The state of democracy in Zambia

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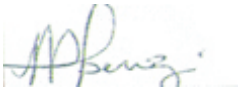

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Abbreviations and Acronyms

ACC	Anti-Corruption Commission
AIDS	Acquired Immuno-deficiency Syndrome
APRM	African Peer Review Mechanism
CCC	Committee for Clean Campaign
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CPI	Corruption Perception Index
CSO	Central Statistical Office
CSO	Civil Society Organization
CSPR	Civil Society for Poverty Reduction
DEC	Drug Enforcement Commission
ECZ	Electoral Commission of Zambia
EU	European Union
FBO	Faith-based Organization
FDD	Forum for Democracy and Development
FDI	Foreign Direct Investment
FG	Focus Group
FGD	Focus Group Discussion
FODEP	Foundation for Democratic Process
FPTP	First Past the Post
GRZ	Government of the Republic of Zambia
HIPC	Highly Indebted Poor Country
HIV	Human Immuno-deficiency Virus
IBA	Independent Broadcasting Authority
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDEA	International Institute for Democracy and Electoral Assistance
I-PRSP	Interim Poverty Reduction Strategy Paper
JASZ	Joint Assistance Strategy for Zambia
MDGs	Millennium Development Goals
MECOZ	Media Ethics Council of Zambia
MISA	Media Institute of Southern Africa
MMD	Movement for Multi-Party Democracy
NCC	National Constitutional Conference
NEC	National Executive Committee
NGO	Non-Governmental Organization
NGOCC	Non-Governmental Organization Coordinating Council
NWLG	National Women's Lobby Group
OECD	Organization for Economic Cooperation and Development
PAC	Public Accounts Committee
PACRA	Patents and Companies Registration Agency
PF	Patriotic Front
PRSP	Poverty Reduction Strategy Paper
SACU	Southern Africa Customs Union
SADC	Southern Africa Development Community
SDA	Seventh Day Adventist
UDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Programme
UNIP	United National Independence Party

UNZA	University of Zambia
UPND	United Party for National Development
ZAMEC	Zambia Media Council
ZANIS	Zambia News and Information Services
ZCSD	Zambia Council for Social Development
ZCTU	Zambia Congress of Trade Unions
ZNBC	Zambia National Broadcasting Corporation

Chapter 1

Introduction

1.1 Background

Zambia became renowned for its peaceful transition from one party to multi-party democracy when in 1991 it replaced a sitting president through peaceful elections three years before the end of his term of office. This was part of a general trend in Africa which began in the late 1980s and saw many African one-party regimes replaced by multi-party democracies following political changes in Europe, including the end of the Cold War. Although formally, Zambia has been a multi-party democracy, it was virtually a one-party state for two decades from 1991 to 2011 as the ruling Movement for Multi-Party Democracy (MMD) remained in power. The MMD is a political party that was formed by an amalgamation of organizations, which included civil society organizations, student groups, trade unions, church organizations and other interest groups of the same name that championed the return to multi-party democracy.

Zambia was a multi-party democracy from October 1964 to December 1972 when a one-party state constitution was introduced, but this ended in 1990. Since the re-introduction of the multiparty system, many civil society organizations were not affiliated to the ruling party. However, they have continued to play a watchdog role vis-à-vis the party and the government. Since coming to power in 1991, the government formally proclaimed its commitment to democracy. However, a number of contentious issues remained unsettled.

Firstly, there were constitution amendments of 1996 which were preceded by political tension as a result of confrontation between opposition parties and civil society organizations on one hand, and Government on the other hand. The contentious issues included proposed amendments to the constitution, which were subsequently passed by parliament. These amendments required candidates for election to the Office of President of the Republic to be Zambian citizens by birth or decent, as well as both their parents and another barred chiefs from participating in active politics, including contesting for political offices. These were considered by critics of the government not only to be discriminatory, but also to have been aimed at excluding first president of the Republic Kenneth Kaunda, whose parents came from Malawi, and his Vice President, Inyambo Yeta, who was a chief, from standing as presidential candidates. In addition, during the run up to the 2001 presidential and parliamentary elections President Frederick Chiluba attempted to have the constitution of the republic amended to enable him to seek a third term in office. This move would have removed an important provision in the constitution included in 1996 with the initiative of the MMD umbrella organisation intended to prevent presidents from overstaying office.

