's ruling that President Chiluba need not undergo a deoxyribonucleic acid (DNA) test to establish the truth about his parentage—the focus of court proceedings challenging his qualifications for the presidency. The opposition alleged that Chiluba was not a Zambian by birth, but was born in what is now the Democratic Republic of Congo.

The rally was to have proceeded from Duly Motors along Ben Bella road up to the Freedom Statue where opposition leaders would address protesters. The protest actually began along Freedom Way at the old UNIP headquarters, but as the protesters reached the Nkwazi/Cairo road junction, police fired tear gas and attacked demonstrators with long batons. Some of the protesters had been carrying a mock coffin bearing the words "the death of Justice in Zambia."

Riot police were also deployed to defend the offices of the *Times of Zambia* and the *Zambia Daily Mail* while another detachment was sent to UNIP's headquarters. They had been warned that UNIP cadres were planning to march on the state-controlled newspapers, which they accused of biased reporting. Tensions ran high after police started using tear gas and shops in the center of town were quickly closed and shuttered to prevent looting. Some passersby were caught up in the police attack and at least one market stallholder was badly beaten. The police then moved in and blocked the main entrance to UNIP's headquarters, Freedom House, starting a five hour siege.

²⁵Ibid, Principles 13 and 14.

²⁶Ibid, Principle 5.

²⁷Ibid., Principle 8.

UNIP official Basil Kabwe, who was in his office at the time in Freedom House, said he received a phone call from the *Times of Zambia* in which a young man asked him if it was true that UNIP cadres planned to raid the *Zambia Daily Mail* offices. The British Broadcasting Company (BBC) reportedly phoned with the same question some minutes later. According to Kabwe, they were responding to information from the state's Zambia Information Services, which had received a 'tip' from a cabinet minister. Kabwe described the subsequent police assault on the party offices.²⁸

Meanwhile the noise outside got louder and protesters and members of the public rushed into Freedom House for refuge. Inside the tear gas had got so thick it was difficult to see beyond five paces. We then all gathered in the office next to mine as there was less tear gas in there. We had a huge basin filled with water to lessen the effect of tear gas on our eyes. Some women urinated in their pants out of fear, a couple of others fainted. Things just got worse and we were able to sneak a number of the most affected upstairs where the tear gas was not so bad.

Meanwhile I remained in my office making phone calls appealing for help from the Red Cross at St Ignatius Church and maintained contact with Dr. Kaunda. Some people also called in to see how we were getting on. I continued to appeal to the police command to withdraw their men, but they always refused. We were completely surrounded. The Red Cross did turn up, but they were told to go away by the police. We stayed inside until 18.30 hrs when Police Deputy Commissioner Kabwiku ordered his officers to leave the place.²⁹

Freedom House was closed for five days as a consequence of the tear gas.³⁰

UNIP leader Kenneth Kaunda had left Freedom House early to prepare for a trip to Chiala in Eastern province. He then heard about the scuffle at Freedom House and insisted on going there to try and mediate.

I was unable to do that but a number of people were able to get in the car. A police officer, [name withheld by Human Rights Watch], shot with his revolver the tires of my escort car. We then went off to Force Headquarters to see the Deputy Commissioner of Police Teddy Nondo to request that his men stop their siege of Freedom House. He promised to act and around 15.00 hrs when we returned to Freedom House we saw him arrive, stop for a few minutes, and then drive very rapidly past us in a red car. Straight after this we again came under tear gas attack. An officer threw a tear gas grenade at me but it hit my Head of Security on the leg, which swelled up. Another three canisters were shot at us and we had to rush back into the car and drive back to the police station.³¹

Another UNIP official Rabbison Chongo was reportedly assaulted by the police.³²

We organized that protest to express our anger at the DNA ruling by the supreme court. Kaunda left Freedom House at about 10:00 hrs on his way to Eastern province where he was going to have another meeting with cadres. While I was discussing things with *Post* reporter Joe Kunda, tear gas canisters were thrown at us, forcing us to enter Freedom House. The tear gas was so thick that we couldn't even see each other. After a while I went outside to try and talk to police and ask them to stop throwing canisters at us. But as soon as I stepped out of the building I was grabbed by the police and

²⁸Human Rights Watch interview with Basil Kabwe, Lusaka, November 21, 1997.

²⁹Ibid.

³⁰"Press Statement" by Basil Kabwe, UNIP Administrative Secretary, July 31, 1997.

³¹Human Rights Watch interview with Kenneth Kaunda, London, November 7, 1997.

³²Human Rights Watch interview with Rabbison Chongo, London, November 7, 1997.

badly beaten. The police used long batons and pushed us into a police vehicle—I joined some fifteen other people.

We were moved to the Central Police Station (Church Road) where we continued to be beaten. If you were recognised by them as UNIP you stayed, others were released. We stood in a hall along the walls and we were beaten by officers with long batons. I was beaten on the shin until the skin broke. Eventually I was taken to the University Training Hospital (UTH) for treatment, bad bruises and a swollen eye.

The commanding officer that day, Wynter Kabwiku, was one of those doing the beating. Among those I saw being beaten was an old woman of about fifty and a young woman had her knee cap smashed with a gun butt. I spent two nights in police custody without food and water although our relatives were allowed to bring us food and drink the day after the arrest. We were charged with rioting. I would like to point out to you that over the last year there has been a negative shift in the police's attitude towards the opposition. We never used to be treated with such partisan brutality.

A total of twenty-three people were arrested and locked up. Eleven of these reported that they were seriously injured including Central Committee member Rabbison Chongo. Two women spent five days in the UTH, one with a broken leg, the other with a dislocated knee.³³

Elika Banda is one of those who was injured by the police. She described her experience to Human Rights Watch.³⁴

I was walking towards Freedom House but found it was blocked by police. Despite this I managed to run in. The police shortly afterwards closed the front door to the ground floor and shot tear gas through the glass panes. After a short while people couldn't stand it and ran out, I too. We were then grabbed by the police who dragged us to the corner. There were fourteen of us. They then started beating us with their batons. I tried to kneel but they wouldn't let me. My right leg then gave way and I fell down—they had broken my leg with their baton hits. The police then stopped and left me on my own, fearing for what they had done. A little while later I asked the police to help me get to hospital but they refused and took me to Police Central [Church Road] and put me in a cell. Finally after some four hours of protest, the police took me to hospital where I stayed for five days with no police presence.

UNIP claimed that two other people were taken to Force Headquarters and put into the "C-5 a notorious torture chamber, where in the presence of Christopher Chawinga, [they] were badly tortured, that one of them has his genitals damaged."³⁵ One of these UNIP men was Foster Mundele, a thirty-five-year old from Chewana. He described to Human Rights Watch what happened to him:³⁶

I was arrested outside Freedom House at around 12.30 p.m. with eight other people. They started beating us and dragged us along Cairo Road to the Post Office where there was a vehicle. We then were driven to Police Central. The eight of us were put in one cell, but I was then taken out and taken

³³Human Rights Watch interviewed Elika Banda. She provided us with her hospital discharge slip, no. 105567C, stating she had been treated for a broken leg and needed a full cast. She was admitted on August 5 and discharged on August 12, 1997.

³⁴Human Rights Watch interview with Elika Banda, Lusaka, November 21, 1997.

³⁵"Press Conference Address By Dr. Kenneth Kaunda, President of the United National Independence Party," (Intercontinental Hotel, August 27, 1997).

³⁶Human Rights Watch interview, Lusaka, November 21, 1997.

to a room with curtains. I was then asked what KK's [Kenneth Kaunda] plans were. I said I didn't know. I was then taken to a second room where I was tied up and electrified every time the lights went on. They warned me, that if I didn't say something I would die. Around this time Dr Kaunda arrived asking to see me. I heard him. Although the police refused to answer his question, the door was ajar, and I saw his son Wezi walk past and shouted. They then removed me from that room to the CID Chief Investigation Officer's office. I was then ordered to be taken to hospital. They put me in a vehicle but it only went some one hundred meters before it stopped: the police told me they had no fuel. I was then taken to a cell, but did not experience any more torture. The next day I was taken to court and then received hospital treatment.

Human Rights Watch has obtained five original medical documents on Mundeles's condition. A Dr. Kazambe recorded on August 9, 1997 that this "35 year old welder suffered from: 1) Cough; 2) Chest pains; 3) Epidymochatis. After electrocution in remand prison."³⁷ The final report on August 10. concluded that Mundeles was feeling much better and would be discharged, but he was still suffering from trauma from his treatment in prison. Mundeles claims that his genitals have been permanently damaged by the torture.

In an attempt to get some medical help for those stuck in Freedom House, Mrs. Marianne Akuffo, the party's deputy secretary for women's affairs phoned the police emergency services phone number, 999, for help. She told us a man answered her call but told her "You don't know. The people they are tear gassing are UNIP. We will gas them until they die." She then asked him if the police just served the MMD but he just put the phone down.³⁸ She then called the local Red Cross to help. They went to Freedom House around 15.40 but found the police were blocking the entrance so they decided to leave. According to eyewitnesses the Police threatened to shot the tires of the Red Cross vehicle if they did not leave the scene.³⁹

A secretary working in an office in Freedom House who was not affiliated to UNIP described what she saw:

I was in the office working at 10:00 am but was stuck until 16 hours when I tried to leave. Although on the 4th floor, the tear gas was so strong that I needed to use a handkerchief dipped in water. When I tried to leave the police tried to arrest me but a police reservist was a friend and intervened, pointing out that I was not a UNIP member. They were only looking for UNIPs. I saw some people who were not UNIP being taken away because they wouldn't believe that they weren't. Even the next day I was sick because of all the tear gas.⁴⁰

The Reverend Salimboshi is the director of Rainbow Monitors, a small human rights and election monitoring group with a close relationship with the MMD. Rev Salimboshi explained what he saw:

³⁷Mundeles was patient no. 106644C. Human Rights Watch has the originals of Mundeles's medical notes in its possession for the days August 8 to 10, 1997 when he asked to be discharged.

³⁸Human Rights Watch with Mrs Marianne Akuffo, Lusaka, November 20, 1997.

³⁹Ibid.

⁴⁰Human Rights Watch interview, Lusaka, November 20, 1997.

I was in my office and the wind brought the smell of tear gas. I knew something was happening so I went to look at what had happened on Cairo Road. It was 10.30 and the Police had made a number of arrests. Police were surrounding Freedom House and I was told by some street traders who watched the whole thing that things started to go wrong when UNIP youths beat up an MMD person outside Freedom House and stoned some government vehicles. The police then fired lots of tear gas into Freedom House's ground floor offices. Many people were choking and coming out after that; a number were being arrested. The Police were not being too aggressive. They would stop UNIPs, but others were free to go. But they made mistakes. A student from Kumasi College, Ndulanga Mutondo came out, wearing only a jacket and no shirt. The junior officers called him a UNIP and started badly beating him. We felt very helpless there was not anything we could do to stop that just then. This was done in the presence of senior officers. Why they didn't stop it I don't understand.⁴¹

Human Rights Watch inspected the holes made by the tear gas canisters in the glass panes at the front of Freedom House. It is evident from these and the accounts that the police deliberately used a large amount of tear gas in a confined space. One source noted they had closed the front doors before firing the canisters through the window. The bottom floor of Freedom House is not well ventilated, having only tiny windows near the ceiling. Human Rights Watch also arranged the analysis and identification of samples of each type of tear gas canister found at Freedom House after the incident. Four types of canisters were used, one of which is of British manufacture.⁴²

The Kabwe Shooting

The National Patriotic Alliance was scheduled to hold a public meeting in Kabwe at Lukanga Primary School on August 23, 1997. The provincial leaders of UNIP and the opposition alliance informed the police in Kabwe of the plans and obtained their agreement for the rally to go ahead and the Kabwe police to provide protection.⁴³

However, at around 8 p.m. on August 22 truckloads of paramilitary police equipped with riot gear arrived from Lusaka and the Copperbelt and ordered the cancellation of the meeting. Although the Kabwe police initially argued that they were in control and had issued permission for the rally they were overruled. The next day (August 23), the paramilitary police raided UNIP's office in Kabwe and ordered that it be vacated. They then proceeded to the rally site and dismantled the podium, confiscating the tent and other rally equipment. At this time they arrested thirty-nine UNIP and Alliance members who were charged with conduct likely to breach the peace. The police then informed UNIP in Kabwe that the detained cadres would only be released if the rally was cancelled and if Kaunda and the other Alliance leaders did not travel to Kabwe for the rally.

Police beatings also resulted in the sprained ankle of one person, and injuries to the knees of three others.⁴⁴ Many others were badly bruised.

Jennifer Phiri, the Liberal Patriotic Front (LPF) National Secretary, was one of those arrested. She described what happened:

⁴¹Human Rights Watch interview with Rev. Salimboshi, Lusaka, November 20, 1997.

⁴²Human Rights Watch recorded six small white; three large; two medium and one small. The large one, that looks like a shaving cream canister, is a CS Mk III (product code 4016) tear gas grenade, manufactured by Schermuly [Paynes-Wessex] Ltd. This is a British firm based in Salisbury. The parent company is ChemRing, based in Southampton.

⁴³The following reconstruction of events is based on interviews in Lusaka and Kabwe and statements made at the time.

⁴⁴According to a medical report from Kabwe Hospital, Richard Banda sustained a sprained left ankle; John Nkonde sustained a sprained left knee with haemarthrosis; Violet Chisanga sustained a damaged left knee tendon and left skin and ankle; Albertina Zulu sustained a damaged tendon on the left knee.

I went to the UNIP office where I noticed that some people were dispersing, people were scattered because of the tear gas canisters that were being fired. My husband and I rushed towards our car where we sat with the windows closed. We could not drive because we could not see clearly due to the thick gas surrounding us. Some paramilitary police came and ordered us to open our windows. We refused and they threatened to break our windows. So we came out and they started beating us severely. When I ran towards the police car, they still continued beating me. Then as I reached the car one of the young policemen tried to hit me with a gun butt, but fortunately, he was stopped by a female officer who held him and ordered him not to do it since I was not resisting arrest. I got into their car and was taken to the Police Station. The Police then charged us and we signed. Some people who take medication for various ailments requested that we go to hospital first. From the hospital we were transferred then to another place because the police station could not hold all of us. We had no food or water for three days. We used to sleep on the veranda under the watchful eye of guards. After four days we were released on bail. We have been charged with unlawful assembly and have pleaded not guilty. I am fifty-eight years old and my husband, Amlock Phiri is sixty-five. The police did not consider our age, they just beat us up.⁴⁵

Lazarus Kalima, a local opposition Alliance figure, reported that people had been going around Kabwe telling residents that Kaunda was on his way to Kabwe to burn the markets there. He also said that few people knew that an opposition rally was to take place in Kabwe. Most people only knew something was happening when hundreds of police arrived.⁴⁶

The police reportedly tried to clear the whole town center after dispersing the meeting. Ronald Mangobwela was reportedly beaten up by police because he refused to close down his Big Bite restaurant on the day of the rally. He said police had ordered him to close his premises (as had other businesses), but he had refused because he felt they had no right to order this. The police then beat him up with long batons and gun butts. They then started beating up all the other workers in the restaurant. To stop this he called for the restaurant to be closed. Mangobwela sustained various injuries, including an injured knee.⁴⁷

A *Post* journalist, Masautso Phiri, was in Kabwe that day and described seeing what went on at the Big Bite restaurant and his own arrest:

I was in Kabwe looking around prior to the rally. I saw the police going into the Big Bite and telling them to close it. The place was thick with police and it was difficult to move around. I decided to take a photo of an embassy vehicle that was parked in the town. There was then a struggle with the police for my camera with Det. Serg. Mulenga who couldn't get it because the strap was around my wrist. He then took a bayonet and although it was clearly blunt, cut the strap. I was then taken to the police station and received one blow there while waiting to be charged. They charged me for taking photographs without permission although no such charge exists.⁴⁸

A board member of the human rights monitoring group, ZIMT, was in Kabwe just before the attempted rally. Gershom Musonda described what he saw:

⁴⁵Human Rights Watch interview, November 22, 1997.

⁴⁶Milimo Moyo, "Research into the July/August Clashes between Opposition and Police," unpublished Afronet report, no date.

⁴⁷Human Rights Watch interview, Kabwe, November 20, 1997.

⁴⁸Human Rights Watch interview with Masautso Phiri, Lusaka, November 25, 1997.

