Preliminary Observations by Irene Khan, Special Rapporteur on Freedom of Opinion and Expression, at the end of her visit to Zambia (20- 31 January 2025)

At the invitation of the Government of Zambia, I visited the country from 20 to 31 January 2025. In addition to Lusaka, I also travelled to Livingstone, Kitwe and Ndola.

I would like to thank the Government for the invitation and for facilitating my visit. I am the first United Nations Special Procedures mandate holder to visit the country in the last 8 years, and the first ever civil and political rights mandate holder to be invited to Zambia. I appreciate the Government`s openness to engage with the UN's Special Procedures and its willingness to address its human rights challenges constructively in cooperation with the United Nations.

Today, I am sharing my preliminary findings and recommendations. I plan to submit a more extensive, written final report to the UN Human Rights Council in June this year.

The purpose my visit has been to assess the state of freedom of expression and opinion in Zambia in line with its international human rights obligations, identify and analyse the challenges and opportunities, and make recommendations to the Government and other stakeholders.

I appreciate the access that I have been given to senior officials. I had the honour of being received by the President on the completion of my visit. During my visit I met with most government ministers and senior officials relevant to my mandate, as well as Parliamentarians, members of the judiciary, and the Human Rights, Electoral and Law Development Commissions. I also met with a large number of provincial and local government officials and office holders in the Southern Province and the Copperbelt, including the Minister for the Copper Belt. A list of my government meetings is attached to my end of mission statement.

I have also met or received written submissions from a very wide range of civil society actors, including human rights defenders, religious leaders, journalists, social activists, academics and politicians, representing a broad spectrum of views, professional expertise and organizational affiliations. I am grateful to all interlocutors for information, insights and their valuable time.

My findings and recommendations are based on what I have seen, heard, read and researched, drawing on national, international, governmental and non-governmental sources.

My overall observation is stark**.**

Human rights stand at a crossroads in Zambia as the country prepares for general elections in 2026 amidst major economic challenges, rising political tensions and polarization along ethnic and regional lines.

The 2021 Presidential elections in Zambia marked a significant political transition with the victory of the United Party for National Development (UPND), and an end to the decade long rule of the Patriotic Front (PF) during which grave human rights violations and high levels of political violence prevailed with impunity. Freedom of expression was a major casualty during those years. Opposition leaders, activists, human rights defenders and journalists were attacked, jailed or killed, at least two prominent independent media outlets shut down, and civic space severely restricted. The President himself and many senior members of his government were targets of human rights violations.

The current Government came to power on a platform for change, promising to uphold human rights, reform laws and institutions, and ensure economic development and open, effective governance. These promises generated high expectations among the people of Zambia, sparking a collective hope of an end to the repressive practices of the past.

More than half-way through the term of this government, some important steps have been taken to promote freedom of expression. Among the most notable achievements are the adoption of the Access to Information Act and the abolition of the offence of defamation of the President. However, significant threats and challenges to freedom of expression remain unaddressed or only partly addressed. In my interaction with different stakeholders in civil society, media and the political sphere, I have sensed disappointment with the slow pace of reforms and also growing concerns that the oppressive tools and tactics employed by the previous regime are being revived to suppress criticism against this government. Some interlocutors pointed to signs of growing intolerance of dissent and criticism.

Freedom of opinion and expression is vital for both democracy and development. In societies where public debate is open and information flows freely from diverse sources, citizens feel empowered to participate in public affairs, markets operate more efficiently, private investment is more forthcoming, and public institutions are more accountable and effective. Access to information, which is an integral part of the right to freedom of expression, is vital for exposing and combatting corruption, tax evasion and illegal activities. Transparency, civic space and independent media - which thrive in contexts where freedom of expression is upheld - are powerful drivers for ensuring that much needed public funds or natural resources are not destroyed or diverted for private use.

For the sake of Zambia's development as well as democracy, the government must follow through on its commitments to uphold human rights and foster a truly enabling environment for the right to freedom of expression.

Let me now highlight 7 "take aways" from my visit.

