

ZAMBIA

Despite moves by officials to interfere with the judiciary in politically related cases, the country's judges and lawyers generally strive to remain independent. However, poor administration of the judiciary, limited resources and lack of judicial personnel has led to severe backlog in Zambian courts. There has been a political clamp-down on perceived dissidents in advance of elections scheduled for the end of 2001. The authorities seem unwilling to prosecute those who commit human rights abuses.

BACKGROUND

Zambia gained independence from Britain on 24 October 1964 and Kenneth Kaunda became the first President of the Republic. On 2 August 1991, the adoption of a new Constitution introduced a multi-party system, thereby ending the monopoly of Kaunda's United National Independence Party (UNIP). The first multi-party elections in November 1991 resulted in the victory of the Movement for Multi-Party Democracy (MMD) and the election of President Frederick Chiluba, a former trade unionist.

The present Constitution, dates from June 1996. While similar to the 1991 Constitution, it contains amended provisions regarding the qualifications of presidential candidates and grants the President and the National Assembly increased powers in respect of their relationship with the judiciary. The May 1996 amendment required that a "person shall be qualified to be a candidate for elections as President only if (a) he is a Zambian citizen and (b) both his parents are Zambian by birth or descent". This amendment had the direct effect of excluding former President Kaunda, whose parents were Malawian, from standing in the presidential elections. The UNIP boycotted the November 1996 elections that confirmed the government of MMD and President Chiluba.

Executive power is vested in the President, who is elected directly by universal suffrage for a term of five years and may be re-elected only once. The President is the Head of State and the Commander-in-Chief. The President appoints the Ministers of his Cabinet from among the members of the National Assembly, and they are collectively answerable to the National Assembly. The President has the power to declare a state of emergency and to dissolve the National Assembly. Article 45 of the Constitution provides for the office of the Vice-President, who is appointed from among the members of the National Assembly and performs such functions as are assigned to him by the President of the Republic.

Legislative power is vested in the Parliament, which consists of the President and the National Assembly. The National Assembly is composed of 150 members elected by universal, direct suffrage, with not more than eight members nominated by the President, and the Speaker, nominated by the members of the National Assembly. Traditional chiefs are not qualified to be elected as members of the Parliament. Legislation passed by the National Assembly must be assented to by the President in order to become law. Members of the Parliament form parliamentary committees with the mandate to consider specific matters or bills. The Constitution also provides for a House of Chiefs, an advisory body composed of 27 chiefs from the various provinces.

The country is divided into nine provinces, including the capital of Lusaka, each of which is administered by a centrally appointed Provincial Secretary and a partially elected Provincial Council. The provinces are subdivided into 55 districts, each administered by a centrally appointed Governor and a partially elected District Council.

Presidential and parliamentary elections are to be held on 27 December 2001. At the beginning of 2001 President Chiluba had seemed eager to amend the Constitution in order to seek a third term, but on 8 May 2001, following pressure from the opposition, international donors and even by members of his own cabinet, Chiluba announced that he would not stand for an unconstitutional third term in office. In the meantime, more than 20 dissident members of the ruling MMD party including the country's Vice-President and eight ministers have been expelled from the Parliament.

In May 2001, an impeachment petition was filed against President Chiluba before the House Speaker of the National Assembly. The petitioners, mostly MMD parliamentarians, obtained 65 signatures, enough to compel the Speaker to convene parliament to hear charges of gross misconduct against President Chiluba, who had come under intense criticism for corruption in his government. On 30 May 2001, the Parliament postponed the debate on the impeachment motion.

HUMAN RIGHTS ISSUES

The human rights situation in Zambia deteriorated, with the government taking steps to silence political opposition. The independent media came under attack and human rights NGOs and political parties were threatened with deregistration. The absence of adequate enforcement mechanisms and a lack of political will has led to a general culture of impunity for those who commit human rights abuses.