There were many police, and I saw them use tear gas. Most of the police were inexperienced junior officers—I saw them shaking with their guns. They over-reacted mainly because they had poor leadership—nobody in authority to tell them to stop when they started to get violent.. The most suspicious thing for me was the unexplained power failure at the hospital when they were trying to treat Rodger Chongwe. But I had left then because we had been escorting a young Norwegian diplomat.⁴⁹

The diplomat was Siv Moe, who was new to Zambia at the time. Siv Moe is at the Norwegian Embassy in Lusaka and drove her car to Kabwe with several members of ZIMT, including Musonda. She was shaken by what she saw:

I had never been to Africa before and I was new in Zambia. When we arrived in Kabwe it was full of police and very tense. Musonda took a photograph of this from the car and then we saw the journalist Masautso Phiri taking a photo and being in a struggle with the police over his camera. It was violent and the police were heavy-handed with other people too. I was scared. I never expected to see such things in Zambia so we decided to leave and go back to Lusaka.⁵⁰

Early on August 23, the UNIP phoned the vice-president, Brig. General Godfrey Miyanda, who was acting president at the time, in order to bring to his attention what was happening in Kabwe. Unable to reach him, party leaders decided to proceed to Kabwe, partly because they had postponed the rally once already. When they arrived at the UNIP provincial offices, the police regrouped and proceeded to fire teargas at the building to get people to disperse. When Kaunda and Alliance leader Rodger Chongwe decided to leave by car, police attacked the car with tear gas and later live ammunition, possibly to try to stop their exit. According to eyewitnesses no warning was given before shots were heard. A small number of police that day were carrying AK-47s, senior officers had revolvers and a few G-3s were held by mobile unit members. Most of the police were issued only batons or carried teargas.

UNIP alleges the firing was an assassination plot and has provided a list of names of police and "accomplices" to Human Rights Watch.⁵¹ In a hearing in Kabwe magistrate court on March 23, Inspector Bertha Mwanza, the officer in command of police in Kabwe gave her testimony. She confirmed that the police operation in Kabwe had been ordered by Force Headquarters in Lusaka:

Q. And the Special Operation was to clear civilians from the streets of Kabwe?

A. Yes Your Honor.

Q. And operational orders for this came from Force Headquarters?

A. Yes Your Honor.

Q. Force HQ in Lusaka?

A. Yes Your Honor.⁵²

Victims' Accounts

Opposition leader Rodger Chongwe gave the following account of what happened to him at the rally:

I left Lusaka for the Kabwe rally at around 12:10 hours and arrived at 13:00 hours. The rally was scheduled for 15:00 hours. When I arrived I went straight to the Masiye Motel with David Kasuba whom I had given a lift. He informed me that the preparations for the rally had been satisfactory

⁴⁹Human Rights Watch interview with Gershom Musonda, Lusaka, November 20, 1997.

⁵⁰Human Rights Watch interview with Siv Moe, Lusaka, March 11, 1998.

⁵¹List in Human Rights Watch's possession.

⁵²From transcript of court hearing.

except that the previous night at about 22:00 hours three trucks of paramilitary police had arrived from Ndola and Lusaka. Approximately 400 police had been brought.

When we arrived there we found that UNIP and Liberal Patriotic Front cadres who had been guarding the place were picked up by police and taken to the police station. They were charged with failing to inform their leaders about the cancellation of the rally. Police had [the previous night] torn down the rally site and Richard Banda had been picked up and interrogated till [morning of the rally] and released. President Mfuni of the Labour Party arrived at 1:15 hours and KK around 2:15 hours, at which time Richard Banda had been released. He briefed us on the state of affairs and President Mtonga of the Grassroots Welfare Party.

We asked him to take us to the rally site and found that it had indeed been removed and there were a lot of paramilitary officers, some even in tree tops. We got back in the car and drove to the UNIP office to inform our supporters that the rally had been cancelled. On that day, the whole town was full of paramilitary armed to the teeth and chasing people; preventing them from entering the town.

We and our supporters were standing under the fig tree that is near the UNIP office and some of our supporters who tried to join us were severely beaten up and chased. We stood up and said "tiyende pamodzi" [lets walk together]. Richard Banda was the first to address them but even before he had finished speaking the police fired tear gas at the gathering. We rushed into the UNIP building and because it was smoky we went to the third floor. We washed our faces and applied Vaseline in order to lessen the effect of the tear gas. Three minutes later we heard police speaking through a megaphone ordering us to get out or else. They wanted to smoke us out like mice. We asked our officers to go outside and check to see if it was safe for us to come out. This is because the only cars outside were ours. So we walked down. I sat in front with Dr Mfuni. In the back there was Dr. Kaunda, his security officer, Malimba Masheke, and Mwangala Zaloumis. As soon as we sat down, three cans of tear gas were fired into the car. The whole vehicle was in gas and we opened our windows. As soon as our driver tried to drive off, the car was blocked in front and behind. The driver swerved to the right and still was blocked by yet another car.

It was then that an armed policeman from the top of the building with a telescopic lens shot a live bullet which hit me in the neck. Another bullet went through the back of the GX [vehicle] and grazed Dr Kaunda's head. Our driver then drove off. However, we were pursued relentlessly. Mrs Zaloumis noticed that I was bleeding furiously and suggested that we rush to hospital. We turned and rushed back towards the Kabwe General Hospital. It was when we reached the hospital that I realized that I had been shot and could not even move my legs. The hospital staff wheeled me into hospital. I was treated for blood pressure with an injection. Dr Major General Brian Chituwo then informed me that I had to undergo an operation at 17:00 hrs. I was also given an antibiotic to contain infection. At about fifteen minutes before the operation, the electric power was cut from the hospital. Later at 19:00 hrs when the electricity was returned, I was wheeled into the theater where the doctor removed the debris, cleaned the wound and stitched it closed with seven stitches. I was put on a drip. I had lost three liters of blood.

The surprising thing is that throughout the whole operation there was a large contingent of paramilitary police standing outside the front of the hospital including many plainclothes intelligence personnel. Later, I managed to ask KK how safe we were (I managed to talk because the bullet had missed the vital organs in my throat) and he stated that we were not safe. So the doctor showed us the rear door and we left using that. We left the hospital at 24 hrs or so. The doctors told the paramilitary that the two opposition leaders were at the mine hospital.

Even my car which had been driven by my driver had its windscreen completely smashed and tear gas thrown into that car. The main object of the whole exercise was to kill whoever was in the car.⁵³

Human Rights Watch also interviewed Kaunda's driver Nelson Chimanga and inspected the vehicle with him:

At about 15.30, following Dr Kaunda leading the singing of the National Anthem at our UNIP provincial office, I heard tear gas being fired. Suddenly lots of smoke and people scampered for safety. For a while I couldn't see anybody because of the smoke. Dr Kaunda and the others then rushed into the car and we locked the doors. The police came forward hitting the vehicle with their long batons and the windows with their fists. Telling us to get out. But at the same time they threw tear gas under the vehicle. I expected them to ask Dr Kaunda to go with them to the police station. Instead they just kept firing tear gas. In the smoke everybody was dazed. I just drove off to get out of that place. They fired tear gas at the car, one came into the car because I had opened a window to let out the smoke. When we got out of the smoke, I had to swerve past a police vehicle that tried to block our escape; just before the roundabout, I had to swerve to avoid a second vehicle blocking the road and then a third that was across the road. It was after this vehicle that we heard the bullet. Suddenly Rodger Chongwe was bleeding next to me. We gave him first aid in the vehicle, but because he was bleeding so much, did a U-turn and returned to Kabwe General Hospital. Because of heavy paramilitary police presence I moved the vehicle around the back and we left for Lusaka at around 0300 hrs.⁵⁴

Kenneth Kaunda described to Human Rights Watch what he saw:

A bullet fired by the Zambian police grazed the top of my head. The same bullet much more seriously injured Dr. Chongwe. The trouble started after police destroyed our rally site. I was to have addressed a massive rally with other opposition leaders. But the police destroyed everything and told our supporters to tell us that the rally had been cancelled. Police started firing tear gas at anyone on Kabwe's streets. I myself when I arrived was forced to flee into the UNIP office because thirty of forty tear gas canisters were fired at me and those around me. I could not therefore tell the crowd that was left that we had cancelled the rally. When we came out to leave, the police threatened to shoot our wheels. They then fired more tear gas but the driver swerved and managed to escape various attempts to stop our departure. It was then the police opened up with live ammunition. A bullet grazed my head and struck Dr. Chongwe who was sitting in the front seat, below the right ear. My aide Anthony Mumbi was also slightly injured by shrapnel. I probably would have died except my bodyguard Duncan Mtonga, pushed me to the side when he heard gun shots. I did not hear them.⁵⁵

One of the passengers in the vehicle was UNIP's legal officer, Mwangala Zaloumis, who provided Human Rights Watch with a written statement:

Prior to travelling to Kabwe, news had reached Dr Kaunda's office that the police had tried to cancel the rally in Kabwe as early as 0500 hours by arresting UNIP cadres who were guarding the rally site and the platform to be used by the opposition leaders. All the 14 youths were arrested. The special assistant to Dr Kaunda, Rabbison Chongo and others tried in vain to speak to the vice-president, Brigadier General Godfrey Miyanda in order to register the party's concern over the same. The vice-president refused to speak to them and some one from his office said he could not disturb the vice-president. With no answer Dr Kaunda and his team left for Kabwe in the early afternoon.

⁵³Human Rights Watch interview with Rodger Chongwe, Edinburgh, October 22, 1997. Human Rights Watch saw the scarring of a puncture wound on his right cheek and what appeared to be a large exit wound on the back of his neck.

⁵⁴Human Rights Watch interviewed Nelson Chimanga, inspected the vehicle and took photographs of the bullet hole on November 23, 1997.

⁵⁵Human Rights Watch interview with Kenneth Kaunda, London, November 7, 1997.

Upon arrival in Kabwe, Dr Kaunda joined Rodger Chongwe and I rushed to the police station to find out the reasons behind their arrest. On arrival there I found a *Post* journalist [Masautso Phiri] arrested after being detained and beaten by police on the alleged offense of disturbing the peace.

I was not allowed to see the 14 youths arrested and detained in police [sic]. I was referred to the Senior Officers who refused to attend to me despite my introducing myself as their lawyer. I was informed that the police officers were too busy maintaining law and order. By this time the whole town was cleared of people.

As I was talking to the second in command about the tense situation Dr. Kaunda and other opposition leaders drove past us and one of the police officers came to tell the second in command that the "subject" had passed. I asked him what he meant by the "subject" and they ignored me.

Dr Kaunda and the others by this time got to the veranda of the UNIP party office and he led the crowd in signing the national anthem. The second in command then announced on the megaphone that the crowd should disperse as they were attending an illegal meeting. It is important to note that the premises where this took place was UNIP's and it was a party meeting, not an illegal rally.

After the singing of the national anthem I asked the police officer whom I was speaking to what he wanted them to do. He told me to go to the police station to apply for a permit. But I noticed that the police officers were closing in around UNIP's building and as I walked towards the crowd a tear gas canister hit my thigh. After that all hell broke loose, tear gas canisters were being shot into the crowd—there was so much we could not see clearly. Coalition member-presidents and most opposition members rushed inside the UNIP office where first aid against the tear gas was being administered. Whilst this was going on I saw police damaging Dr Chongwe's vehicle by smashing the wind-screen and the driver decided to drive away.

The police moved in and tried to deflate Dr Kaunda's cars [car's] tyres; they also demanded that the president's driver get out of the vehicle. In the mean time the whole entourage came out of the office and rushed to the vehicle in order to depart. By then the situation was very tense. A number of tear gas canisters were fired at the vehicle carrying the presidents creating a lot of confusion. Rodger Chongwe and president Mfuné got in the front seats with the provincial chairman of UNIP in Central Province. President Kaunda, his body guard and UNIP's chairman General Masheke got in the middle seat; then three security personnel got in the rear seats (Dr Kaunda's vehicle is a Toyota GX Landcruiser).

The vehicle was blocked three times in three different places by police vehicles. At about 200 meters from the Party Offices the presidential vehicle was fired at and at the same time tear gas was fired into the vehicle because the windows were open due to the earlier firing of tear gas around at the bottom of the vehicle. There was a lot of confusion in the vehicle as a result of tear gas smoke. The next thing we saw was blood all over. Dr Chongwe had been hit on the cheek and was bleeding profusely. One of the security personnel who sat next to me in the back was also bleeding. He had been hit by shrapnel in three different places. We immediately went to hospital for medical assistance.⁵⁶

Government Response to Kabwe

The Zambian government imposed a twenty-four hour news black-out on reporting of the Kabwe shooting, although Zambians are accustomed to tuning into foreign radio or television reports to get news. It was only late on August 24 that the local state media began reporting on the incident. Paramilitary police also patrolled the capital and

⁵⁶Statement by FM Zaloumis, September 4, 1997.

provincial towns in large numbers up until August 26, fearful of continued protests, although these passed peacefully. President Chiluba on August 26, during a stop-over in Britain on his return from the Far East, denied that the Kabwe shooting was a state-sponsored assassination plot and said that the Zambian police had instigated an investigation and that Nungu Sassasali, the commanding officer at Kabwe, was suspended. However, he rejected calls for an independent inquiry into the incident, claiming that "the important thing is that the investigation is taking place."⁵⁷

The Zambian government appointed a panel to investigate the shooting incident that day, while the police on August 24 denied using live ammunition to disperse crowds in Kabwe.⁵⁸ At this time various governments, Amnesty International, and local NGOs and church groups called for an independent probe into the shooting.⁵⁹ The Human Rights Commission also issued a statement calling for a prompt inquiry whose results would be made public for remedial action. The commission also "totally condemn[ed] the use of live ammunition or any other offensive weapon when apprehending unarmed persons."⁶⁰

On August 28, President Chiluba arrived back in Zambia from a two-nation Far East tour and said the government would not apologize over the Kabwe shooting as it could not be held responsible for it. However, the president said he did not support the use of excessive force by the police and that there was an investigation into the incident.⁶¹

On August 31, Home Affairs Minister Chitalu Sampa questioned whether the wounds sustained by Kaunda and Chongwe were real. He stated that: "We have been told that the bullet hit Dr Kaunda on the head, the same bullet went through Dr. Chongwe's cheek, the same bullet again hit the other person in the neck. Honestly, how can that be possible, so we can not conclusively say they were shot by the police."⁶²

⁵⁷SAPA news agency, August 26, 1997.

⁵⁸ZNBC radio, Lusaka, in English 1600 gmt, August 24, 1997 cited in *Summary of World Broadcasts* (SWB) AL/3007 A/10, August 26, 1997.

⁵⁹Amnesty International, "Zambia: Police shooting of opposition leaders needs urgent investigation," AI Index: AFR 63/09/97, August 25, 1997; *Times of Zambia* (Lusaka), August 26, 1997.

⁶⁰Human Rights Commission, "Press Statement," August 26, 1997.

⁶¹ZNBC radio, Lusaka, in English 1800 gmt, August 28, 1997.

⁶²*Zambia Daily Mail* (Lusaka), August 31, 1997.

President Chiluba on November 13 challenged Kaunda and Chongwe to prove that they were shot and wounded in Kabwe. "These two people were not shot," Chiluba said when he met Germany's new envoy to Zambia, Melmuth Schroder. "An AK 47 cannot leave a simple wound. Let them prove to the world they were (shot)," Chiluba said. He did, though, admit that police fired in the air as they tried to break up the opposition rally. He also challenged the Human Rights Commission to carry out an independent probe into the incident.⁶³

The Human Rights Commission has decided to hold a public hearing to establish the facts of what exactly happened in Kabwe, to review current international and Zambian law and Zambian policy on freedom of assembly and association and to review standards on the use of firearms and live ammunition at both legal and illegal public gatherings. The commission hopes to make recommendations on each of these areas. However, as of May 1998 the commission has moved slowly, telling diplomats that only if it secures funds can it proceed, although it has made a twenty minute video reconstruction of the Kabwe shooting.⁶⁴ The police have also failed to make any public statement on the shooting although it is now many months after the incident.

Analysis of the Medical Records, Shrapnel, Cartridges and the Damage to the Car

Human Rights Watch has obtained a copy of the state medical report on the injuries in Kabwe, inspected and photographed the vehicle, photographed cartridges picked up in Kabwe near the scene of the incident, and photographed the bullet and shrapnel reportedly found in the car by UNIP. These reports and photographs were then examined by a forensic medical and ballistics specialist for an expert opinion.