Firstly, many of those in civil society to whom I spoke acknowledge that closure of media outlets or violent attacks on journalists of the kind that were prevalent under the previous regime is no longer happening. Instead, they claim that the legal system is being weaponized to prosecute and silence criticism and dissent. They also point to the tendency of the authorities to apply the laws in a selective manner against political opponents or other critics of the government. When prosecution is politicized, it risks creating a perception of political persecution and regional and ethnic bias which can endanger social stability.

Legal reform is imperative but so too is the need for clear policies to ensure that police and prosecutorial authorities apply the laws in a fair and non-discriminatory manner.

Secondly, legal reform to bring laws relating to freedom of expression in line with Zambia's international obligations.

The decriminalization of defamation of the President is a commendable move although its practical effect has been blunted by the continued use of the offence of insult. I am concerned

that criminal offences which restrict freedom of expression in contravention of international law, namely criminal libel, insult, seditious practices and hate speech not only remain on the statute books and are being actively used. These offences are defined in vague and overly broad terms, giving undue discretion to the police and prosecutorial authorities that can lead to abuse. The offences carry disproportionately harsh penalties and can have a chilling effect on freedom of expression. I urge the government to consider repealing or revising these laws.

The Cyber Security and Cybercrimes Act restricts online content beyond what is permitted under international law. The restrictions are framed in overly broad and vague terms, which encourages potential abuse and arbitrary application by the authorities. The government has recognized the need to revise this piece of legislation and is in the process of consultations to develop the proposed Bill. I encourage the government to consult civil society thoroughly and to ensure that the final product is in full compliance with Zambia's international human rights obligations.

Another legislation that has drawn heavy criticism nationally and internationally is the Public Order Act which dates back to colonial times. The government has acknowledged that this law is defective and proposes to replace it with the Public Gathering Bill. Nevertheless, the Public Order Act continues to be used by the police as a license to restrict and disrupt public gatherings by opposition groups. The government has assured me that the Public Gatherings Bill will be submitted to Parliament for adoption soon. The country has already entered a pre-election period in which political actors are vying for public space to mobilize support, and it is vital that legal reforms to strengthen freedom of expression and the right to peaceful assembly are adopted and implemented fairly and impartially.

It is crucial that the revision of laws be conducted through an inclusive process that engages all relevant stakeholders and incorporates the expertise and advice of relevant institutions such as the Zambia Law Development Commission and the Human Rights Commission.

Thirdly, information manipulation in online spaces.

Like many other countries, Zambia is witnessing a rise in online disinformation, misinformation and hate speech. I have been appalled at the manipulation of information by politicians, the high degree of polarizing speech and the low ethical standards, including the deliberate spread of disinformation. Politicians and public officials have a crucial responsibility in shaping public discourse and fostering a respectful, tolerant, and safe society. It is essential to promote ethical standards among politicians to ensure that their speech does not incite intolerance, discrimination, or hatred, nor spread disinformation that undermines human rights and freedom of expression. This should be achieved across the political spectrum by political parties adopting and adhering to codes of conduct, education and greater awareness about information integrity, and engaging in initiatives to build trust among political factions and refraining from divisive rhetoric.

Criminalizing online speech purely on grounds of falsity is not only contrary to international human rights standards but is also counterproductive in that it creates more distrust. The best antidote to disinformation is a multi-pronged strategy, combining proactive, factual information from the government, fact-checking by reliable and trustworthy sources, independent, diverse and pluralistic media, social media regulation that encourages companies

to carry out human rights due diligence and content moderation based on human rights policies, and information and digital literacy of users. I encourage Zambia to introduce digital literacy (which is distinct from digital skills) as part of its national education curriculum.

Fourth, ensuring the right to information.

While the adoption of the Access to Information Act is commendable, it is now crucial that the law is fully implemented, including through the full operationalization of the Human Rights Commission as the access-to-information agency. The law should not become a mere checkbox exercise to appease the IMF but a concrete measure to empower citizens and promote a culture of transparency and accountability of government and state institutions. The Human Rights Commission, which has been mandated to oversee the Act's implementation and handle access-to-information complaints, should be adequately staffed and strengthened to carry out its responsibilities. The government must ensure that all State entities adopt clear disclosure policies and set up proper systems for preserving, managing, and proactively sharing information.