Human rights mechanisms

Zambia is a party to the International Covenant on Civil and Political Rights (ICCPR), the Optional Protocol to the ICCPR, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child. Zambia is also a member of the African Union (formerly Organisation of African Unity). Zambia has not submitted a single report under the African Charter on Human and People's Rights, although its first report was due in 1988. Zambian scholars have stressed that despite the fact that the country has ratified various international instruments, the police forces and other public officials had not been informed or received training in respect of their application..

The Constitution provides for an autonomous Human Rights Commission. It has been reported that the Zambian Permanent Human Rights Commission, established in May 1997, remained active only on non-contentious issues. It continued to issue statements about human rights abuses, notably employment grievances and prison conditions, but avoided criticism of the Government. Of the 960 complaints handled since inception, 797 of the cases were labour related..

Freedom of expression and freedom of assembly

Under Zambia's Public Order Act, any group of citizens wishing to hold a public demonstration must notify the police seven days before the demonstration. However, the police have tended to abuse the law and have arbitrarily determined whether a gathering could or could not take place.

Opposition parties, NGOs and other civil society groups were regularly denied permission to assemble or had their meetings cancelled on public security grounds.

On 24 January 2000, following pressure from the Ministry of Information, the privately owned Radio Phoenix announced it was discontinuing a live phone-in program sponsored by a human rights NGO. On 19 August 2001, the government announced that Radio Phoenix had been suspended due to its failure to renew the licence under which it operates. Human rights activists fear that the decision to suspend the radio station is part of a wider campaign to silence the independent media prior to the elections scheduled for the end of 2001.

Attacks on Zambian journalists appear to constitute reprisals for critical press coverage of President Chiluba and other top-ranking officials of the ruling MMD. Several journalists have been charged with criminal defamation of the Head of State under Article 69 of Zambia's Penal Code that prescribes up to three years in jail for "any person who with intent to bring the President into hatred, ridicule or contempt, publishes any defamatory or insulting matter". The most serious attack on the independent press was the prosecution of eleven journalists from the Lusaka daily *The Post* on charges of espionage for publishing a March 1999 report alleging that Zambia's army could not withstand an attack from Angola. On 18 August 2000, all of the journalists were acquitted with the exception of editor Fred M'membe. On 21 December 2000, the Lusaka High Court finally acquitted M'membe in a ruling criticising the government's abuse of the 1969 State Security Act, under which the journalists were prosecuted. However, on 17 August 2001, he was again arrested and charged with criminal libel over comments made about President Chiluba. The newspaper had published an editorial and stories in which two politicians accused the President of diverting four USD millions which was meant to buy maize through a Canadian company in 1997. The journalist spent eight hours in custody before a magistrate ruled that the arrest and charges were illegal. On 21 August 2001, Fred M'membe surrendered to the police to face charges of defaming President Chiluba, as the government announced that the President could no longer ignore the accusations of impropriety and had decided to clear his name in court. Editor M'membe along with reporter Bivan Saluseki and former Labour Minister Edith Nawakwi, who was quoted in the article, were accused of subjecting Chiluba to hatred, ridicule or contempt.

Arbitrary arrest, detention and prison conditions

Criminal suspects are often arrested on the basis of scant evidence and police stations frequently become "debt collection centres", as police officers acting upon unofficial complaints detain debtors without charge. The Magistrates and Judges Association identified congestion in prisons as an extremely serious problem. Prison conditions remain harsh, and, according to official statistics, prisons designed to hold 6,000 prisoners held over 12,000 persons.

In 1999, the High Court issued a decision banning corporal punishment in the country. The court system undertook efforts to ensure that the ban was upheld and the Chief Administrator of the High Court publicly reminded magistrates of their obligation to uphold the ban. A meeting with prison officers was held in order to re-reinforce the ban. During the year 2000, the Chief Administrator of the High Court, prevented a magistrate from implementing a corporal punishment sentence.