The medical report states:⁶⁵

1. Dr. K.D. KAUNDA

The patient complained of having sustained a wound above the forehead allegedly from a gunshot. On examination he was fully conscious. There was 1 cm superficial wound above the head in the mid line. The wound was cleaned and dressed; anti tetanus toxoid [unclear] ml intra muscular was given, tab paracetamol and septrin were commenced. The BP was 130-100, subsequently BP rose to 160:120.

Dr Rodger Chongwe (MALE ADULT)

Admitted on the 23rd August complaining of gunshot on face and neck. On admission, he looked ill, the BP was 90/80. Local examination reviewed puncture wound on the right cheek communicating with bleeding open wound on the upper aspect of the neck. There were no other injuries. Treatment consisted of pressure bandage to stop the bleeding 1V 5% dextrose 1 l stat. anti-tetanus toxoid 0.5 stat hydrocortisone 100 mg IV stat

Approximately half an hour later (16.10 hrs) patient reviewed.

The following were the findings—pulse 100 per minute BP 150/110

⁶³AFP news agency, November 13, 1997.

⁶⁴Human Rights Watch has a copy of the video reconstruction in its possession, "Confidential. Permanent Human Rights Commission Kabwe Shooting Incident, 23rd August 1997," video (Lusaka: A Hickey Studios Production, 1998). The Human Rights Commission claims making the video cost it K15 million (approximately U.S. \$10,000) and that they would need K65 million (approximately U.S. \$50,000) to hold a public hearing. *Sunday Times of Zambia* (Lusaka), March 29, 1998.

⁶⁵Cited from a medical report sent by "Kabwe Hospital to Permanent Secretary, Ministry of Health, Lusaka, "RE: MEDICAL REPORT: KABWE RIOT REPORT." "Ref: KG11/01/11/8, August 27, 1997."

The following were commenced, cristapen 2 mega units IV stat, radiographs of the skull and cervical spine showed no fracture, but a suspicious, radio—opaque body under the skin where the wound was. Treatment consisted of diazepam 10 ml stat, lasix 40 mg IV stat.

Under local anaesthetic the following were the findings:

- a) 4 cm wound interior/ posterior to the right pinna
- b) A fractured outer table of the mastoid bone and
- c) A wound communicating with a puncture in the cheek

PROCEDURE

Edges on the wound excised and cleaned, then infiltrated with one percent lignocaine, irrigated with cristapen/saline solution, sutured and a glove drain inserted.

POST OPERATIVE CARE

Gentamycine 80 mg 1 ml stat 8 hourly, to remove drain after 24 hours.

Rodger Chongwe also had an independent analysis of his injury done in Australia by St. John of God Hospital, Subiaco. The report by a Dr. Ian Morison stated:⁶⁶

SKULL

A small metallic foreign body can be seen in the soft tissues beneath the skull base close to the skin surface consistent with the history of a gunshot wound. No intracranial bodies can be seen. There is no evidence of fracture of skull base.

MANDIBLE

The mandible is intact

CT OF CRANIUM

A small metallic fragment is noted in the soft tissues in the posterior aspect of the cervical region close to the skin surface and this is best demonstrated on Image 4. There is a healing fracture of the inferior tip of the mastoid process on the right side again best demonstrated on Images 4 and 1 on Sheet 2. The rest of the skull base remains intact. No abnormality can be seen in middle ear or mastoid air cells above the level of the abnormality demonstrated. There is a small bone fragment in the soft tissues overlying the mastoid process and no abnormality can be seen within the posterior fossa of the skull.

⁶⁶Copy of letter by Ian Morrison, St John of God Hospital, Subiaco, "Re: Mr Rodger CHONGWE", dated October 3, 1997, in Human Rights Watch's possession.

Human Rights Watch showed the medical reports, photographs, and Human Rights Commission video to Dr Richard Shepherd of the Forensic Medicine Unit, St George's Hospital Medical School, London for an expert assessment. Dr. Shepherd concluded that:⁶⁷

From the evidence that I've seen one can say for sure that a bullet hit the vehicle and then as it entered it sprayed fragments throughout the vehicle, a bit like an angry swarm of bees. The injuries sustained by Kaunda, Chongwe, and Kaunda's aide all are consistent with this. Rodger Chongwe is lucky to be alive. If the shrapnel had hit him a couple of inches to the left he would have been dead. The trajectory of the bullet hole is slightly downwards suggesting that whoever fired the shot was slightly elevated, from the back of a lorry, that sort of height. The angle does not suggest a shot from a tree or roof top.

Human Rights Watch also sought the expert opinion of a firearms and ballistics specialist, Dr. Graham Renshaw. He examined the photographs taken by Human Rights Watch of the bullet hole in Kaunda's car, photographs of a bullet cartridge found near the scene of the incident the day after the rally, and a photograph of a bullet that UNIP claimed was extracted from the vehicle after the incident. Renshaw explained to Human Rights Watch:

One bullet clearly penetrated the vehicle through the back. I have identified the cartridge as a 762mm X 51 Nato case with a head stamp indicating that it was manufactured in the former Yugoslavia in 1973. The bullet is consistent with the cartridge. It is a Ball Round, with its lead or steel core missing. The bullet, with its folds bent backwards, suggests it had pierced three layers of metal—consistent with penetrating the vehicle. The actual type of assault rifle used is more difficult to establish. It could be a non-Russian AK-47 but is more likely to be a G-3 or Belgian FAR which always use 762mm X 51 ammunition.

The bullet hole in Kaunda's vehicle is consistent with the bullet and cartridge. With this information it might be possible to match the bullet with the firearm that fired it. While one can not say that this was an assassination attempt, one can say for sure that all the passengers in the car are lucky to be alive. If the bullet had hit a window it would have been able to kill somebody straight. It was slowed down and displaced by going through metal.⁶⁸

IV. THE AFTERMATH OF THE COUP ATTEMPT

On October 28, 1997, Zambians woke to a voice from their national radio station announcing the overthrow of the government by "Operation Born Again."

The speaker identified himself as "Captain Solo" and claimed to speak on behalf of a "national redemption council" whose aim was to "save our nation from collapse." The radio broadcasts began just after 6 a.m., when "Solo" claimed his troops had surrounded the radio station and State House. In his speeches he criticized the government for corruption.

⁶⁷Human Rights Watch interview with Dr. R. Shepherd BSc, MB, BS, MRCPATH, DMJ, The Forensic Medicine Unit, St. George's Hospital Medical School, London, April 27, 1998.

⁶⁸Human Rights Watch interview with Dr. Graham Renshaw, London, May 1, 1998. Eyewitnesses do not report the police holding FAR assault rifles in Kabwe but may have been unable to distinguish them from other rifles.

The radio broadcasts demanded that President Chiluba surrender by 9 a.m. "Solo" also declared that the constitution was suspended, all political activity banned and that all airports were closed. He also warned that "When you hear about the firing squad, you might just have heard of it. But we will show it on television, you will see what we mean by firing squad. Culprits will not undergo trial, those who will see what we mean by firing squad. Culprits will not undergo trial, those who will be found to contravene with these specific orders broadcasted by Captain Solo."⁶⁹

The coup attempt was undertaken by a small number of soldiers led by Captains Steven Lungu (Capt. Solo) and Captain Jack Chiti. One group of soldiers led by Lungu went to Mukango barracks and ordered members of 1st Infantry Brigade to drive armoured vehicles to the radio station where they would receive further orders. These soldiers drove their armored cars to capture the radio station, while another from Arakan barracks planned to take hostage Zambian army commander Lieutenant General Nobby Simbeye and have him broadcast to the nation. The Arakan group, led by Captain Jack Chiti, failed to find Simbeye but intimidated his wife and later helped themselves to his refrigerator-full of Windhoek Export beer. Simbeye escaped over his back wall and raised the alarm.

There were never rebel troops around State House and loyal troops promptly surrounded the radio station. A limited armed exchange followed. By 8:00 a.m. "Solo" had stopped broadcasting, the radio station was mostly back under government control, and some mutinous soldiers at the radio station had stripped off their uniforms and run away. Another group had barricaded themselves in the radio's offices. A commando unit quickly overwhelmed the few that tried to resist. Around fifteen soldiers were immediately arrested and at least one rebel soldier was fatally shot. At 8:36, a Lt. Col. Siame announced on the radio that the government was back in control and that all the culprits had been arrested. State television later broadcast "Solo" laying on the ground and being stamped and kicked by a group of soldiers.⁷⁰

The coup attempt was neutralized in three hours. The security forces mopped up for several days. While this was occurring, marches and rallies supporting the government occurred across the country. The opposition also condemned the coup attempt. UNIP president Kaunda issued a statement from South Africa; the ZDC and LPF also issued statements. Religious groups, human rights groups, and other NGOs all stated their disapproval of the coup attempt.

The State of Emergency

Although the government appeared fully in control and immediately after the coup attempt down-played what occurred, President Chiluba declared a state of emergency on October 29 following a special cabinet meeting. It was justified by the authorities as facilitating police investigations into the attempted coup attempt.⁷¹

Although roundly condemned by NGOs and civic groups in Zambia, they expressed their fear that the state would be tempted to abuse the extra powers it had due to the declaration of a state of emergency. The state-run newspaper *Times of Zambia* attacked this in an editorial:

⁶⁹Human Rights Watch listened to a recording of Solo's broadcast in London. The Zambian government banned possession of any recordings of the broadcast in November.

⁷⁰Human Rights Watch has a copy of this footage in its possession. A still from this broadcast showing soldiers kicking "Solo" was published in color on the front page of the *Zambia Daily Mail* (Lusaka), October 30, 1997.

⁷¹Under the State of Emergency the Preservation of Public Security Act (Cap.112) comes into effect. Under the Act police can prohibit all public meetings; compel chiefs and headmen to attend meetings; close roads; impose curfews and restrict access and movement.

Zambians are sick and tired of pseudo human rights activists who seem totally out of touch with reality, and whose perception of danger is totally warped and at variance with the rest of the population. Even when confronted with the sordid threat of a military coup, the so-called human rights advocates have already ganged up in defence of the wrongdoers. Government declared a state of emergency ostensibly to protect the liberties of the majority whose fundamental rights and liberties have been curtailed by the coup plotters.⁷²

President Chiluba in his speech at the opening of parliament on January 16, 1998, added:

The fears and anxieties expressed by traditional nay-sayers regarding human rights violations during the state of emergency have proved unfounded. The state of emergency has not interfered with the normal daily lives or the fundamental freedoms and liberties of our people.

On January 29, 1998, parliament renewed the state of emergency for a further ninety days. The government defended the extension by saying "every innocent Zambian national or visitor will continue to enjoy unfettered rights. This enjoyment of human rights extends also to business people or foreign investors in Zambia."⁷³ The state of emergency was lifted on March 17 by President Chiluba who stated that its lifting was to assure the outside world that Zambia is a democratic country.⁷⁴ Parliament ratified President Chiluba's revocation of the state of emergency on March 24.

International and National Standards

Article 4 of the ICCPR, to which Zambia acceded in 1984, states that some fundamental rights cannot be suspended or limited. A state is prohibited from suspending Articles, 6, 7, 8, (paragraphs 1 and 2), 11, 15, 16, and 18, which include the right to life and to freedom from torture or cruel, inhuman or degrading treatment or punishment and the right to recognition as a person before the law. Other rights and freedoms may only be limited "to the extent strictly required by the exigencies of the situation," and in a manner not "inconsistent with [the state's] other obligations under international law."

The U.N. Human Rights Committee has also noted that "measures taken under Article 4 [relating to a state of emergency] are of an exceptional and temporary nature and may only last as long as the life of the nation concerned is threatened and that, in time of emergency, the protection of human rights becomes all the more important, particularly those rights from which derogations can be made."⁷⁵

The Human Rights Committee also stated in its conclusions that:⁷⁶

The Committee urges the authorities to take the necessary steps to ensure that torture, ill-treatment and illegal detention do not occur and that any such cases are duly investigated by an independent authority in order to bring before the courts those accused of having committed such acts and to punish them if found guilty.

⁷²*Times of Zambia* (Lusaka), November 1, 1997.

⁷³SAPA news agency, February 4, 1998

⁷⁴ZNBC radio, Lusaka, in English 1600 gmt, March 17, 1998, cited in *Summary of World Broadcasts* (SWB) AL/3179 A/7, March 19, 1998.

⁷⁵General Comment 5, Para. 4, (A/36/40) (1981) in the 36th session, 1981.

⁷⁶Concluding observations of the Human Rights Committee: Zambia 03/04/96. CCPR/C/79/Add. 62.

The Constitution of Zambia permits the derogation of rights that are non-derogable under the ICCPR. The U.N. Human Rights Committee, in its concluding observations on Zambia's report on compliance with the ICCPR, noted that "the lack of clarity of the legal provisions governing the introduction and administration of a state of emergency, particularly sections 31 and 32 of the Constitution, which would permit derogations contravening the State party's obligations under article 4, paragraph 2, of the Covenant. The Committee is also concerned that the derogation of rights permissible under section 25 of the Constitution goes far beyond that permissible under article 4, paragraph 2, of the Covenant."⁷⁷ The committee recommended that "the authorities adopt legislation to bring the domestic regime, including section 25 of the Constitution, into harmony with the State party's obligations under article 4 of the Covenant."⁷⁸

Under the state of emergency authorized police officers do not need a warrant to search any premises or arrest anyone: people can be detained for up to twenty-eight days without charge.⁷⁹ The president is also granted extraordinary power to indefinitely detain any individual. The constitution only states that under a state of emergency a notice must be published in the *Government Gazette* giving the name, the place and law under which detentions were made within fourteen days.⁸⁰

There was pressure from the international donor community for the government to drop provisions for states of emergency. In April 1993 President Chiluba assured the donor community that the government would work out laws to deal with situations that may require a state of emergency. "Necessary legislation would be made to deal with such cases in their proper perspective," Chiluba said. To date no such laws have been legislated.⁸¹

Political Detentions Under the State of Emergency⁸²

After the coup attempt the government moved first against soldiers suspected of involvement in the coup. As many as 108 detainees were held, although by late January the government began to release a small number. The Human Rights Commission in early January called for speedy trials, demanding "that the detaining authorities expeditiously charge the detained persons and take them to court, or have them released. The continued detention of restricted persons, although lawful under the current state of emergency, is not conducive to the building of a culture of human rights in Zambia, upon which democracy depends."⁸³

⁷⁷Point 11, Ibid.

⁷⁸Point 22, Ibid.

⁷⁹The law normally dictates that suspects must be charged within twenty-four hours of arrest.

⁸⁰ In almost all of the cases *Gazette Notices* were published well after the fourteen-day limit. The government gazetted all the detainee in three batches, first eighty-four names were published on November 14, 1997 in *Government Gazette Notice*, no.573 of 1997, vol. XXXIII, no.88; eighty-nine names on December 9, in *Government Gazette Notice*, no.606 of 1997, vol. XXXIII, no.97 and ten names in *Government Gazette Notice*, no.624, vol.XXXIII, no.102 on December 23, 1997.

⁸¹*Afronet File*, issue no.5, March 1998.

⁸²See also, Amnesty International, "Zambia: Misrule of Law: Human rights in a state of emergency," March 2, 1998, AI Index: AFR 63/04/98.

⁸³Human Rights Commission, Press Release, "Arrest And House Detention of Former Republican President and UNIP Leader Dr Kenneth Kaunda," January 8, 1998, HRC/PR/98/01.

On February 25 seventy-two soldiers and the ZDC leader Dean Mung'omba appeared in court, where they were formally charged with treason, some three months after they had been detained. Treason carries a mandatory death sentence, although the president can offer clemency.⁸⁴ Former president Kaunda and one of his aides were charged a few days before with concealing information on the revolt, a charge that carries a maximum sentence of life imprisonment. A Human Rights Watch observer was present in Lusaka in the Supreme Court in March 1998 when Kaunda and, later, Mung'omba and over seventy soldiers were brought before the court. There was tight security with over one hundred armed paramilitary police around the court building and thirty in the court room itself and a number of others at each exit. Other armed police were stationed on the roof and the court complex was surrounded with barbed wire coils.⁸⁵

By mid-April eighty-two people had been charged in connection with the coup, the remainder having been released (one died in custody). What had been three batches of detainees were also merged to make one group of eighty-two. A small number of those in detention are not soldiers but politicians.