Fifthly, ensuring equal and meaningful access to the Internet.

Ensuring robust connectivity and a strong IT infrastructure is essential for the people of Zambia to fully exercise their right to freedom of expression, including access to information. It is also critical for fostering sustainable economic development across the country.

I was pleased to learn from the Zambian Government that investing in connectivity and IT infrastructure is a top priority. Zambia has demonstrated strong commitment to promoting international cooperation as a co-facilitator in the UN multilateral process that brought about the Global Digital Compact. At the national level, I was informed of notable progress, including the expansion of internet access in the education sector. I encourage Zambia to continue this trajectory by further investing in connectivity to ensure that all citizens can benefit from the opportunities that digital technologies offer to express themselves and to access information.

From a human rights perspective, it is important that internet governance be transparent and accountable, and disruptions or shutdown should be carried out as a means of obstructing access to information or freedom of expression. This issue could gain significance in the upcoming elections. The Information and Communication Technology Act (ICT) and the Cyber Security and Cyber Crimes Act (CSA), give comprehensive powers to the Zambia Information and Communications Technology Authority (ZICTA), but are silent on transparency and accountability. The government should rectify this lacuna in the law.

Sixth, preserving media freedom.

Independent, diverse and pluralistic media is a fundamental component of freedom of expression – it fulfils society’s right to information and a journalist’s right to freedom of expression. Zambia appears to have a vibrant and diverse media landscape, including over 50 television stations and more than 100 radio stations operating across the nation, but it is not without its challenges.

The pressures on freedom of expression affect the independence and freedom of journalists and editors. I am concerned about reports of partisanship within the media, and in particular the

close alignment of state-owned media channels with the ruling party's narratives, and the tendency of commercial stations to amplify the views of the opposition. The laws and institutional arrangements should be revised to ensure editorial independence of public broadcasting and promote diversity of voices and perspectives.

I see further room for strengthening the media by ensuring full independence of the Independent Broadcasting Authority (IBA). The fact that board members report directly to the Minister and that appeals regarding broadcasting licenses are also directed to the Minister raises questions about its independent functioning. A more transparent and impartial process for appointing commissioners and handling appeals is needed, to enhance the authority's credibility and independence.

The recent legislative arrangements for self-regulation of the media are positive and should help to strengthen professionalism in journalism, and empower media organizations to better organize and advocate for the protection of media freedom.

I am particularly impressed by the critical role of community radio stations, particularly in rural areas where they are the primary source of news. However, these radio station often face significant financial challenges, which threaten their operations and ability to produce quality news and reach communities. Supporting community radio and small commercial radio stations is important to ensure media diversity and pluralism.

Seven, robust institutions to safeguard the right to freedom of expression.

Strong, independent judiciary is essential for the protection and promotion of human rights, including freedom of opinion and expression. There are concerns about the independent functioning of the judiciary. I also heard concerns about the independence of the Human Rights Commission and the Electoral Commission. The President's authority to appoint and remove members of the judiciary and the Commissions raise questions about their independence and impartiality in relation to the Executive. Perceptions matter. At stake is public trust. I urge the Zambian government and the Parliament to prioritize constitutional and legal reforms to strengthen the independence and impartiality of the judiciary and other key state institutions responsible for safeguarding human rights.

Finally, a word about civil society. It plays a pivotal role in championing human rights and holding the government to account. I encourage the government to review the NGO Act with a view to preserving the independence and diversity of civil society. I encourage civil society organizations to proactively engage in capacity-building initiatives by seeking international technical assistance, participating in learning and development exercises, enhancing professionalism, and fostering greater cooperation and collaboration within the sector. I believe civil society can play a critical role in promoting understanding of freedom of opinion and expression as a right that is essential for the full enjoyment of economic, social and cultural rights as well as political and civil rights.