Impunity

Police officers responsible for deaths in custody were rarely prosecuted and courts tend to give lenient sentences to those charged with similar offences. In May 2000, the government announced its intention to create a national forensic laboratory to provide the police with resources for

professional investigations. A governmental Commission of Inquiry, established in 1998 to investigate the alleged torture during detention of suspects in a 1997 coup attempt, completed its work in June 2000. It should be noted that the Head of the Commission of Inquiry was High Court Judge Japhet Banda, who had himself sentenced to death fifty-nine of those accused on the basis of confessions allegedly rendered under torture. According to the report submitted to President Chiluba, the torture inflicted on some of the 1997 failed *coup d'état* suspects was so severe that it permanently destroyed and impaired both the dignity and capabilities of the victims, potentially prompting them to give incriminating statements that could implicate innocent people, including themselves. The Commission recommended that the government immediately bring to justice the named police and other security personnel who were involved in the torture of coup suspects.

The death penalty

Throughout 2000 there was continuing debate over the issue of the death penalty. More than 230 prisoners are under sentence of death, some of whom have been on death row for over 25 years. There have been no executions since 1997. In a case before the High Court of Zambia during the period under review, the death penalty is being challenged on the grounds that it is unconstitutional. The appeal is made by Benjamin Banda and Cephas Kufa Miti who were found guilty of aggravated robbery and sentenced to death on 13 October 1999. On 14 December 2000, the case had a first hearing in the High Court. The State was not ready to respond on the argument on that occasion, and the case was adjourned. On May 2001, the Attorney-General responded that Zambia had deliberately chosen not to accede to international treaties abolishing the death penalty, and therefore, it was permissible according to the Constitution. He described the petition as “premature “ and “incompetent”. The Court had not yet come to a judgement, but it was expected that the matter will go to the Supreme Court of Zambia on appeal.

The judiciary

The Zambian legal system is based primarily on common law traditions. Most laws have been codified over the past decades and are published under the “Laws of Zambia”. Where Zambian law is silent, the current law of England and Wales is applicable. Similarly, decisions of common law courts are influential in Zambian courts.

Part VI of the 1996 Constitution organises the judiciary. The latter consists of the Supreme Court, the High Court, the Industrial Relations Court, subordinate courts, local courts and any other courts as may be prescribed by an Act of Parliament. In the discharge of their judicial functions, the judges of the courts are independent, impartial and subject only to the Constitution and the law. Judges conduct themselves in accordance with a code of conduct promulgated by the Parliament. Article 91 para.3 stipulates that “the judiciary shall be autonomous and shall be administered in accordance with the provisions of an Act of Parliament”.

Court structure

The Supreme Court of Zambia is established under Article 92 of the Constitution and by the Supreme Court Act, Chapter 52 of the Laws of Zambia. It is the final court of appeal for civil and criminal matters and the superior court of record. It is composed of the Chief Justice, the Deputy Chief Justice and seven, or more if prescribed by an Act of Parliament, Supreme Court judges. Currently, the Supreme Court is composed of nine judges, one of them being attached to the International Criminal Tribunal for Former Yugoslavia and the other doubling as Chairperson of the

Human Rights Commission. Judges who have specified prior experience may be appointed by the President to the Supreme Court, subject to ratification by the national Assembly. The requirements of prior specified experience and ratification by the national Assembly were included in the Constitution to address previous concerns that there were no objective appointment criteria. The Constitution allows the President to dispense with the requirement that a judicial candidate have the specified prior experience. The office of the Chief Justice is organised under Articles 92 and 93 of the Constitution. The Chief Justice is appointed by the President subject to ratification by the National Assembly. The Chief Justice is in charge of drafting the rules with respect to practice, direction and procedure of the Supreme Court.