The trial of the eighty-two has yet to begin, although on April 23 a certificate of committal for summary trial by the director of public prosecutions was read out in the High Court.⁸⁶ However, the defense team is still waiting for the trial to commence and to get access to depositions and testimonies of witnesses from the prosecution. Members of the defence team interviewed by Human Rights Watch expressed their concern that investigations were continuing and that the government was in no hurry to see tangible progress in the case. Meanwhile the health of a number of the detainees deteriorated.

Immediately after the coup attempt on October 29, the government publicly claimed that the opposition was not involved. Richard Sakala, the presidential spokesperson told journalists that "The government is not suspicious that the opposition was behind the coup attempt." But the next day the tune changed. President Chiluba at a public rally said: "We had the Zero Option, maybe we moved too fast and lost the case in court. This time the evidence is there. We found them in action. But the courts will have to try them. I see a silver lining in this cloud."⁸⁷ Chiluba also warned that: "So far, a lot of information has come through those arrested. They have started telling the truth. I am enjoying this situation because everything is unfolding."⁸⁸

⁸⁴There are currently 142 people on death row in Zambia.

⁸⁵Human Rights Watch observed proceedings at the Supreme Court Building, Lusaka, on March 10 and 11, 1998.

⁸⁶ZNBC radio, Lusaka, in English 1600 gmt, April 23, 1998.

⁸⁷The Zero Option was an alleged coup plot that the government claimed the opposition had organized in 1993. The case collapsed in court. See, Africa Watch (now Human Rights Watch), "Zambia: Model for Democracy Declares State of Emergency," *News from Africa Watch*, vol.5, no.8, June 1993.

⁸⁸*Times of Zambia* (Lusaka), November 1, 1997.

Dean Mung'omba, the leader of the Zambia Democratic Congress (ZDC), was picked up by eight police officers at his house on October 31, 1997.⁸⁹ The police then held Mung'omba incommunicado at Force Headquarters in Lusaka for four days despite repeated attempts by his lawyers to gain access. During this time Mung'omba was reportedly tortured and denied food and drink.⁹⁰ His lawyers only gained access to their client when he appeared in court on November 4, 1997 to challenge his detention.

Dean Mung'omba's personal secretary, Priscilla Chimba was arrested a few days later on November 12 at her home. She was released but later re-detained. Like her boss, she was initially denied legal representation and her whereabouts were not known. She told the Lusaka High Court in December that she was detained because she gave an interview to the *Post* newspaper that had embarrassed the police officers that had questioned her, because she had commented on their poor English.⁹¹ Eventually the state claimed she was detained for having attended two meetings held by Dean Mung'omba and army officer Major Kangwa in September 1997 at which the two men allegedly plotted the coup attempt. On February 28 Chimba was released without government comment. She told Human Rights Watch that,⁹²

I don't understand why I was picked up. But I'm glad its over now I plan to have a long holiday, with views of space. I wasn't treated badly in Kabwe but I'm sure the police re-arrested me because I commented to the media on the poor standards of English of those questioning me. I'm afraid and want a quiet life, so I'll keep a low profile from now on.

The detentions did not end with Chimba. A sixty-seven-year-old freelance journalist, author and UNIP member, Frederick Mwanza, was arrested early on November 14 by a group of police.⁹³ They searched his home and office in his presence before he was taken to Force Headquarters. Mwanza described what had happened to him:

I thank the Lord Jesus and those who prayed for my release. I've never been in prison before and don't want to go back. Once is enough in sixty-seven years and it was for over one hundred days! These days it seems to have been easier to give the British their marching orders. You see these people practice savage capitalism, they have no shame. They don't like free-thinking people. I was treated reasonably well except that during questioning at Force Headquarters some nasty officer lost his patience at my pleading of innocence, so he hit me with one of those large electric fans. I had a big bruise to my head because of that.⁹⁴

His family and lawyers did not know where he was held until he appeared in court on November 19.

⁸⁹ Police had sought to arrest Mung'omba in November 1996 after he had called for violent opposition to the government following his defeat in the multiparty elections. He went into hiding for a while and the police had not pressed further action. Human Rights Watch interview, Robert Simeza, Lusaka, March 13, 1998.

⁹⁰ According to Mung'omba's lawyers he was put on the "swing" and had burning cigarettes stubbed into his skin and mouth.

⁹¹ *Post* (Lusaka), December 16, 1997.

⁹² Human Rights Watch interview with Priscilla Chimba, Lusaka, March 13, 1998.

⁹³ Mwanza writes mostly for the *Times of Zambia*. He is also the author of a number of books including: *Chasing the Winds and Dependency Syndrome. Topical Issues on Zambia's Political Economy* (Lusaka: MFK Management Consultancy Services, 1993).

⁹⁴ Human Rights Watch interview with Frederick Mwanza, Lusaka, March 13, 1998.

Mwanza challenged the grounds of his detention: a claim he was present at a meeting with other coup plotters at a farmhouse. After the owner of the farm house denied these allegations, the state withdrew the specific charges and claimed that Mwanza attended a meeting or meetings in September. But the four witnesses named by police in Mwanza's "grounds for detention" denied in court knowing Mwanza and reported that they had been tortured in an attempt to implicate him. Mwanza also denied all allegations linking him to the coup attempt. Finally on February 25 Mwanza was released from prison, without formal comment by the government.

On December 23, UNIP's head of physical security, Moyce Kaulung'ombe, was detained by police and questioned about the coup attempt. Unlike the others he was granted immediate access to his lawyers and family. He was held for fourteen days without charge, then provided the "grounds for detention" on December 31. The charges against him are vague—claiming he went to a bar where he met with unknown people at which he "discussed the removal of Government by unconstitutional means." On February 12, High Court Judge Irene Mabilima found his detention illegal and ordered his release. His freedom was short lived. A few minutes later he was rearrested outside the court room on criminal charges of "mis-prison of treason" and has since been kept in Lusaka Central prison.

UNIP leader Kenneth Kaunda was detained on Christmas day. Some one hundred heavily armed police, some of them in a troop carrier, surrounded his Lusaka home just three days after he returned home after two months travel abroad.⁹⁵ After spending the night at Kamwala Remand prison in Lusaka, Kaunda was moved to Mukobeko Maximum Security Prison in Kabwe, without his lawyers being informed. Kaunda began a hunger strike that ended several days later after ex-Tanzanian president Julius Nyerere visited him and encouraged him to eat. He was then moved back on December 31 to Lusaka and put under house arrest.

Human Rights Watch obtained police permission to visit Kaunda in his Lusaka home on March 10 and found him in good spirits. He explained what had happened to him.

I am OK. The police treat me fine in my house. The worst bit was straight after my arrest. I spent the night in Kamwala Remand. As you know conditions are sordid there for everybody. I got no sleep as there were thirty other inmates in a tiny cell built for five. I was then moved to Kabwe and conditions were better. I started a hunger strike but my wife threatened to stop taking her insulin—so I agreed to take water. Nyerere convinced me to break the strike and eat some fruit with him. I am innocent. I have always supported peaceful protest. This is just vengeance politics—making sure the opposition is weak.

On December 31, President Chiluba had ordered that Kaunda be transferred to house arrest as a "restricted person." He was held using Section 33 of the Preservation of Security Act, banning him from political activity, prohibiting him from giving interviews to the press, and restricting visitor access to the house. His house was also surrounded by barbed wire, had a paramilitary police camp outside and police guards armed with AK-47s and live ammunition.⁹⁶ Officially visitors were only allowed on Tuesdays for interviews with Kaunda of less than twenty minutes and in groups of five or less. In April, after the state of emergency, was lifted Kaunda's house was declared a prison, and responsibility for him moved from the police to prisons.

⁹⁵Kaunda was in Johannesburg when the coup attempt occurred and had condemned the attempt immediately to the media. However, Zambia's information minister on October 29 accused Kaunda of making inflammatory statements a day before the attempted coup. Minister Mpamba said "A day before he left, he said there would be an explosion in Zambia. We don't ignore every inflammatory statement." The minister added that, "He is an octogenarian, he is an old man. he has outlived his usefulness here," SAPA news agency, October 29, 1997.

⁹⁶Human Rights Watch visited the house on March 10, 1998 and counted twelve armed paramilitary police outside.

Kenneth Kaunda's wife, Betty encountered problems in January in gaining access to her house and getting support for her diabetic problems. Some of her family were also removed by the inspector general of police. The Human Rights Commission issued a press statement on January 5, stating that "Mrs Kaunda is not a restricted person and the conditions placed on her restricted husband should not be extended to her including the prevention of people wanting to visit her at the Kaunda's Kalundu home. Mrs Kaunda's human rights and fundamental freedoms should be respected."⁹⁷ The commission also noted that Regulation 12(1)(c) prohibited a restricted person from communicating "with any member of the press or any person not authorised by the Inspector-General of Police." But as Article 11(b) of the Zambian Bill of Rights, in the Zambian Constitution, protects every person's rights to express their views, and Article 18(2)(a) of the constitution a person is presumed innocent until a court of law has found them guilty, the commission noted that, "he must not be prevented from the enjoyment of other human rights and fundamental freedoms, apart for the loss of the right of his to move freely which has been restricted."⁹⁸

Princess Mirriam Nakatindi Wina, the MMD National Chairperson for Women's Affairs and a member of parliament, was detained by police on January 28, 1998.⁹⁹ She is the only senior member of the ruling party under detention. She has been arrested because on October 30 she gave a speech at a huge pro-government rally in support of President Chiluba at which she blamed Chiluba for not listening to her warnings that there might be a coup plot against him—suggesting to the government that she had prior knowledge.

Princess Nakatindi had been held in Mukobeko Maximum Security Prison in Kabwe but suffered from anxiety attacks and high blood pressure. Human Rights Watch visited her while she was a patient at the Maina Soko Military Hospital in Lusaka. She told us, "I am innocent. I don't understand why after helping to get the MMD into power and maintaining it there they do this to me. Its cruel and inhuman. I'm treated as a common criminal when I've done nothing wrong."¹⁰⁰

She was charged with treason in her hospital bed on March 5, 1998. On March 20 President Chiluba ordered that she be returned to Mukobeko Maximum Security Prison although it was clear that she continued to suffer from complications from a hip operation and her blood pressure remained high. On April 1 she was transferred to Kabwe Mine Hospital. Her son, Wina Wina, met with Human Rights Watch in April and expressed his family's concern over her deteriorating health. He also told Human Rights Watch that his mother had applied through the Human Rights Commission to be allowed to attend the burial of her brother Richard Nganga on March 20, but was with no notice picked up by security agents on the same day and transferred to Kabwe.¹⁰¹

Human Rights Watch is also concerned about the reports that incarcerated ZDC president Dean Mung'omba has contracted TB while in jail.¹⁰²

Torture and Ill-Treatment

International Standards

⁹⁷Human Rights Commission, Press Release, "Arrest and House Detention of Former Republican President and UNIP Leader Kenneth Kaunda," HRC/PR/98/01, January 8, 1998.

⁹⁸Ibid.

⁹⁹Her husband is MMD National Chairman Sikota Wina.

¹⁰⁰Human Rights Watch interview with Princess Nakatindi, March 12, 1998.

¹⁰¹Human Rights Watch interview with Wina Wina, Lusaka, April 20, 1998.

¹⁰²*Post* (Lusaka), April 7, 1998. Another detainee, Major Kangwa, is also reportedly in poor health and according to his lawyer his efforts to get treatment at the University Training Hospital (UTH) has been blocked.

There is no dispute that torture and other cruel, inhuman or degrading treatment or punishment is forbidden under international law. Article 7 of the ICCPR, to which Zambia is a party, provides: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 10 (1) states "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Deaths resulting from torture or mistreatment in detention also violate the individual's right to life set forth in Article 6(1) of the ICCPR.

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

The U.N. Human Rights Committee issued General Comment 7(1) under the ICCPR, stating:

Complaints of ill-treatment must be investigated effectively by competent authorities. Those found guilty must be held responsible, and the alleged victims must themselves have effective remedies at their disposal, including the right to obtain compensation.¹⁰³

The Human Rights Committee on its comments on Zambia's report on compliance with the ICCPR also urged the Zambian government in paragraph 24 to:

take the necessary steps to ensure that torture, ill-treatment and illegal detention do not occur and that any such cases are duly investigated by an independent authority in order to bring before the courts those accused of having committed such acts and to punish them if found guilty.¹⁰⁴

The Law Association of Zambia's human rights chairman, Henry Chanda, on March 19 told participants at a Human Rights Commission workshop in Lusaka to discuss freedom from torture and other civil and political rights, and that the judicial system in Zambia admits evidence in whatever way it is obtained. "Because of this police agents got to torture [sic] suspects just to get information because they know it will be accepted by the court," Chanda said. Chanda called on the courts to stop accepting evidence obtained through torture.¹⁰⁵

Cases

¹⁰³U.N. Centre for Human Rights, Human Rights and Pre-trial Detention, p.36; see United Nations Body of Principles for the Protection of All Persons under Any form of Detention or Imprisonment, G.A. res. 43/173, annex 43. GAOR supp. (no.49), p.298, U.N. Doc A/43/49 (1988), Principle 34.

¹⁰⁴Concluding observations of the Human Rights Committee: Zambia 03/04/96, CCPR/C/79/Add.62.

¹⁰⁵*Post (Lusaka)*, March 20, 1998.

Early on November 1, 1997, according to his sworn affidavit, a group of up to fifteen police officers began torturing Dean Mung'omba at Force Headquarters, suspending him between two tables, hung by his handcuffed hands and bound legs from a metal rod. The officers then beat him. This is called "the Kampelwa," ("the swing"). Mung'omba alleges he was tortured again later the same day and that officers tried to get him to implicate Kenneth Kaunda in the coup attempt. He also speaks of the application of burning cigarettes to his body and the application of electric shocks through his handcuffs; he said he was also deprived of sleep and of food and water for the first four days of detention.¹⁰⁶ Human Rights Watch obtained a medical report and photographs which in its opinion and that of independent professional medical opinion showed a condition consistent with allegations of torture. A letter by Mung'omba smuggled out of prison in early November also describes the treatment of other detainees at Lusaka Central Prison, including "forcing a burning match stick into someone's mouth and forcing them to chew and swallow it." He also described, "beating and slapping detainees over nothing except that it was pleasurable to the police officers."¹⁰⁷ Mung'omba has also told his lawyers that he saw Captain Steven Lungu lying unconscious on the floor of a police cell after a torture session.

When Mung'omba appeared at Lusaka's High Court on November 4, John Sangwa, one of his lawyers told the press that, "He has scars on his hands and bruises all over. He has been tortured. He has lost a lot of weight. He looks like a patient from a hospital."¹⁰⁸

Captain Jack Chiti told the court that he too was tortured during the six days following his detention on October 28. He was also put on "the swing" and officers tried to get him to implicate opposition politician Rodger Chongwe in the coup attempt. Chiti said he had falsely implicated Chongwe because he had been tortured. He also apologized to Kaunda saying he had named him too because of torture.¹⁰⁹

After his detention on November 2, Major Musonda Kangwa was also tortured during police interrogation. He was held incommunicado until November 11 when the court intervened, ordering medical treatment because Kangwa still complained of pain due to the injuries he suffered from torture. Human Rights Watch saw Major Kangwa in court during his habeas corpus application on November 25. He looked pale, weak and had a badly swollen left eye. He described what happened to him to the court and in an affidavit, some of which is cited here:

7. Upon arrival at Force Headquarters in Lusaka I was handed over to the Deputy Commissioner of Police Mr Teddy Nondo who took me in an interrogation room where I found almost 15 Police Officers in plain clothes.

8. That consequent to the contents of paragraph 7 above I was asked several questions relating to the attempted coup of 28th October, 1997 and what I had done with the money I allegedly received from Mr Dean Mung'omba which was intended to finance the Coup Plot [sic]. I denied having received any money from Mr Mung'omba as alleged or having any deals with him in relation to the Coup plot [sic] or at all.

9. That consequent upon the contents of paragraph 8 above the Police Officers having not been satisfied with my response they thereupon hand-cuffed me and tied both my legs and put me on a swing which was suspended between two tables and started beating me on both my feet and hands

¹⁰⁶"Affidavit in support of Dean Namulya Mung'omba's application for a Writ of Habeas Corpus ad Subjiciendum."

¹⁰⁷Copy of letter in Human Rights Watch's possession.

¹⁰⁸*Times* (London), November 5, 1997.

¹⁰⁹*Times of Zambia* (Lusaka), January 15, 1998.