Secondly, the electoral process continued to be an area of contention in the country. Presidential elections held in 1996 and 2001 were challenged in court by petitions lodged by opposition parties. While some monitors endorsed elections as generally free and fair, others took the contrary position. The constitution has been another issue of concern for decades in the country.

• A similar confrontational situation recurred ahead of the convening of the National Constitutional Conference (NCC) in 2007 which was tasked with examining, debating, and adopting proposals to alter the Constitution of Zambia as contained in the draft constitution produced by the Mung'omba Constitution Review Commission [(CRC) (Article 3 of the NCC Act)]. Before the Mung'omba Commission was appointed, there had been consensus that the country required a new constitution. The draft constitution produced by the Commission and the recommended mode of adopting it through a Constituent Assembly were generally well received by citizens and civil society organisations. However, apparently not comfortable with some of the contents of the proposed constitution, such as the requirement that to be elected president, a candidate must receive at least 50%+1 of the votes cast, the government opposed the adoption of the constitution through a constituent assembly and opted for the NCC, capitalising on divisions within the opposition ranks. The NCC produced and handed the draft constitution to the government in August 2010[1]. The constitution bill based on the NCC Draft Constitution failed to pass the second reading in the National Assembly.

Notwithstanding the foregoing, democratisation is a continuous process which is also subject to internal and external influences. The Government of Zambia continued to affirm its commitment to democracy and has been open to local and international scrutiny. For example, it accepted the African Peer Review Mechanism (APRM), and it was subject to UN human rights scrutiny. In 2002 the government commissioned the National Governance Baseline Survey in collaboration with cooperating partners to provide data on various aspects of governance, including corruption, efficiency of public institutions, and the quality of public services. Other organisations have undertaken similar studies. All these were intended to assist policy makers, activists, and other stakeholders in formulating strategies to improve governance. It was against this background that the State of Democracy in Zambia (SoD) Assessment was conducted.

[1] *Times of Zambia*, 31 August 2010, Front Page

1.2 Objectives of the assessment

1.2.1 Main objective

• The main objective of the study was to assess and evaluate the State of Democracy in Zambia

.1.2.2 Specific objectives

Specific objectives were:
- To establish the extent to which democracy has been established in Zambia;
- To identify areas of democratic deficit and strengths; and
- To make recommendations for political reform to enhance democracy.

1.3 Methodology

A detailed description of the methodology used to undertake the assessment is given in Annex A. The research team used a modified assessment framework originally prepared by International Institute for Democracy and Electoral Assistance (International IDEA) based on four key themes, namely, Citizenship, Law and Rights; Representative and Accountable Government; Civil Society and Popular Participation; and Democracy Beyond the State.

While secondary data for the assessment was collected through desk research, primary data was collected by the research team, using a guide through interviews with key informants, targeting officials and councillors in local authorities, central government officials, and officials of civil society organizations in rural and urban districts in five (5) provinces of Zambia namely: Lusaka; Southern; Copperbelt; Luapula; and North-Western. A survey of ordinary citizens, targeting heads of households using a questionnaire was conducted, while Focus Group Discussions (FGDs) in each of the five (5) selected provincial headquarters were conducted. The assessment involved a total of 95 key informants, 300 household heads and 140 Focus Group Participants.

1.4 Rationale of the Assessment

The data yielded by the study will be useful to policy makers and civil society activists in Zambia and to a broad range of stakeholders interested in advancing the cause of democracy in the country. It will make the Zambian public aware of how far they have advanced in the democratisation process and the areas still requiring attention. The study will also assist in setting a basis or a tool for regular reviews of the country's progress in key areas of democratisation, and thereby empower citizens to track achievements or setbacks. It is also expected to contribute to evidence-based advocacy for reform by a diversity of stakeholders.

CHAPTER 2

Citizenship, law and rights

2.1 Nationhood and citizenship

This section examines the extent to which there is public agreement on a common citizenship without discrimination. In so doing the section will discuss different aspects that put nationhood and citizenship into perspective.