The High Court is established by Article 94 of the Constitution and by the High Court Act, Chapter 50 of the Laws of Zambia. The High Court, split into such divisions as are determined by the Parliament, enjoys unlimited and original jurisdiction to hear and determine any civil and criminal proceedings, except for proceedings falling within the jurisdiction of the Industrial Relations Court (see below). It also has the power to hear and determine any question concerning the fairness of elections and supervisory jurisdiction in any civil or criminal proceedings before any subordinate court or court martial. The Chief Justice is *ex officio* judge of the High Court, which is composed of 20 other judges appointed by the President on the advice of the Judicial Service Commission (JSC) and ratification by the national Assembly.

Act No. 36 of 1990 established the Industrial Relations Court, which enjoys exclusive jurisdiction in labour matters, pursuant to the Industrial Relations Act. The Court is composed of a Chair, a Deputy Chair and not more than seven members. A bench is constituted by the Chair, the Deputy Chair and two other members. The Chair and the Deputy Chair of the Industrial Relations Court are appointed by the President on the recommendation of the Judicial Service Commission, while the other members are appointed by the Minister of Labour. All the members must be persons with knowledge and experience in labour affairs. The 1990 Act provides for the right of appeal against verdicts of the Industrial Relations Court, but may only be invoked after the Minister of Labour makes the appropriate declaration by statutory instrument.

The structure and competence of subordinate courts are established by the Subordinate Court Act. The jurisdiction of a subordinate court depends on its class rating and the type of Magistrate sitting. Subordinate courts are presided over by a single magistrate who is either a qualified lawyer or a lay person. In every district of the Republic, there is a Magistrates Court which has original jurisdiction in some criminal and civil cases. In every provincial headquarters, where there is an Office of a High Court, there is also a District Registry managed by a Principal Resident Magistrate or a Senior Resident Magistrate designated as District Registrar. It is reported that this super-imposition of offices carried out by the same person caused delays both at the Magistrates Court and High Court levels. It was proposed by a number of magistrates and lawyers to separate these functions and appoint different persons to them. Subordinate courts are empowered to adjudicate on appeals from the local courts. An aggrieved party has the right to appeal against the decision of a subordinate court to a superior court.

Local and customary courts are involved in most civil cases at local levels. The Local Courts Act divides these courts into Grade A and B determining the courts' jurisdiction. Their jurisdiction encompasses issues of marriage, divorce, inheritance and other civil matters, together with some minor criminal offences. The customary laws applied in the local courts vary significantly throughout the country. There are few formal procedures, and Section 15 of the Local Courts Act prevents legal practitioners from appearing in these courts. Prominent local citizens play the role of presiding judges and enjoy a wide latitude in invoking customary law. The judgements are often not in accordance with the Penal Code and it is reported that they tend to discriminate against women.

Whenever a local court is seized with a civil or criminal matter where a party wishes to be legally represented by a lawyer, the case should be transferred to a subordinate court.

The application of customary law by local court justices remained problematic. In a recent study on the Local Courts in Zambia, when the justices were asked to define customary law, “most of them equated law with marriage and rituals”. However, in urban areas, Local Courts have become institutions for quick resolution of community disputes. The justices conduct the proceedings in local languages. The Local Courts Act gives the Minister of Legal Affairs the power to establish a Local Court by granting a court warrant. The Minister may revoke the warrant at any time and can determine the place and sittings of the Local Court. The Act provides for a Local Court Officer charged with supervising the work of the justices. The Local Court Officer may call a case record for inspection, may review the case, hear the witnesses and set aside the judgement. Since the subordinate court is the legitimate appellate court for Local Courts decisions, the supervisory role of the Local Court Officer is unconstitutional. These provisions allowing a fusion of administrative and judicial powers, which are a colonial legacy, clearly violate the principle of separation of powers. Local Courts tend also to broadly interpret contempt of court. Some cases have arisen in which a person who replies to the questions in English or refuses to sit on the floor when ordered has been charged with contempt of court.