[asking what I had done with] the money Mr Mung'omba gave me. I denied ever receiving any money from Mung'omba as alleged and further that I had never met Mr Mung'omba personally but only see him on Television and in Newspapers.

10. That I was also asked about a meeting I had allegedly attended with Princess Nakatindi Wina, Dr Chongwe and Mr Mung'omba to which I denied having ever attended the alleged meeting with the people mentioned.

11. That the Officers having been not satisfied with my answers continued to torture me by hitting me all over my body, some with Karate Chops [sic] others with short batons while others slapped me on my head and face, including Teddy Nondo who beat [sic] me very hard on my left eye causing blood shots in the eye and swelling on the area around the said eye

12. That the first session on the swing lasted from 17:50 hours to 20:20 hours while the Officers continued to torture me, and at times being blind folded so that I could not see who was beating me until I passed out.

13. That when I regained consciousness I found myself on the floor with the Police Officers waiting and immediately put me on the swing to start interrogation all over again which lasted for almost one hour after which I was dragged in the corridor and left in a corner at the far end of the said corridor where cleaning materials are kept.

14. That about 22:00 hours on the same day Mr Nondo came back and I was put on the swing again and same questions were repeated and he told me that if I did not tell the truth I would be killed and everything would be arranged in such a way that it would look like an accident but I denied knowledge of the allegations, which resulted in further beating lasting another 30 minutes

15. That consequent to the contents of paragraph 14 above I was dropped to the floor and dragged in [sic] the same corner where I was kept in hand-cuffs for the whole night with no blankets, exposed to mosquitos and without food until the next morning.

16. That the interrogations and torture continued every day up to 5th November, 1997 as a result of which I could not talk for three days and received a big wound across my shoulders, scars all over my body, chest pains, numbness in both hands and general body pains. Further that I had at this moment lost the will and capacity to reason due to excruciating pain experienced [sic] from the Police Torture [sic]

17. That from 2nd to 15th November, 1997 I was not allowed to receive visitors, food, medical treatment and access to my legal counsel in violation of my rights as a detained person

18. That I was on 5th November, 1997 served with a Detention Order which was withdrawn on 6th November, 1997 when I was served with another Detention Order

19. That to date I have not been served with grounds for my detention

20. That I verily believe that my continued detention is unlawful and further that I am a victim of circumstances, hate, conjecture, rumours and personal vendetta

21. That the Police have refused me access to my Medical Report which was obtained from the University Teaching Hospital after a Court Order and I verily believe that the same has been destroyed by the said Police Officers in particular Mr. Musole.

22. That the facts herein contained are true and correct to the best of my knowledge and belief.¹¹⁰

Human Rights Watch visited Senior Superintendent Musole at Force Headquarters and asked him about policing tactics. He replied, "we have high standards here. Every part of our investigations is scientific. We always work within the rule of law."¹¹¹

¹¹⁰High Court of Zambia, Lusaka, "Mater of Major Musonda Kangwa, an Application for a Writ of Habeas Corpus Ad Subjiciendum. Applications Affidavit," Sworn before Commissioner for Oaths, Lusaka, November 21, 1997.

¹¹¹Human Rights Watch interview with Senior Superintendent Musole, Lusaka, November 21, 1997.

Although there was a successful court challenge to Kangwa's police detention order, a High Court judge sent him back into custody after he was issued with a Presidential Detention Order. Kangwa has denied the charges that he took part in the coup attempt and provided money to Captains Lungu and Chiti. He claims he was detained due to jealousy. His wife claimed that he was also picked out because he was the *Post* sales agent at the barracks.¹¹²

The Legal Resources Foundation is defending thirty-five detainees and maintains that Jack Chiti; Steven Lungu; Mananse Baldwin; Nelson Mbuzi; Bilex Mutale; Joseph Sichangala; Kennedy Simuntala and Fisher Tapisha were tortured. Also allegedly beaten by police while in detention were, Lubaba Mulungushi, Kennedy Muzata, Axon Swana, and Berrington Mkomu.

The Legal Resources Foundation told Human Rights Watch that Major Bilex Mutale was severely tortured, that there is a medical report to confirm this, and that the prison authorities refused to take him in as he was in a terrible state when he was initially handed over after interrogation at Force Headquarters.¹¹³ Mutale told the court he was beaten by two police officers using short batons and told to implicate Dean Mung'omba in the coup attempt. He also denied knowledge of Frederick Mwanza and other detainees. He told the court that he was threatened to become "Brought in Dead" if he did not admit to having received money from Mung'omba. He was also denied food and water.¹¹⁴

One of the detainees, Corporal Robert Chiulo, died after November 7 at Lusaka's Maina Soko Military Hospital. The hospital officially told Human Rights Watch that he died of malaria, but other medical sources at the hospital told us that he died of injuries received under torture. According to his wife, Patricia Mwewa, her husband had been shot in the thigh when he was arrested at the ZNBC studios. She said his health had improved until November 7 when she was barred by security officials from seeing her husband, who said he had malaria. She tried every day to see her husband until November 30 when she was informed he had died.¹¹⁵ Human Rights Watch was told that a post mortem had not been done.¹¹⁶ Human Rights Watch believes that there should be an independent inquiry into this case.

One of the police officers that detainees have consistently alleged was involved in torture is acting Assistant Commissioner of Police Teddy Nondo. Despite these allegations Teddy Nondo was promoted on April 3 to become deputy commissioner of the Drug Enforcement Commission.¹¹⁷

The Human Rights Commission's Response

¹¹²Human Rights Watch interview with Mrs Kangwa, Lusaka, November 22, 1997.

¹¹³"Schedule of Names of Persons Being Defended by LRF & Statement on Whether Tortured / Not." (no date, but March 1998).

¹¹⁴*Post* (Lusaka), December 19, 1997.

¹¹⁵*Post* (Lusaka), December 11, 1997.

¹¹⁶Other widely reported deaths from injuries sustained in Zambian police custody in recent years include that of UNIP MP Cuthbert Nguni, who reportedly died of a ruptured kidney on September 21, 1994. The injury was reportedly sustained in prison when police tried to force him to sign a confession during the March to May 1993 State of Emergency. See, Kaweche Kaunda and Tiaonse Kabwe, *Cuthbert Ng'uni. Torture and Death of an Honourable MP in Zambia* (Lusaka: Own Voice Publishers, 1994).

¹¹⁷See, for example, the affidavit of Major Musonda Kangwa cited above.

After the coup attempt, the Human Rights Commission was blocked for more than ten days by the police from gaining access to the thirty-odd detainees that were being interrogated (and some reportedly tortured) at Zambia Police Force Headquarters. The commission on November 4, 1997, after the prisoners were transferred to the prison system, announced that it would immediately visit all detainees.¹¹⁸ But on November 7 it was turned away from Lusaka Central Prison (also called Chimbokaila Remand Prison). This was in contravention of its mandate which states that it can "visit prisons and places of detention or related facilities with a view to assessing and inspecting conditions of the persons held in such places and make recommendations to redress existing problems..."¹¹⁹ A commission press statement protested the obstruction.¹²⁰

Unfortunately, since Monday the detaining authorities have not indicated their preparedness for the Commission to visit detained persons wherever they are being held.

In these circumstances the Commission has decided to call on the Police Service Headquarters, pursuant to the powers vested in it by section 9, to assess the condition of persons detained there on Friday morning and thereafter make its recommendations on its findings.

On November 9 the commission was able to visit the first detainees being held at Lusaka Central Prison. Justice Chibesakunda, the commission chair, stated in a press statement that:¹²¹

the detainees at Chimbokaila were in good condition except for two who complained of having been tortured. Some of the detainees, who included Zambia Democratic Congress (ZDC) President Dean Mung'omba, Major Berrington Mukoma and Sergeant Norman Tembo, complained of starvation, lack of medical treatment and congestion of the cells. Prison officials undertook to ensure that medical attention was provided to detainees who needed it.

Judge Chibesakunda assured the detainees that the Commission was doing everything possible to ensure that the United Nations minimum standards on treatment of detained persons, were observed. These include access to legal representation, medical treatment and visits from family members.

Although the commission established that torture had occurred, Justice Chibesakunda and three other commissioners and the chairpersons of the commission's committees left the same day as the press statement for a week-long study tour in Sweden at the Raul Wallenberg Institute in Lund and in Stockholm.¹²²

¹¹⁸Human Rights Commission, "Press Release," November 4, 1997.

¹¹⁹Article 9(d) of The Human Rights Commission Act, No.39 of 1996.

¹²⁰Human Rights Commission, "Press Statement," November 7, 1997.

¹²¹Permanent Human Rights Commission, "Press Release," HRC/PR/02/97, November 9, 1997.

¹²²In a press release on November 7 the commission stated that commissioner Lavu Mulimba would remain to monitor the situation of the detainees. Two days later, after donor unease over the timing of the study tour and diplomatic efforts to encourage a postponement, the commission determined that commissioner John Sakulanda would also remain to monitor developments. Human Rights Commission "Press Release," HRC/PR/02/97, November 9, 1997.

During the period the commissioners were in Sweden a Human Rights Watch researcher visited Zambia and tried fruitlessly to gain access to the detainees in Lusaka Central Prison.¹²³ Human Rights Watch subsequently asked Commissioner Chibesakunda on her return from Sweden to assist in gaining access. However, attempts on November 24 and 25 through the commission also failed, with the Ministry of Home Affairs stating that there was no need for independent international monitoring because the Human Rights Commission did the job adequately.¹²⁴

On December 1, the Human Rights Commission called a press conference at the Hotel Intercontinental in Lusaka, briefed the press about its work, and commented on the allegations of torture. They stated that:¹²⁵

The visits to various prisons afforded the Commission an opportunity to inspect facilities currently available for inmates and in particular to interview those detained in connection with the October 28 [1997] attempted coup d'etat.

We learnt that the majority of detainees at Lusaka Central, Kamwala Remand, Mukobeko Maximum and Kamfinsa, were not physically tortured by the detaining authorities whilst at the Police Service Headquarters in Lusaka.

All detainees were unanimous in stating that no physical torture took place outside Police Service Headquarters and that conditions were generally better at Mukobeko and Kamfinsa Prisons than at Lusaka Central and Kamwala Remand Prisons.

Some detainees at Kamfinsa, Lusaka Central, Kamwala Remand and Mukobeko Maximum, complained of and showed the Commission evidence of physical torture.

The Commission condemns the actions of police officers who were responsible for inflicting physical torture on detainees. Such actions are in violation of the UN Minimum Standards of the Treatment on Detained Persons [sic] already deprived of liberty.

It went on to conclude that,

¹²³On November 21, after many hours waiting, Human Rights Watch was told by the prison officers at Lusaka Central to get permission from Senior Superintendent Musole at Force Headquarters. At Force Headquarters Musole told Human Rights Watch that it was prisoners' responsibility. He drafted a note to the prison administration to this effect, but when getting clearance from his superior, he was told that he could not do this. He then made a call to the prison saying that it was the prison's responsibility. Returning to the prison, Human Rights Watch was informed that a decision would be made in a few hours time. When Human Rights Watch returned, the Prison Officer-in-Charge told us that we could not gain access; the Prison Regional Commander confirmed this, telling Human Rights Watch, "What do you white people think you are up too. You can't just walk into a prison. This is no longer a British colony. Look, we told some lady judge [Commissioner Chibesakunda] who thought she had the right to come here to go away and get real permission. She was sitting right where you are now. So why should you get access. You need proper permission too. What you need to do is get a letter from your embassy, get them to send the request to the Head of Protocol at Foreign Affairs; they will then need to send a letter to the Permanent Secretary of Home Affairs, who will then send a letter of approval to me." Human Rights Watch then called on the Deputy Permanent Secretary of Home Affairs on November 21, but was told that only the Permanent Secretary was able to make a decision on giving access to the detainees and he was out of the country.

¹²⁴On November 24, Commissioner John Sakulanda met with the Permanent Secretary of Home Affairs while Human Rights Watch's researcher waited outside. After thirty minutes Sakulanda finished the meeting and informed Human Rights Watch that it had been denied access and the reason why. Justice Chibesakunda made additional phone calls but failed to obtain access. She told Human Rights Watch on November 25 that the mistake might have been to try to independently gain access in the first place.

¹²⁵Human Rights Commission "Press Conference. Addressed by Chairperson Judge Lombe Chibesakunda," HRC/PC/97/1, Hotel Intercontinental, Nalikwanda Room, December 1, 1997.

Based on the above considerations, the Human Rights Commission has found as a matter of fact that some detainees were indeed physically tortured contrary to the provisions of both International [law] and [the] Zambian Bill of Rights.

The Commission accordingly condemns the actions of Police officers who engaged themselves in such sordid activities. The commission calls upon police authorities to take appropriate action against such officers, and ensure that the same conduct does not repeat itself in the future.

The government has not mentioned torture in any of its public statements.

Foreign Affairs Deputy Minister Valentine Kayope charged the Human Rights Commission with damaging the image of the country abroad because it was releasing information to the public before government could assess and act on it.¹²⁶

Legal Affairs Minister Vincent Malambo told parliament on February 19 that it was a matter of regret "that Government has up to date not received any recommendation in writing from the Commission on any visits in the various prisons that they have undertaken to enable Government take remedial measures on their findings."¹²⁷

The following month, Minister Malambo announced to parliament on March 3 that the government had received the commission's report and recommendations on the conditions of the detainees.¹²⁸ He read out the commission's recommendations that Dean Mung'omba's status be changed to that of a restricted person, and that Major Mukoma, Sgt Ntapisha, Private Jere and Sgt. Norman Tembo be transferred for medical treatment to the Maina Soko military hospital. The commission also recommended that Princess Nakatindi, because of her high blood pressure, have her status as a detainee changed to that of a restricted person at home "where she could enjoy some comfort whilst waiting for trial should she be tried."¹²⁹ The ministerial statement also outlined the government's response to all the cases raised by the commission and also stated that the commission's recommendation that some detainees be given the status of restricted persons were under consideration.¹³⁰

The statement made no reference to torture. The Human Rights Commission told Human Rights Watch that it had submitted a report to government on torture in February but it had been returned to them and they had been told to resubmit "in the correct formula."

Several diplomats have told Human Rights Watch that President Chiluba has informed them that a report exists and that he will let them have copies when he receives it. But by late April there still has been no public statement on torture by government. However, it appears that on March 30 the commission submitted a report to government on its findings and recommendations made from its visits to prisons and places of detention made between November 1997 and February 1998 with a main recommendation that "An impartial and thorough investigation(s) should be done on all claims of Torture."

¹²⁶*Times of Zambia* (Lusaka), April 3, 1998.

¹²⁷"Ministerial Statement by the Honourable Minister of Legal Affairs V Malambo, MP Delivered To The House On 19th February 1998."

¹²⁸"Ministerial Statement by the Honourable Minister of Legal Affairs V Malambo, MP Delivered To The House On 3rd March 1998," acknowledging receipt of the commission's report dated February 24, 1998.

¹²⁹*Ibid.*

¹³⁰*Ibid.*

The government responded to the report's submission by letter to the commission on April 23, saying the delay was because it had been misplaced. Legal Affairs Minister Vincent Malambo wrote:

I, however, note that your recommendation is that "An impartial and thorough investigation(s) should be done on all claims of Torture," you have, however, not indicated by whom such an investigation should be carried out. I am fully cognisant of Section I of the Human Rights Commission Act which empowers the Commission to investigate any human rights abuses on its own initiative or on receipt of a complaint or allegations received under the Act from persons so specified. The Act further fully empowers the Commission to issue summons and require the attendance of any person or authority. May I, therefore, assume, Judge, that your report is a preliminary one.

However, if I'm wrong in my assumption, may I take it that you have judiciously noted that such an investigation shall be undertaken during the ongoing trial in the High Court, which will inevitably conduct an impartial inquiry in a trial within a trial if the accused allege that the confessions were forcibly extracted. May I assure you Judge, that the Government shall seriously consider your Commission's recommendations and implement such recommendations after the impartial inquiry has been concluded.¹³¹

The government's "trial within a trial" approach is not good enough. It assumes, first of all, that the victims will on their own initiative raise objections to evidence procured by means of torture, and, second, that such a proceeding will not necessarily bring the torturers to justice. Further, it is a well-established principle of international law that an act of torture constitutes such a grave violation of human rights that whenever there is reasonable ground to believe that such an act of torture has been committed, the authorities of the state concerned should promptly proceed to an impartial investigation even if there has been no formal complaint.