2.1.1 Inclusiveness of the political nation and citizenship in Zambia

Part II of the 1991 Constitution of the Republic of Zambia, as amended by Act No. 18 of 1996, provides for the means of acquiring Zambian citizenship such as by birth, descent, registration and naturalization. One of the positive developments in the Zambian constitution regarding the issue of citizenship is that it does not discriminate on the basis of gender as women and men alike can transfer their citizenship status to their children if married to non-Zambians. For instance, Article 5 of Part II of the constitution provides that 'A person born in or outside Zambia . . . shall become a citizen of Zambia at the date of his birth if on that date at least one of his parents is a citizen of Zambia'. This is an indication that Zambian citizenship is obtained by birth and descent. However, non Zambian citizens cannot acquire Zambian citizenship by virtue of marrying Zambian citizens.

For a long time citizenship has been a subject of contention in Zambia. This was in particular the matter of citizenship of the former republican President Dr Kenneth Kaunda who ruled the country for 27 years. His successor Frederick Chiluba alleged that Kaunda was not a Zambian citizen. The reason could have been because Dr Kaunda had expressed interest in contesting in the 1996 presidential election against the then incumbent President Frederick Chiluba. The argument used against Dr Kaunda was that his parents were not indigenous Zambians but Malawians who came to settle in Zambia. As indicated in Chapter 1, ahead of the 1996 elections the constitution had been amended to include a provision that not only should presidential candidates be Zambians but that their parents also must be Zambians by birth or descent. After the elections of 1996 the same clause was used, albeit unsuccessfully, by opposition parties to challenge Chiluba's election as president of the republic. Similarly, in the run up to the 2011 elections, the Patriotic Front party challenged President Rupiah Banda's candidature for election as president on the grounds that his parents were Malawians *(The Post, 3 August 2011)*[1]. What can be noted here is that presidential candidates competing for the presidency tend to want to apply

[1](The Post, 3 August 2011)

exclusionary notions of citizenship to prevent their political competitors from running for elections. They use constitutional gymnastics to justify their political exclusion on the basis of citizenship *(Georges Nzongola-Ntalaja 2004)*.

2.1.2 Impartiality and inclusiveness of procedures for amending the constitution

Procedures for amending or altering the constitution are inclusive and provided for in the Constitution of Zambia. There are other parts of the constitution that can be amended by the National Assembly only if supported by the votes of not less than two thirds of the members of the National Assembly. This requirement applies particularly in respect of amendments to Part III (the bill of rights). Article 79 of the constitution provides for the amendment of the constitution as follows:

(1) Subject to the provisions of this Article, Parliament may alter this Constitution or the Constitution of Zambia Act.

(2) Subject to clause (3) a bill for the alteration of this Constitution or the Constitution of Zambia Act shall not be passed unless-
(a) not less than thirty days before the first reading of the bill in the National Assembly the text of the bill is published in the Gazette; and
(b) the bill is supported on second and third readings by the votes of not less than two thirds of all members of the Assembly.

(3) A bill for the alteration of Part III of this Constitution or of this Article shall not be passed unless before the first reading of the bill in the National Assembly it has been put to a National referendum with or without amendment by not less than fifty per cent of persons entitled to be registered as voters for the purposes of Presidential and parliamentary elections.

In addition, the National Constitutional Conference (NCC) Act of 2007 provided for an ad hoc platform for deliberating on and adopting proposals to alter the Constitution of Zambia. This provision was contained in the draft constitution produced by the Mung'omba CRC. In terms of its membership, the NCC was quite representative as provided for in the enabling Act (see Annex B). Part II (3) of the NCC Act ensured equitable representation of women and men in the NCC. It indicated that where an organization was to nominate two people at least one should be female and if more than two, at least 30% should be women. The Act prohibited non-Zambian citizens from participating.

The procedure for adopting the Mung'omba CRC's constitution proposals through the NCC was, however, not well received by many Zambians. Some civil society organizations belonging to the Oasis Forum started lobbying against convening the NCC altogether. Many of these wanted the constitution to be adopted by a constituent assembly, as recommended by the Mung'omba CRC. Subsequently they questioned the impartiality of the NCC. This was mainly because NCC membership was determined by the government

without any consultation and was dominated by persons from public institutions.
The process of selecting people to participate in the NCC was considered faulty and that individuals or organizations that took part in the NCC did not take into account people's views but rather represented their own views and the views of those who appointed them to serve on the NCC.