According to the Zambian Ministry of Legal Affairs, there are 65 Magisterial Districts involving approximately 150 Magistrates, and 440 Local Courts with 900 Local Court Justices. According to the Chief Administrator of the Courts, there are currently only 23 magistrates in Zambia to cover the 72 magistrate positions across the country.

The Constitution provides also for the office of the Attorney-General. The Attorney-General is appointed by the President of the Republic under ratification by the National Assembly. The Attorney-General is the principal legal adviser to the Government and may only be removed from office by the President. She or he is not subject to the direction or control of any other person or authority in the discharge of her/his duties. The Attorney-General is also charged with representing the government in all civil proceedings.

Public Prosecution

Article 56 of the Constitution provides for the establishment of the office of the Director of Public Prosecutions (DPP), with the powers of instituting and undertaking criminal proceedings against any person before any court, apart from a court-martial. The DPP may also continue or discontinue such proceedings undertaken by any other authority at any stage before the judgement is delivered. The DPP is appointed by the President and may be removed from office only for incompetence or inability to perform his functions or misbehaviour. The provisions concerning the DPP are under Part IV of the Constitution, which organises the executive and not the judiciary.

Extra-judicial bodies: the Commission for Investigation

Under Article 90 of the Constitution, the Commission for Investigation has the power to investigate and report to the President of the Republic on complaints related to administrative actions of governmental agencies. The Commission has no power to review any judicial decisions. It conducts investigations in private and usually works in an informal way. The Commission has the power to examine witnesses and to acquire access to all related documents. The role of the Investigator-General (Ombudsman) is to determine whether there has been any misuse of power by the

governmental bodies. The Investigator-General in the report to the President may recommend the type of remedial action that should be implemented in each case.

Reforms

On 1 April 2000, a Commercial List was established in order to shorten the length of commercial litigation proceedings and to create a court which specialises in commercial law. The Commercial List is headed by Judge Mambilima, who is also Acting Judge of the Supreme Court, and includes three other judges. The Ministry of Legal Affairs has suggested that there may also be the need to establish further specialised courts in which power is vested in the Chief Justice.

During the period under review, the Magistrates and Judges Association made an effort to expedite the process of court appearances by establishing a fast-track court that could quickly hear minor, uncomplicated cases.

Appointment and Security of tenure

The Judicial Service Commission

Under Article 123 of the Constitution, the Judicial Service Commission (JSC) is to “have functions conferred on it by this Constitution and such other functions and powers, as may be prescribed by or under an Act of Parliament”. All magistrates are appointed by the JSC acting in the name of the President. The JSC appoints the local court justices, local court advisers and as many local courts officers as it sees fit. The JSC is composed of the Chief Justice as Chairman, the Attorney General, the Chair of the Public Service Commission, the Secretary to the Cabinet, a Judge nominated by the Chief Justice, the Solicitor General, a member of the National Assembly appointed by the Speaker, a member of the Law Association of Zambia, the Dean of the Law School of the University of Zambia and one member appointed by the President. In addition to the judges, any number of part-time High Court commissioners may be appointed to supplement the work of the High Court judges.

The Commissioners however may also be legal practitioners, an arrangement which may undermine the impartiality and the independence of the judiciary. Furthermore, appointments have been extended to full-time commissioners, who served a “probation” period before being appointed as High Court judges.

Disciplinary procedures

According to Article 98 of the Constitution, Supreme Court and High Court judges “shall vacate that office on attaining the age of sixty-five years.” However, the President on the advice of the Judicial Service Commission may allow a judge to continue in office in order to conclude his or her duties or extend the appointment for a maximum of a further seven years. All judges of the Supreme Court and of the High Court as well as the Chairman and the Deputy Chairman may only be removed from office for inability to perform their functions of office, whether arising from infirmity of body or mind, incompetence or misbehaviour. If the President considers that the question of removing a judge should be investigated, he or she shall appoint a tribunal composed of a Chairman and not less than two other members who hold or have held high judicial office. The tribunal will inquire into the matter and will advise the President on whether the judge should be removed from office. If the tribunal advises the President that the judge should be removed for inability, incompetence or

misbehaviour, the President shall follow the opinion of the tribunal and remove the judge from office.