Meanwhile independent verification of the torture allegations continues to be blocked by the Zambian government in 1998. Amnesty International also attempted to gain access to the coup detainees in mid-April 1998 through the Human Rights Commission and the Ministry of Home Affairs—the same route used by Human Rights Watch in November during the state of emergency. Amnesty International, like Human Rights Watch, saw Kenneth Kaunda, but failed to gain access to other detainees in continued obstruction of independent international assessments of their torture allegations. Local human rights groups like Afronet have also been blocked from gaining access to detainees, although the Legal Resources Foundation began in late December to get unhindered access and ZIMT did so in March.

The commission may have also been punished by government for its public position on torture in December by losing office space promised to it by government. The commission had expected in 1998 to move into the Ndeke House Annex Warehouse.¹³² The commission announced in its 1997 report that:

c) Working Premises

- i) The Government of the Republic of Zambia has found accommodation for the Commission at Ndeke House Annex Warehouse situated at Plot 7405, Haile Selassie Avenue, Lusaka.
- ii) A postal address has been obtained which is P.O. Box 33812, Lusaka; Telephone Nos 254847 and 254819; Fax 254807

¹³¹Letter by V. Malambo, Minister of Legal Affairs to chairperson, Permanent Human Rights Commission, ref. no. MLA/64/4/17 Conf, April 23, 1998.

¹³²The Human Rights Commission since its launch in March 1997 has been working out of borrowed premises. First out of an office in the Magistrates Court, then with two rooms at the Intercontinental Hotel and additional office space at Long Acre government lodges.

- iii) Connections to the Internet and World Wide Web are being arranged.
- iv) The Norwegian Embassy in Lusaka has very kindly offered to renovate the Commission's premises and to provide it with basic office furniture and equipment.

The Norwegian Embassy also received a letter dated December 8, 1997 that stated: "This is to confirm our telephone conversation of this morning and to reiterate that the issues standing in the way of proceeding with the renovations to Ndeke Hse Annex have been resolved between the government and the liquidator of Zambia Airways. The company can now proceed with the works."¹³³ However, not long afterwards, on January 19, 1998, the commission was informed that it had lost its promised premises to the Electoral Commission.¹³⁴

In February the commission informed the building contractor that "I am instructed to advise you not to go ahead with the works on the project. The sudden change is a result of fresh instructions issued by Cabinet Office to Electoral Commission."¹³⁵ On February 25 the commission wrote finally to the Norwegian Ambassador, informing him that: "As you are aware the government has withdrawn the allocation of the warehouse to the Commission, thus frustrating the contract. We sincerely apologise for the turn of events which has left us greatly disappointed and frustrated."¹³⁶

The reason for the loss of the building to the Electoral Commission is not clear cut. Commissioner Chibesakunda denied that it was due to the press statement that confirmed that torture was used on some of the coup attempt detainees.¹³⁷ However, other commission staff told Human Rights Watch that the Cabinet Office decision was sudden and that they thought a combination of efficient lobbying by the Electoral Commission and the government's anger at the torture statement resulted in the Electoral Commission gaining the building.

The Human Rights Commission has acted in a more decisive manner since December 1997 on human rights issues and has issued a number of forthright press releases pointing out human rights violations by the Zambian authorities. Still, there is evident caution by the commissioners to follow up initial recommendations. During the state of emergency the Human Rights Commission showed it had limited effectiveness in protecting Zambians from violations of their human rights including torture.

¹³³Letter by Professor B. Mweere, Secretary to the Treasury, Ministry of Finance and Economic Development to Norwegian Embassy.

¹³⁴At the first meeting of the government's ad hoc committee on the 1998 Local Government Elections it: "(b) directed that the Human Rights Commission should occupy the offices currently occupied by the Electoral Commission when it [Electoral Commission] moves to Ndeke House Annex." Note sent to Human Rights Commission by S.L. Mbula, Deputy Secretary to the Cabinet.

¹³⁵Letter by J.B. Tembo, Deputy Director Human Rights Commission, TJ HRC/101/22, February 22, 1998.

¹³⁶Letter by Senior Legal Counsel W.L. Henriques to HE Jon Lomoy, TJ HRC/101/22/97, February 25, 1997.

¹³⁷Human Rights Watch interview with Commissioner Chibesakunda, Lusaka, March 13, 1998.

A great weakness of the Human Rights Commission is that it is not fully independent. Questions remain about its autonomy, especially as its members are appointed directly by the President and without any statutory requirement or input from civil society on who is appointed. the lack of financial independence and the background of a number of the commissioners are additional constraining factors.¹³⁸

Harassment of the Opposition

Rodger Chongwe was the first senior opposition politician to fear for his safety after the coup attempt. He arrived in Zimbabwe on a British Airways flight from London on October 28 after attending the Commonwealth Heads of Government (CHOGM) summit in Scotland. The Lusaka leg of the flight had been cancelled because of the coup attempt. At Harare airport, Chongwe was told that four men had been sent by President Chiluba to give him a lift because of the coup attempt. According to Chongwe they had arrived on a Zambian military plane. He told Human Rights Watch that:

On the 27th of October I left London on BA no.2053 to return to Zambia. I was returning from attending CHOGM as a former president of the Commonwealth Lawyers Association ... the association was participating in the Commonwealth NGO Forum. After we landed in Harare we were informed of a coup in Zambia... Soon after we were told to leave the aircraft as the Zambian airspace was closed but we would be informed of the developments during the course of the day.

I had received some calls from my family asking me not to go back home until the situation was clearer. As I had nothing to do with the coup, which by then was over anyway, I decided to continue on with BA to Lusaka. Whilst I was sitting in the plane a member of BA's staff who introduced himself as the area manager approached me. He informed me that he had been approached by the passengers of a small aircraft who had been sent by the President of Zambia to collect me. He further said I was welcome to stay on board the BA flight and that the airline took seriously their responsibility for the safety of their passengers, however I might choose to go with the other plane if I wished.

As I do not expect any favors from Mr Chiluba I decided to disembark from the BA Flight and not return to Zambia at that point. The hold was opened and my luggage removed. As I left the plane the light aircraft was pointed out to me, as were four men standing close to the BA plane. I was told they had come in the light aircraft.

The Deputy Director [of Civil Aviation] confirmed that a Zambian government light aircraft [no. 9J-AFI] had landed at the airport with four people on board and it had just left again for Zambia. The Deputy Director said that the pilot had stated that he was flying to Harare to collect senior Zambian Government officials on board BA who were stranded in Zimbabwe.

However when the plane landed they said they had come specifically to collect Rodger Chongwe at the request of the President of Zambia, which was different from their landing request.

¹³⁸The appointment of seventy-one-year-old Lewis Changufu on April 2 is a good example of the problems. Changufu lacks any human rights credentials and was allegedly involved in endorsing abuses when he served as Home Affairs minister in the UNIP government. See the parliamentary debate about his appointment, *Times of Zambia* (Lusaka), April 3, 1998, *Zambia Daily Mail* (Lusaka), April 3, 1998.

It was then decided by the Principal Immigration Officer that since he was not sure if all the people who had come from Zambia had actually left he was going to report the matter to the Police Post, at the Airport building. This was so that I could be given security....I was later driven in a police convoy to a house in Borrowdale where I stayed under police protection until the day of my departure on the evening on Monday the third of November 1997 when I left for Perth. I have been here since then.¹³⁹

The International Bar Association, of which Chongwe is a member, wrote to President Chiluba on January 12 expressing its concern for his safety. Minister of Foreign Affairs S.K. Walubita replied stating that,¹⁴⁰

The Zambia Police Service has the responsibility to ensure that all those suspected to have been involved in the attempted coup are thoroughly interrogated. It is after this that all those still under suspicion will be arraigned in the [sic] Court of Law. Since the Police are acting under the Rule of Law, there are no special exemptions for anybody suspected to have been involved in the dastardly act of trying to seize power by force.

Against this background the Government of the Republic of Zambia is unable to provide special exceptions to Mr Rodger Chongwe..."

Kaunda's son Wezi has come under close surveillance since October. He claimed to Human Rights Watch that the police have told him to inform them of his movements. In January after he visited UNIP ward officer Joseph Banda, armed police arrived at Banda's house in Lusaka's George Compound and searched the building, detaining Banda's son Joseph for a day to question him on allegations that Wezi had delivered weapons there: no weapons were found. Several armed police also raided the house of UNIP leader Donald Chilufya after the arrival of Wezi, and some other UNIP officials meeting there. The police declared Chilufya's meeting an illegal gathering. Wezi, his wife Deirdre, and Stanley Muntanga had their passports withdrawn on December 30 at Zambia's Chirundu border post with Zimbabwe. Deirdre had her passport returned in March.¹⁴¹

On November 4, 1997, ZDC's general secretary Azwell Banda went underground after security men broke into his apartment at the University of Zambia in his absence. A few days later the authorities reportedly removed all his belongings from the apartment. He then quietly left the country and now lives in South Africa. He obtained political asylum in South Africa in January 1998. He told Human Rights Watch why he sought asylum:

¹³⁹Human Rights Watch telephone interview with Rodger Chongwe in Perth, Australia, April 10, 1998. Also a copy of a typed statement "The Events Relating to the Disembarking of R.M.A. Chongwe from B.A. Flight no.2063 to Lusaka," sent by Chongwe to the Australian High Commissioner in Harare (no date).

¹⁴⁰Memo from International Bar Association to Human Rights Institute, "To: Human Rights Liaison Officers, HRI Officers, Committee Officers and Council Members; From: Fiona Paterson, " dated March 10, 1998.

¹⁴¹Human Rights Watch interview with Wezi Kaunda, Lusaka, March 1998.

As the General Secretary of the ZDC I consulted with my leadership and other membership after the coup attempt of 28 October. Although initially State House assured us that the opposition would not be picked upon I didn't believe them and I kept low. Unfortunately our president, Dean Mung'omba believed them and was picked up. I was in town and heard they were looking for me, so went underground. I was then advised by contacts in government to leave the country and that is what I did. We in the ZDC had nothing to do with this coup attempt. We are innocent. President Chiluba was picking on us because his position is weakening and he wants the opposition kept under lock and key. I am also at particular risk, because some criminal elements in government want to get me for public statements I've made about corruption and drug trafficking by some senior government officials. This is why I applied for political asylum....¹⁴²

On April 16, from Windhoek, Namibia, MMD national secretary and minister without portfolio Michael Sata stated that "Azwell and Chongwe must come back and help police investigations. Azwell left the country two days before the coup. He ran away together with Kaunda and Chongwe." ¹⁴³

Other UNIP leaders who have reported harassment included Liz Kapala, UNIP's provincial women's secretary was visited by Special Branch in November and questioned. UNIP member Hatchwell Mwanawalando, a former governor, has since November been visited by Police officers several times at his Lusaka West farm and was warned that supporting Kaunda was not good for him.

Basil Kabwe described how in November he had been staying the night at the farm of General Tom Fara, another senior UNIP supporter and ex-soldier:

I can't remember the day but when we woke up the next morning, we found that somebody had taken a lot of trouble to mess around with his Toyota. It was clearly not an act of theft. The rubber sealing for the windscreen had been removed and the windscreen taken out; the battery had been taken out and thrown over the fence, and the steering wheel disconnected. It was a clear statement of intimidation. General Fara appears to be under close observation because he is an ex-military man and was responsible for training Frelimo troops during their liberation struggle. He told me that only a few days ago he was followed all the way to his house.¹⁴⁴

Zambian nationals in neighboring states were also given a warning by minister without portfolio Michael Sata on April 10 in Windhoek, Namibia. In an address at the Zambian High Commissioner's residence in Windhoek, Sata warned expatriate Zambians that "You may think you are far, but this government knows everyone in Namibia and what they are getting involved in. If we discover that you are organising politics we will intervene and deal with you." Sata went on to say, "I am here. The head of MMD security Hon. Walubita is here. We are seeing you and we follow what you are doing. We don't want to fight you here. We will take you on from Zambian soil because politics has been our life, we know how to deal with you."¹⁴⁵

Undermining the Role of Lawyers

Robert Simeza, Dean Mung'omba's lawyer, said his harassment began when he tried to act for his client:

On the Friday, 31st October I got instructions that my client for the last three years, Dean Mung'omba, had been picked up by armed security officers. I immediately went to Force Headquarters in order to

¹⁴²Human Rights Watch telephone interview with Azwell Banda, Johannesburg, April 9, 1998.

¹⁴³*Zambia Daily Mail* (Lusaka), April 17, 1998.

¹⁴⁴Human Rights Watch interview with Basil Kabwe, March 1998.

¹⁴⁵*The Post* (Lusaka), April 15, 1998.

get information about his whereabouts, but was denied entry into the premises. Most of the officers I spoke to were uncooperative. Similar efforts that weekend were also to no avail. It was only after the High Court issued a Writ of Habeas Corpus on 4th November that we were in a position to see our client. It was during this period that I started to be harassed. On November 1, I was told by my supermarket manager in Kamwala that armed security officers had stormed the premises looking for me. I had just left some twenty minutes before. That afternoon I started getting anonymous phone calls, telling me to drop the habeas corpus and get out of the case. The same happened on November 2. A group of security officers again to the shop looking for me. They asked my worker where I was and acted aggressively frightening my clients. I lost lots of business because of these people. I decided at this stage that I should lie low for a bit. On November 3 I was again rung at the office and warned that they were back at the supermarket and had walkie-talkies and were parked outside watching who was visiting the shop.

This pattern of monitoring my business, anonymous phone calls and following me where I drove continued. I stopped using my car and used taxis. Some of the calls I received at night threatened my life. I could hardly sleep and have never experienced this before. It all stopped on November 13 after I wrote a letter to the Inspector General of Police.¹⁴⁶

The letter complains of constant surveillance and of police officers openly following him.¹⁴⁷ Simeza told Human Rights Watch that he had seen several of these officers escorting Dean Mung'omba into Court.¹⁴⁸

Mwangala Zaloumis, one of the lawyers defending Kenneth Kaunda, also alleges that she has been harassed:

On January 8 at about 20:00 hours three unmarked vehicles with a number of security personnel in them blocked the road leading right up to my house. A further two vehicles were patrolling the area just by the house. I was driving home with my husband when we noticed the vehicles and decided to do a U-turn in case they were after us. We then went to a neighbor's house and made a number of phone calls, including to the minister of legal affairs, asking what was happening. Finally, when a neighbor confirmed to us the police had left the area by our house we returned home after 01:00 hours.¹⁴⁹

Attorney General Bonaventure Mutale later assured her by letter that "the Police have not placed any lawyer engaged in the ongoing habeas corpus cases under surveillance and that you should be completely free to act for any client of your choice without let or hinderance. My Government is fully committed and is cognisant of the United Nations Basic Guidelines on the Role of Lawyers [sic] which include inter alia that all Lawyers should not be victimised for acting on behalf of persons opposed to the government."¹⁵⁰

Another lawyer defending Kenneth Kaunda, Sakwiba Sikota, had his car confiscated and immobilized by police on January 6 after police cordoned off the High Court grounds during Kaunda's habeas corpus hearing. His driver was briefly detained and beaten and was himself threatened with detention.

¹⁴⁶Human Rights Watch interview with Robert Simeza, Lusaka, November 20, 1997.

¹⁴⁷Letter to the Inspector General of Police, dated November 11, 1997, Ref: SSA/RMS/97.

¹⁴⁸Ibid.

¹⁴⁹Human Rights Watch interview with Mwangala Zaloumis, Lusaka, March 1998.

¹⁵⁰Letter to Mwangala Zaloumis from Attorney General. January 30, 1997, ref: MLA/4/5/3 Conf.

Sikota explained what happened:

I always park my car in the same spot near the High Court because of my lap top, books etc. This time when I arrived the police told me I could not. I was late for court so I just parked, locked the car and rushed to Court. When I came out I found the car gone and my employee Frank Mbewe, who tried to protest over the towing away of the car, had been briefly detained and beaten up. When I got to the Central Police station I found my car, with the tires taken off. The officer in charge, Mr N'junga, is a professional and he ordered the release of the car. However, at that moment he received a phone call from the inspector general ordering him to charge me with a traffic offense. His friendly nature changed and he escorted me inside to charge me and tell me that I was charged with a traffic offense and that this would not be bailable. N'junga then ordered one of his juniors to take me to the cells but who then said he couldn't find the book to sign me in and took me upstairs again.¹⁵¹

He was subsequently released on a police bond and charged with failing to obey police instructions.