Resources: the judiciary in practice

The judicial budget depends on the allocation of resources made, on parliamentary approval, by the Ministry of Finance to all government institutions. However, it has been reported that in practice the salaries of the Supreme Court and High Court judges are determined by the President of the Republic, instead of by the Parliament. During the impeachment petition in respect of which President Chiluba was the respondent, the judges of the Supreme and the High Court allegedly received large salary awards twice within a period of nine months. This was viewed as an attempt by the executive to influence the judiciary and undermine its independence. Moreover, the failure to allocate appropriate resources to the judiciary has resulted in a backlog of cases, poor administration, delays in both criminal and civil appeals and prolonged trials. Broad rules of procedure give wide latitude to prosecutors and defence attorneys to request adjournments. It is reported that approximately 2000 detainees are awaiting trial in Zambian prisons. In some cases, defendants have been waiting trial for four years. The High Court Commissioner may release detainees if police fail to bring the case to trial, although that did not occur in any case during 2001.

Conditions of service in the Lower Courts are reportedly just as poor as generally in the civil service. In several cases, justices have complained of distressing working conditions and very low salaries which were never paid on time. Often, copies of the Laws of Zambia in use by the courts are outdated. Consequently, due to poor funding, the judiciary has failed to attract and retain professional staff.

Against this background, judges have difficulty fulfilling their duties. Nonetheless, many Zambian judges are striving to act independently. On 23 May 2001, the Lusaka High Court derailed an attempt by the ruling MMD to sack dissident legislators, who had been opposed to President Chiluba's bid for a third term in office. The expelled members of the Parliament contested the matter in the High Court, arguing that their expulsion contravened a court injunction that barred the party from taking any disciplinary action against them. In his ruling, High Court judge Tamula Kakusa declared that the 21 legislators were still members of the MMD party. He added that objections raised by the government's lawyers were based on "flimsy grounds, lacked merit and were feeble afterthoughts" that deserved to be dismissed with costs to follow later. The MMD appealed the decision and the case was transferred to the Supreme Court.

On 6 August 2001, a tribunal that had been established in June 2001 to investigate allegations of abuse of office through misuse of public funds involving three Zambian cabinet ministers found two ministers guilty. The tribunal recommended that the Home Affairs Minister and the Supply Minister should be fired from their positions for diverting two billion Kwacha (about 555,500 USD) to unauthorised use. The ministers asked for the case to be reviewed. Nevertheless, it should be noted that the petitioners in that case claimed "that the tribunal has not conducted itself in a proper and professional manner".

LAWYERS

As of May 2001, there were 462 lawyers in private practice registered with the Law Association of Zambia, the legal professional body. Legal education is undertaken either at the University of Zambia or abroad.

Professional education is provided at the Zambian Institute of Advanced Legal Education. There are approximately 40 lawyers who work for the government as legal advisers. There are also 23 lawyers who appear on behalf of the government as state advocates in the High Court.

The professional conduct of lawyers in Zambia is organised under the Legal Practitioners Act. The Act provides for penal sanctions in case of misconduct. Zambian lawyers are also governed by other professional codes of ethics, such as the Commonwealth and the International Bar Association codes of conduct. Moreover, judicial officers on the High Bench are subject to the Ministerial Code of Conduct. All Zambian public officers, including lawyers and judges, are bound by the Anti-Corruption Commission Act.

It has been reported that there is a shortage of lawyers in Zambia. The pay rates in several neighbouring countries are higher and qualified Zambian lawyers find it easier to practice law in those countries.