Frank Mbewe described his assault:

I was told to look after the car. When the police came to tow it away I protested. Some fifteen police then surrounded me and started beating me up by kicking me with their boots for some twenty minutes before they tired. They then detained me for around five minutes before letting me go. They also stole my National Registration Card and 4,000 kwacha. My left hand sustained a fracture because of their kicking. I wanted a medical report form from the police, but they said my complaint was too insignificant.¹⁵²

Freedom of Assembly

Under Zambian law any group of citizens wishing to hold a public demonstration must obtain a police permit seven days before they hold the demonstration. Under the state of emergency the police can turn down requests at short notice, and have done so in a selective manner. When asked about this a police spokesperson told Human Rights Watch, "this country is under a state of emergency. We don't need to justify our actions to anybody."¹⁵³

A series of pro-government and MMD rallies have occurred since the coup attempt without seven days notice, such as a march by MMD women cadres on December 8, 1997. The MMD provincial chairman, Sonny Mulenga, who led a group of MMD cadres in December to support President Chiluba's arrest of former president Kaunda admitted to breaking the law: "This march was organized at short notice, we only got together last night."¹⁵⁴

However, requests by opposition parties to hold rallies have been turned down. Agenda for Zambia on November 18 requested a permit to hold a rally, Deputy Commissioner of Police Kabwiku replied three days later:

¹⁵¹Human Rights Watch interview with Sakwiba Sikota, Lusaka, March 1998.

¹⁵²Human Rights Watch interview with Frank Mbeye, Lusaka, March 14, 1998.

¹⁵³Police spokesperson, Force Headquarters, Lusaka, March 10, 1998.

¹⁵⁴Cited in, the *Monitor* (Lusaka), January 16-29, 1998.

Kindly take note that due to the prevailing circumstances, my office is of the view that it would be inappropriate at this time to support the intended meetings. To this end, therefore, may I suggest that you reschedule the programmes to some future date in the new year until the situation improves.¹⁵⁵

After the arrest of UNIP leader Kaunda on December 25, UNIP tried to arrange a number of protest rallies around the country, including in Lusaka. Police stopped UNIP cadres from marching in Mufulira on December 28 by entering the UNIP office early in the morning and making a number of arrests.

¹⁵⁵Letter by Deputy Commissioner of Police Kabwiku to Provincial Chairman, Agenda for Zambia, November 21, 1997, ref: ZPLD 101/1/12.

NGOs have also had their requests turned down. A march by civic leaders to mark Human Rights Day, December 10, 1997, was also turned down by the police. Police Service Commissioner Wynter Kabwiku said the planned march could not take place "due to the current security situation prevailing in the country."¹⁵⁶ Groups that had intended to march included FODEP, Zambia Reconstruction Organisation (ZAMRO), Afronet, ZIMT, and the Human Rights Commission.¹⁵⁷

Forced Eviction of the Families of Detainees

A spate of evictions were carried out on October 31 and in early November of the families of detainees who lived in military housing, especially at Arakan Barracks. The families of Captain Steven Lungu and Jackson Chiti, Major Kenneth Mutale, Staff Sergeant Mufungwa Nasilele, Sergeant Lukwesa Langford, and Warrant Officer Alex Mulenga were all arbitrarily and without notice evicted from their homes.¹⁵⁸ The army commander also ordered that the families' entitlements of mealie meal and their salaries stopped.¹⁵⁹ The then Defense Minister Ben Mwila told a local newspaper that the families were not being evicted but were simply moved from their homes for their own safety.¹⁶⁰

A second wave of evictions of families happened in early January. Human Rights Watch interviewed sixteen women who were evicted in this period.¹⁶¹ The evictions occurred at Mukango barracks over the days January 2 to 6 without warning. With one exception the accounts of the women were similar. For example, Evon Muava is the wife of one of the detained soldiers. She explained what happened:

On January 2 at night soldiers came and started loading all her possessions onto the back of a lorry. They gave no warning and my children were outside playing. I came home and found all the things in the back. We were then taken to Lusaka's railway station—it was 23 hours—and left there possessions and all. Some of my property was damaged. We spent the night there and the next day I arranged for help to transport my things to my sister's home in Kafue.¹⁶²

Mrs Jacob Ngoshe had an equally harrowing eviction on January 5. She was away when soldiers came and cleared out her possessions and put everything in the back of a lorry. They also put the three young children in the back and dumped them without an adult at the railway station. A number of the possessions were also damaged. They waited there alone for many hours.

The Mukango evictions were reportedly ordered by Lt. Col Lombe Francis Mfula, the officer in command of the barracks.

¹⁵⁶*Monitor* (Lusaka), December 12-25, 1997.

¹⁵⁷The president of the International Bar Association, Desmond Fernando wrote a letter to President Chiluba on January 12, 1998 saying, "I am further concerned that a procession organized by NGOs and members of the Civil Society to commemorate the 49th Anniversary of the Declaration of Human Rights was apparently frustrated by the police. This is in contravention of Article 21 of the International Covenant on Civil and Political Rights, ratified by Zambia which recognises the right of peaceful assembly."

¹⁵⁸*Zambia Daily Mail* (Lusaka), November 3, 1997.

¹⁵⁹Notice of Application For Leave to Apply For Judicial Review Under Order 53 Rule 3 of the Rules of the Supreme Court by Berrington Mkoma, Billex Mutale, Steven Lungu, and Jack Chiti, notice drawn up by the Legal Counsel, Legal Resources Foundation, Lusaka.

¹⁶⁰*Sunday Mail of Zambia* (Lusaka), November 9, 1997.

¹⁶¹Human Rights Watch interviews, Lusaka, March 12, 1998, with Mrs Mukuavane, Adis Malufia, Mary Phiri, Jacob Ngoshe, Gertrude Saimbai, Precious Meckamani, Elizabeth Landembe, Evon Muava, Alice Mundenge, Mercy Mwale, Rose Lukwesa, Alice Kapussa, Justina Chibakwa, I'Nutu Mwala, Clement Mbilitu, Miriam Sifunganyambe.

¹⁶²*Ibid.* Human Rights Watch received lists of items damaged or stolen from the women interviewed.

Freedom of Expression

International and National Standards

Freedom of expression is guaranteed by Article 19 of the International Covenant on Civil and Political Rights. Article 19 states:

(2) Everyone shall have the right to freedom of expression; this right shall include the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

(3) The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order, or of public health or morals.

The Constitution of Zambia makes specific provision for the right to freedom of expression in Article 20 (1) of Part III:

20 (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to impart and communicate ideas and information without interference, whether the communication be to the public generally or to any person or class persons....

(2) Subject to the provisions of this Constitution no law shall make any provision that derogate from freedom of the press.

Freedom of expression was curtailed by the state of emergency, under the constitution's article 25, regulating states of emergency.

On October 27, the day before the coup attempt, the *Post* newspaper published an article by journalist Dickson Jere that quoted Kenneth Kaunda warning of "an explosion soon," unless there was genuine dialogue between the opposition and the government. Kaunda added that: "it won't be UNIP. It will be people of Zambia who are going to act." After the coup attempt, police sought to detain Jere because of his interview with Kaunda.

Jere described his situation to Human Rights Watch:

I interviewed KK on October 24, although the interview was only published on October 27. Kaunda never mentioned that there would be a coup attempt, he spoke in general terms, something that he had done a number of times before. When I asked him whether there was any information on a military challenge to the government he clearly said no—although this got edited out of the final copy. I interviewed him at his house and there were three UNIP officials present. Nothing happened till December 23, when five plain clothes policemen went to the *Post* and asked for me. The following morning they went to my home at 8.00am and then went on a rampage looking for me. Since then I have had to keep really low. My studies at Stuart College are on hold and I don't know how I will survive. If they arrest me I fear they will charge me with mis-prison of treason although I'm innocent. They want me because I work for the *Post*. Even last week, they came three times looking for me at the *Post* and the homes of my family members.¹⁶³

¹⁶³Human Rights Watch interview with Dickson Jere, Lusaka, March 1998.

The police finally caught up with Jere on April 8, and arrested him briefly. Jere was questioned about his KK interview and asked to make a statement. Jere subsequently made a second statement to his lawyers on what had happened:

Before they took a statement from me, they asked a lot of questions about my private life especially to do with my financial status. They asked me who is paying for my school fees since I was not government sponsored. I told them I pay myself. I was then asked why the *Post* are not paying for me but at the same time are using most of my stories, I told them that I don't work for the *Post* and it is not their obligation to do that. I told them that they pay me for all the stories I write for them.

They asked how I move from home to town everyday and how I manage to get to the hospital every day, especially that I was very sick. I told them I get enough from the *Post* to enable me to move about. At this moment, Lukonde told me that should I need transport, I should just get in touch with them. I told them I was okay, I don't need any transport from them.

Then I was told that apart [from transport], they can help me with any needs, be it accommodation, paying of school fees or anything which I need. They then asked me to shut up. Not to tell anyone about what happened during my questioning. But I told them I had already informed my lawyers and the people at the office. At this moment one officer got annoyed asking how I phoned the office.¹⁶⁴

Coverage of the aftermath of the coup attempt has also been limited and a number of journalists harassed.

- November 10, 1997. Then Defence Minister Ben Mwila threatened a *Post* journalist with his paper being banned, if he was not careful of what was printed about the coup.¹⁶⁵
- November 29, 1997. South African journalists Reggie Marobet and Abraham de Preez of Phenyo Film and TV Productions were told by information and broadcasting permanent secretary Laura Harrison that they could not film their historical documentary on the African National Congress (ANC) in Zambia during the liberation struggle and should leave the country because of the state of emergency.
- December 20, 1997. Three reporters from the independent media, two from the *Post* and one from the *Sun* were barred from covering a graduation ceremony of the Zambia National Service by security officers. The trio were told by a security officer that he had been told to only allow the state media in.¹⁶⁶
- January 2, 1998. Police physically assaulted and attempted to seize a camera from CNN cameraperson Amy Merz, on suspicion that she and her colleague Bob Coen filmed an interview with Kaunda. U.S.\$500 worth of damage was caused to the camera. Merz sustained injuries to her wrist and said, "I have worked in Africa for twelve years and this is the roughest experience that I have ever had. It is disappointing that it has taken place in Zambia."
- January 6, 1998. Four reporters from Reuters, Agence France Press, Pan African News Agency and the *Zambia Daily Mail* were prevented by police from covering part of the Kaunda case because the court room, including the press gallery, was reportedly "full," although other journalists inside the court disputed this.

¹⁶⁴Copy of Dickson Jere's statement in Human Rights Watch's possession.

¹⁶⁵*Post* (Lusaka), November 3, 1997.

¹⁶⁶*Sun* (Lusaka), December 22-28, 1997.

- January 8, 1998. Police prevented South African Broadcasting Corporation television crew and Zambia Information Service cameraman from filming events outside the Lusaka High Court. Reporters inside were also blocked from reporting.
- January 16, 1998. Unknown persons broke into the independent *Chronicle's* offices breaking locks on filing cabinets but stealing nothing, despite the presence of valuable equipment, raising suspicion that state security agents were trying to obtain information.¹⁶⁷
- January 20, 1998. MMD parliamentarians demanded the arrest of *Post* editor-in-chief Fred M'membe for a critical January 16 editorial on parliament. The editorial headlines "Useless House," said the Zambian parliament had rendered itself "useless" by the conduct of some of its members who were "spineless."
- January 27, 1998. High Court Judge James Mutale referred a contempt of court case against *Post* newspaper editor-in-chief Fred M'membe, senior reporter Reubin Phiri and human rights activists Lucy Sichone and Alfred Zulu to the Director of Public Prosecutions. The case followed remarks carried in Phiri's January 12 article quoting Sichone and Zulu describing as "cheap" the charges brought against UNIP leader Kaunda.
- January 28, 1998. National Assembly deputy speaker Simon Mwila ruled that the *Post* editorial "Useless House" was contemptuous of parliament. M'membe and former managing editor Bright Mwape were ordered to be jailed indefinitely in a prior case by National Assembly Speaker Robinson Nabulyato for writing critical opinions of parliament and spent twenty-four days in jail.

State journalists that were working at the time of the coup were also brought under scrutiny and a number lost their jobs. On October 31, 1997, the Zambia National Broadcasting Corporation (ZNBC) management suspended Tonga announcer for Radio 1 Loveday Haachiyumba for allegedly speaking approvingly of the coup by rebellious army officers. Haachiyumba was one of three journalists who were forced at gun point to operate broadcast equipment for the coup plotters.¹⁶⁸ He claims he was hit with a gun butt and ordered to speak approvingly of the coup on the air or lose his life. He says he was also ordered not "to scare" the public. A few days later on November 2, senior broadcast journalists Kenneth Maduma and Wellington Kalwisha were forced to retire by ZNBC. On November 3, Kitwe-based Gorette Mapulanga was dismissed from her ZNBC job because of carrying out a 'vox pop' call-in show on the failed coup and the next day, Hopkings Mapulanga, Gorette's husband, was dismissed as Kitwe regional manager.¹⁶⁹

V. THE INTERNATIONAL RESPONSE

Background

Aid of up to U.S. \$1 billion a year has been central to President Chiluba's economic program. As the country's largest source of foreign exchange, aid accounts for some 70 percent of gross domestic product. In July 1997, the Consultative Group met for the first time since December 1995. Two meetings, scheduled for December 1996 and March 1997, were deferred, presumably with the purpose of putting further pressure on the Zambian government to reform. In April 1997, at the Zambian government's request, a Pre-Consultative Group meeting of the donors was held in London. The Zambian government claimed considerable progress on governance and economic reform. On the basis of this meeting, the donors agreed to convene the next Consultative Group meeting in Paris on July 10-11, 1997, at which time they would decide whether the aid freeze would be lifted.

¹⁶⁷*Chronicle* (Lusaka), January 23 to 29, 1998.

¹⁶⁸The other announcers present during the takeover, Margaret Chigwedere and Evelyn Tembo, were not disciplined.

¹⁶⁹The letters to fire Gorette and her husband were delivered personally by ZNBC director-general Duncan Mbazima, who apologized for having to do it.

A pre-meeting on human rights and governance issues was held on the afternoon of July 9. It appeared at the time that the World Bank had hoped to keep discussion on these issues out of the main meeting, but failed. At the end of the meeting the Bank issued a press release:

Participants especially welcomed the Government's efforts to strengthen governance institutions in Zambia. In particular, support was expressed for actions aimed at reinforcing the Anti-Corruption Commission, Electoral Commission, Drug Enforcement Commission and Human Rights Commission. Delegates stressed that additional efforts were needed to assure the commissions would be fully independent and adequately funded. Participants welcomed the efforts of the media in Zambia to establish their own media council...¹⁷⁰

At this meeting, "Premised on satisfactory economic and governance performance, Zambia's external partners indicated plans to make available in 1997 at least U.S.\$150 million in balance of payments support, plus an additional U.S.\$285 million in project assistance."¹⁷¹ A further Consultative Group meeting was scheduled for December 1997.

At the press conference following the CG meeting, then Finance Minister Ronald Penza did not encourage confidence in his government's commitment to maintaining high good governance standards. He responded to a question about governance issues by stating that: "the donors are worried by this question because the standards which we adopted in 1991 were too high. But during the [1996 multiparty] election we showed we were able to adopt some corrections to create a frame allowing a good evolution of the democratic process."¹⁷²

¹⁷⁰The World Bank, "The Consultative Group for Zambia Pledges Renewed Partnership," Paris, July 11, 1997.

¹⁷¹Ibid.

¹⁷²Transcript of questions and answers provided by David Dieudonné of Reporters sans Frontières. Paris, July 11, 1997.

However, as 1997 progressed few of the governance bench marks established by the donors were addressed and, with a state of emergency in place, the World Bank decided to postpone its December Consultative Group meeting until 1998. The World Bank released U.S.\$42 million in balance of payments support on December 11, earmarked to strengthen foreign exchange positions of the Central Bank and assist in financing imports, external debt service obligations, and government programs for economic and social development. This was a second tranche of credit funds for Zambia; the first was released in 1996 to support a government economic reform program.¹⁷³ In late February 1998 the Zambian government tried to arrange a pre-Consultative Group meeting in London but it was canceled by President Chiluba at the last moment.¹⁷⁴ After President Chiluba lifted the state of emergency, on March 17, the World Bank set firm dates for a new meeting in Paris—May 12 and 13. Like in 1997, the World Bank also scheduled a pre-meeting on governance issues for the afternoon of May 11.