Independent experts have also noticed that it takes several years for the Zambian Law reports to be printed and they are not widely available. Many lawyers are forced to rely on out-of-date copies of English legal textbooks for use in the High Court.

Legal Aid

Normally, the governmental Department of Legal Aid provides for representation for indigent defendants. In February 2001, there were 10 Legal Aid lawyers covering the whole of the country. These lawyers are responsible for defending all the cases in the High Court. Each of the Legal Aid lawyers covers up to 50 cases. More than 40 Legal Aid lawyers are estimated to be required in order to provide adequate representation to all defendants requiring free assistance. The Legal Aid lawyers are civil servants, directly employed by the government, and get paid for taking cases where legal aid is required. Upon finishing a case, many of them return to other areas of governmental legal work. It seems that working in the Legal Aid Department is considered a low status appointment. The Legal Aid Act 2001 provides for private lawyers to be paid on a case-by-case basis for undertaking criminal cases.

During the period under review, the Law Association of Zambia rejected a proposal by the Government to amend the Legal Practitioners Act to provide for *pro bono* work as a precondition for the Bar Association to issue practising certificates. The Law Association contended that *pro bono* work has always been voluntary and that the Law Association is currently running a Legal Aid Scheme with the aid of the Norwegian government to provide for the legal representation of those who could not otherwise afford counsel. The Law Association is also seeking to introduce a professional requirement for all lawyers to undertake at least five cases every year for no fee or for a substantially reduced fee. The proposal is that four cases, civil or criminal, should be undertaken for a fee of 400,000 Kwacha (less than 100 USD) and a fifth for no fee at all.

The Government has also attempted to amend the State Proceedings Act aimed at removing the discretion of courts to grant stays of executions or similar interim measures in cases involving acts or omissions by public officers. The Law Association of Zambia objected to that amendment and, although the Act was initially passed by the Parliament, it was not signed by the President following strong opposition.

CASES

Sachica Sitwala {lawyer, member of the Law Association of Zambia}: On 6 February 2000, Mr. Sitwala was arrested in Mongu while attending to 177 clients, men and women, some with babies on their backs, whose market structures were destroyed by the police. The lawyer was arrested with the 177 clients because the police considered the gathering an unlawful assembly on account of their number. Mr. Sitwala and the 177 clients were detained in an overcrowded prison and were heavily guarded by armed police officers. The President of the Law Association of Zambia, Christopher Lubasi Mundia, and the Vice Chairperson, Mrs. Nellie Mutti, travelled to Mongu in the western province of Zambia 600 miles from Lusaka, and successfully defended the lawyer and the 177 clients. The police conceded during the trial that the lawyer and the clients had behaved peacefully and that they proceeded to their arrest because they were worried about their number and not about their conduct.

Christopher Lubasi Mundia {lawyer, Chairman of the Law Association of Zambia}: On 12 April 2001, Mr. Mundia notified the police in writing that in accordance with the Public Order Act, the Law Association of Zambia along with several civil society groups was to hold a public rally to debate the issue of President Chiluba's third term. The aim of the rally was to sensitise the public to reject the third-term bid for the President, as this was not provided for in the Zambian Constitution. The public rally was scheduled for 21 April 2001 from 10.00 to 17.00. On 18 April 2001, at 08.20a.m., the Commanding officer of the Lusaka division phoned the Chairman threatening him that "the police would not allow the meeting to go ahead and that the gathering would be crushed forcefully with the might at the disposal of the police". Mr. Mundia took the threat seriously and the rally was cancelled. In accordance with the Public Order Act provisions, an appeal was made to the Ministry of Home Affairs in writing, but the Minister failed to reply. The Law Association of Zambia and the involved NGOs filed a petition to the High Court, which ruled in their favour, as the police behaviour was not in accordance with the law. Furthermore, the telephone threats constituted a form of harassment in violation of Article 3 of the Zambian Constitution guaranteeing freedom of speech.