The World Bank sent a team to Zambia in mid-April to assess the situation on the ground. The World Bank's Zambia Desk officer, Phyllis Pomerantz, lobbied hard, talking to bilateral donors and on April 16 holding a meeting in Lusaka with NGOs. In this meeting she warned NGOs that the World Bank might consider pulling out of Zambia unless the bilaterals pledged balance of payments support in the upcoming CG meeting. She also underlined the Bank's belief that poverty alleviation takes precedence over good governance and human rights issues. She urged Zambian NGOs to lobby and pressure bilaterals to drop their human rights conditions. Surprisingly, Pomerantz in public painted a favorable picture of Zambia in the press and on television. She claimed, "This Government has lived up to its commitments and the manner and style it has done so is quite extraordinary. I am relatively optimistic that Zambia will receive favorable response from the donors, especially with its record which is very impressive."¹⁷⁵

International Support for the Respect of Human Rights

Following the 1997 Paris Consultative group meeting, international donors expected that their bilateral relations with the Zambian government would find a firmer footing. Germany on July 22 signed an agreement with Zambia for debt remission of 67 percent of 243 million marks which would have been owed to Germany between 1996 and 1998. A further 16 million marks are to be paid back over the next twenty-three years. On August 23, 1997, when Germany signed a technical assistance program of over \$9 million, Zambian Secretary to the Treasury Ben Mweene said that the German government would also disburse about \$11 million of balance-of-payments support at the next consultative group meeting in December. Its release would depend on the Zambian government satisfying the good governance bench marks set in June.¹⁷⁶ The new German ambassador to Zambia, Helmuth Schroeder, when presenting his credentials at State House, also stated that Germany wanted to see the government adhere to human rights, freedom of expression, and better dialogue with the donors.¹⁷⁷

Then finance minister Ronald Penza also requested Japan to reschedule more debt after Italy and Japan announced they had rescheduled debt worth K147 billion (U.S. \$77,000) owed to them. The Japanese Chargé d'Affaires Takayuki Miyashita also urged the government to practice good governance principles.¹⁷⁸

¹⁷³The International Monetary Fund (IMF) and the Zambian government also concluded an agreement in Lusaka for cheap loans in return for an economic reform program on December 18, 1997.

¹⁷⁴Diplomatic sources in Lusaka, February 22, 1998.

¹⁷⁵*Times of Zambia* (Lusaka), April 20, 1998.

¹⁷⁶SAPA news agency, August 23, 1997.

¹⁷⁷*Zambia Daily Mail* (Lusaka), November 14, 1997.

¹⁷⁸*Sun* (Lusaka), December 22-28, 1997.

Following the Kabwe shooting incident in August it became clear to diplomats that the run-up to the next CG meeting would not be smooth. The U.S. administration condemned the Kabwe incident with a strong press statement which called urged "the Government of Zambia to undertake a full and independent investigation and to guarantee the protection of universally recognized human rights, in particular, freedom of assembly and speech."¹⁷⁹ The EU also issued a press statement at this time.

Donors were further surprised by the October 28 coup attempt and a number of countries issued press statements condemning the attempt. South Africa, and a few days later the South African Development Community, also issued statements.¹⁸⁰

The U.S. government condemned the attempted coup too, and in a press statement stated that "there can be no alternative to changing a legitimate government except through the democratic process," and that "We urge the Zambian Government to respect the rule of law, and to guarantee the protection of universally recognized human rights and prosecution of those involved."¹⁸¹ The EU issued a similar statement.

During this period Reverend Jesse Jackson, U.S. President Clinton's special envoy for the promotion of democracy in Africa, visited Zambia. On December 3 and 4 he met with government officials, opposition members, NGOs, civic groups and the Human Rights Commission. Jackson on his arrival urged the Zambian government "to do something" about the reported torture of detainees allegedly involved in the failed coup. He also said he was "somewhat" impressed with the Human Rights Commission.¹⁸² On leaving the country he called for dialogue, and a strong free press.¹⁸³ He was also assured by President Chiluba that the former president Kaunda would not be arrested when he returned later that month. Up to December 22 diplomats were told by senior government officials that Kaunda would not be touched.¹⁸⁴

With such assurances it was a shock for diplomats and their governments to find that Kenneth Kaunda was picked up by police on December 25 and put into prison shortly after his return to Zambia. Countries from around the world issued statements condemning the detention without charge. SADC countries were especially forthright. South Africa's Nelson Mandela issued a statement on December 26 as chairperson of SADC. President Mandela had already shown leadership on the human rights issue in a September 1997 speech at the annual SADC summit held in Blantyre, Malawi, claiming that he regarded the respect of human rights as essential for the stability of the region. Mandela implored his colleagues to think seriously about their commitment to democracy and human rights if the organization was to retain its credibility. Mandela strenuously argued that SADC's basic principles of respect for each member state's sovereignty and of non-interference in each other's national interest could not blunt its common concern for democracy and human rights.¹⁸⁵

¹⁷⁹News release, no date, NR/447/08/26/97.

¹⁸⁰Angola was a notable for its silence on the issue, bilateral relations having deteriorated over sanction-busting for UNITA through Zambia.

¹⁸¹News release, NR/449/10/30/97, October 30, 1997.

¹⁸²SAPA news agency, December 3, 1997.

¹⁸³Africa News Report, AEF405, 12/04/97.

¹⁸⁴Diplomatic sources, Lusaka, March 1998.

¹⁸⁵Human Rights Watch, *World Report 1998* (New York: Human Rights Watch, 1997), p.11.

Botswana and Mozambique issued their own statements about the situation in Zambia on December 28. Botswana stated that Kaunda's detention was "a setback to the efforts of the countries of the Southern African Development Community to promote and abide by the principles of democracy, human rights and the rule of law."¹⁸⁶ Zimbabwe's Foreign Affairs Minister Stan Mudenge also visited Lusaka for three days from December 28. Mudenge carried with him a special message from President Mugabe to President Chiluba. On December 29, former Tanzanian president Julius Nyerere arrived in Zambia mandated by SADC to plead for the release of Kaunda. Following talks with President Chiluba, Nyerere visited Kaunda in prison and successfully convinced him to end his hunger strike. He also convinced President Chiluba to put Kaunda under house arrest rather than keep him in prison.

Although the Organisation of African Unity did not formally react to these developments, it sent a representative to Zambia to monitor the situation.

The U.S. released a statement on December 26 from the White House:

We condemn the Christmas day arrest and detention of former President Kenneth Kaunda of Zambia. We call on the Government of Zambia to release him in the spirit of reconciliation and peace. We strongly support the Government-sponsored inter-party talks planned for next week and fear his arrest will have an extremely negative effect on that important initiative.¹⁸⁷

This was followed on December 29 by U.S. special envoy Jesse Jackson calling President Chiluba and getting assurances that he was well and would be prosecuted promptly, but a rejection of his call for Kaunda's release "in a spirit of reconciliation and peace."¹⁸⁸

The EU also issued a statement after Kaunda's arrest. It urged the government to hasten the investigations into all those who had been detained and to charge or release them. The EU also urged the government to:

fully respect the Human Rights of all political detainees in accordance with internationally agreed standards and in particular strongly condemns the use of torture against persons under arrest as documented by the Permanent Human Rights Commission.¹⁸⁹

Britain's Minister of State at the Foreign and Commonwealth Office for Africa and Human Rights, Tony Lloyd, was also scheduled to visit Zambia for a three day visit (January 7 to 9, 1998). Britain attempted to obtain assurances that he would gain unhindered access to Kaunda but was refused this and the visit was canceled.¹⁹⁰

¹⁸⁶SAPA news agency, December 30, 1997.

¹⁸⁷ News release, NR/451/12/29/97, December 26, 1997.

¹⁸⁸Reuters, "Jackson intervenes on behalf of Zambia's Kaunda," December 29, 1997.

¹⁸⁹EU Statement on Zambia, December 27, 1997.

¹⁹⁰Foreign and Commonwealth Office, "Press Release: Mr Lloyd's Visit to Zimbabwe," no date, but January 2, 1998. In this Lloyd stated that, "It is with regret that I have cancelled my visit to Zambia. My wish is to see Britain and Zambia working together on the basis of shared respect for democratic principles and the rule of law. But it would be wrong for me to visit so long as Kaunda remains in custody but uncharged, and in the absence of a commitment from the Zambian authorities that I will be able to see him."

Minister Lloyd's trip had been designed to improve Britain's poor relationship with Zambia. In September 1997 then foreign affairs minister Lawrence Shimba told a five-man British parliamentary team that the then British High Commissioner to Zambia, Patrick Nixon, sent distorted information back to London on what was happening in Zambia and that he should be recalled.¹⁹¹ A new British High Commissioner, Tom Young, presented his credentials on January 6, 1998 and reaffirmed that democracy and good governance remained priorities for his government. He also urged President Chiluba to fully fund a number of commissions, including the Human Rights Commission.¹⁹²

Tony Lloyd explained British policy towards Zambia in reply to a question in the British parliament on March 10, 1998:

In many ways, the real tragedy of Zambia is that the present Government seemed to be making real progress, so when the attempted coup took place and President Chiluba quite correctly told his people to go about their business, it was all the more bizarre and surprising that he then announced a state of emergency. Even more deplorable was the continuation of that state of emergency in January.

We want Zambia to get back to a proper path of reconstruction for the benefit of its people. However, that will mean lifting the state of emergency and bringing to speedy trial those who have been detained. Before the rest of the world is ready to begin the real process of helping those who are not impoverished by the situation in Zambia, the Zambian Government must commit to a drive against corruption and to the restoration of constitutional order.¹⁹³

Britain's Parliamentary Under-Secretary of State, Foreign and Commonwealth Office, Baroness Symons of Vernham Dean replied in the House of Lords on April 6 to a question about Zambia stating that:

Her Majesty's Government are considering a wide range of countries for debt forgiveness. In so doing we are looking at a country's record in terms of democracy or its move towards democracy. There are also questions of aid. Aid donors are coming together next month to consider whether there should be a move forward in relation to Zambia following the lifting of the state of emergency in the past month.¹⁹⁴

Denmark froze funds for U.S.\$43 million road building aid project to Zambia until allegations of torture were adequately dealt with. The EU also set three pre-conditions for balance of payments resumption for its members, also supported in practice by the U.S. Canada, Norway¹⁹⁵ and Japan. These three conditionalities are that the coup attempt detainees should be charged or released; that the State of Emergency should be lifted and that the allegations of torture should be officially dealt with by government.

¹⁹¹SAPA news agency, September 10, 1997.

¹⁹²*The Post* (Lusaka), January 7, 1998; *Times of Zambia* (Lusaka), January 7, 1998.

¹⁹³*Hansard*, Oral Answers [Commons], March 10, 1998, pp.303-304.

¹⁹⁴*Hansard*, Oral Answers [Lords], April 6, 1998, p.502.

¹⁹⁵Norway's policy towards Zambia has been recently discussed in *Evaluation Report 7.97, Aid as a tool for promotion of human rights and democracy: What can Norway do?*. This report was for the Ministry of Foreign Affairs in Oslo and used Zambia and Zimbabwe as case studies. However, it underestimates the impact of conditionality on the government's human rights practice in the Zambian example. The consultant Hilde Selbervik failed to talk to representatives of civil society and NGOs, basing much of her research on diplomatic sources.

In a response to donor pressure, the MMD in Lusaka organized a march against donor pressure on January 5. According to the state media President Chiluba was forced to break from a cabinet meeting to address this unexpected rally. Chiluba singled out the U.S. and Britain for applying double standards in their demand for democracy. He warned that "We will not accept to be pushed around, we will not accept double standards especially when we know what we are doing is right."¹⁹⁶

The deputy foreign affairs minister, Valentine Kayope also attacked the U.S. and Britain on January 28 saying the country's greatest difficulty with Western countries was its refusal to be a "client nation." This is "the cardinal sin we have committed to some Western countries whose ambassadors, taking advantage of the extent of poverty, have assumed the role of lecturers to some Zambian ministers who choose to be lectured to." In reference to the "coup detainees," Kayope also said that Western nations should seriously strike a balance between the observance of individual human rights and the preservation of public security.¹⁹⁷

At this time the EU, U.S., Japanese and Norwegian priority was to get a lifting of the State of Emergency. This had also become a pre-condition for the World Bank for the holding of a CG meeting on Zambia. Phyllis Pomerantz, the World Bank's Zambia desk officer also carried this message to ministers and President Chiluba when she met them in January in Lusaka. At the end of January the new Dutch ambassador was told by government that the state of emergency would naturally expire at the end of January. When a few days later, on January 29, parliament extended the state of emergency, the EU promptly issued a statement condemning the extension:

The EU is deeply concerned at the decision made by the National Assembly on January 29 to renew the state of emergency for a further 90 days, which means a continued suspension of basic human rights. The EU had hoped that within the first 90 days the Government of Zambia would complete its enquiries into all those detained under the state of emergency. The EU now strongly urges the Government of Zambia to complete their investigations with all possible speed, to charge or release all the detainees and to end the state of emergency at the earliest opportunity. The EU also strongly urges the Zambian authorities urgently to investigate allegations of torture made by some of the detainees.¹⁹⁸

The U.S. also issued a strong statement:

The United States wants to see Zambia succeed. We deplore the decision to renew the state of emergency. The action undermines the government's efforts to build Zambia's democracy and to assure internationally recognized human rights for all Zambians.

The United States again urges the government of Zambia to charge and try former president Kaunda and the other detainees promptly in an open, transparent legal process or to immediately release them. We also ask the government to investigate allegations of torture. The United States believes it is in Zambia's best interests to end the state of emergency in order to revive the reconciliation process and to increase economic growth.¹⁹⁹

¹⁹⁶*Times of Zambia* (Lusaka), January 6, 1998.

¹⁹⁷*Post* (Lusaka), January 29, 1998.

¹⁹⁸British Presidency of EU Council, "EU Concerned about Prolongation of State of Emergency," press release, February 2, 1998. The Central and Eastern European countries associated with the EU and the EFTA countries Iceland and Norway aligned themselves with this declaration.

¹⁹⁹White House news release, NR/452/01/30/98, January 30, 1998.

The government denounced these statements shortly afterwards with a spokesman from the Ministry of Foreign Affairs stating that "the security of the nation being a pre-requisite for the enjoyment of human rights, peace and democracy, the government shall not accept directives from governments or cooperating partners."²⁰⁰

By then Finance Minister Ronald Penza had expressed his frustration at the donors and conditionality when giving a speech at the Economics Association of Zambia:

I have done almost everything they have asked me to do and when I ask for my cheque they say they can not release it because so and so has been arrested. We must agree on standards of what good governance is because initial agreements do not indicate that arresting people who have committed an offence amounts to bad governance."²⁰¹

When the state of emergency was finally lifted on March 18, this was welcomed. British Minister Tony Lloyd issued an EU Presidency Statement welcoming the lifting of the state of emergency but also stating that "I continue to have concerns about the need for a full investigation into allegations of torture made by some of the detainees and urge the Zambia Government urgently to address this issue."²⁰²

Human rights concerns were also central to the speech given when the new Canadian High Commissioner to Zambia, Dilys Buckley-Jones presented her credentials to President Chiluba on March 13:

Our countries agree that democracy can never be taken for granted. It must be defended and supported because it is fundamental to success in today's world. Transparent, pluralistic and fair electoral practices; independent legal institutions; efficient checks and balances; respect for human rights by an accountable and legitimate government—all these elements are essential to a stable environment in which business can prosper. In a context of global competition where information, goods, capital and investment flow freely across borders, governance issues can not be separated from economic ones.²⁰³

Norway also made a strong statement in support of human rights. Deputy Head of Mission Leif Sauvik in mid-April said it would be impossible to delink good governance issues from development cooperation. He also said that Zambia needed to investigate all allegations of torture by police and security agents.²⁰⁴

²⁰⁰*Zambia Daily Mail* (Lusaka), February 5, 1998.

²⁰¹*Post* (Lusaka), February 2, 1998.

²⁰²UK Presidency of the European Union, Press Release, "Zambia: Lifting of State of Emergency," March 18, 1998.

²⁰³Text of "Presentation of Credentials to the President of the Republic of Zambia by Miss Buckley-Jones, High Commissioner of Canada," no date, but March 13, 1998.

²⁰⁴*National Mirror* (Lusaka), April 19-25, 1998.

VI. ACKNOWLEDGMENTS

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