Subsequently they questioned the impartiality of the NCC. This is mainly because NCC membership was determined by the Government without consultation and was dominated by persons perceived from public institutions.

A number of questions arose in the selection of participants in the constitution-making process by the NCC. For instance, people in some districts did not know how their representatives found themselves on the NCC or how they were chosen to serve on the NCC. It was no wonder that there was no feedback concerning the deliberations of the NCC. What seemed to concern the representatives were the issues of putting food on their tables.[2]

Another group of people observed that Non-governmental Organisations failed to sensitise the people on governance issues.[3]

In the Livingstone FGD participants noted that the majority of Zambians thought that the Mung'omba Draft Constitution adequately represented wishes and expectations of the people. The participants, however, wondered why the Draft Constitution was finally not adopted. They observed that the draft constitution produced by the NCC, on the other hand, was rejected because, like various previous constitutions, it did not take into account views of the people. As a result of the rejection of the NCC draft constitution it was envisaged that after the 2011 elections any new government would want to start its own constitution making process. [4]

FGD participants in Samfya observed that there was no consensus on the existing constitution because constitution making followed the aspirations of a political party in power. They pointed to the 1996 constitution as one that was specifically designed to prevent Dr Kaunda from contesting the 1996 elections when the then President F.T.J. Chiluba accused him that he was not a Zambian citizen to contest the elections. They noted that there was a tendency by those in power to ignore people's submissions if they were inconsistent with theirs. The participants held the view that whenever a new government came to power it abandoned all the efforts made by the previous government and started its own process of constitution making. Participants were concerned over when the process of constitution making would come to an end.'[5]

Participants in a FGD in Lusaka observed that because submissions made by the Western Province to the NCC had been ignored, a crisis in Western Province over the Barotseland

[2]FGDs held in Kafue on 5 November 2010
[3]FGDs held in Monze on 21 October 2010
[4] FGDs held at Elite Apartment, Livingstone on 20 October 2010
[5] FGDs held at the Youth Resource Centre in Samfya on 6 January 2011

Agreement of 1964 had persisted. It was thus anticipated that any new government coming to power would start its process.
The FGD participants blamed President Levy Mwanawasa who initiated the NCC, which in turn ignore the submissions by representatives from the Western Province.[6]

People need to know what a constitution is and what it contains in order to progressively debate proposals and reach some consensus on the constitution. Unfortunately in Zambia, the understanding of the constitution is the preserve of a small number of people who can read English. But even for the educated Zambians, the legalistic language used in the constitution is too difficult to comprehend. The language used is very technical. In addition, not everyone can read and write in English. There is need to translate the constitution into local languages so that it can be accessible to the majority of Zambians. The process of adopting the Mung'omba CRC draft constitution through the NCC failed after the ruling party, the Movement for Multiparty Democracy (MMD) could not manage to secure the two thirds majority vote to pass the Constitution of Zambia Bill in the National Assembly.[7]

2.1.3 Acknowledgement of cultural differences and protection of minorities and marginalised social groups

According to the Preamble of the Constitution of Zambia, the country recognizes 'the equal worth of men and women in their rights to participate and freely determine and build a political, economic and social system of their own free choice.' Furthermore, the Preamble declares that 'the Republic a Christian nation', while upholding the right of every person to enjoy that person's freedom of conscience or religion.'[8] To a large extent, therefore, cultural and religious differences are acknowledged in Zambia. Zambia has significant religious diversity that includes Christianity, Islam, Hinduism and other traditional religions. People are thus free to practise their religion as stated in the Preamble of the constitution. But the declaration of a 'Christian nation' may make other religions feel marginalised even though the Preamble constitutes only a statement of intent or desire that is not justiceable.

Some focus group participants expressed the view that people conduct their traditional ceremonies without any form of restrictions and that the government and other stakeholders have particularly since 1991been very supportive of traditional ceremonies. Other participants thought that politicians have used traditional ceremonies for campaigns to gain political mileage, hence the ceremonies risk losing their intended purpose if politicians are allowed to dominate at such functions. Chiefs also consider traditional ceremonies as means to acquire political benefits.[9]

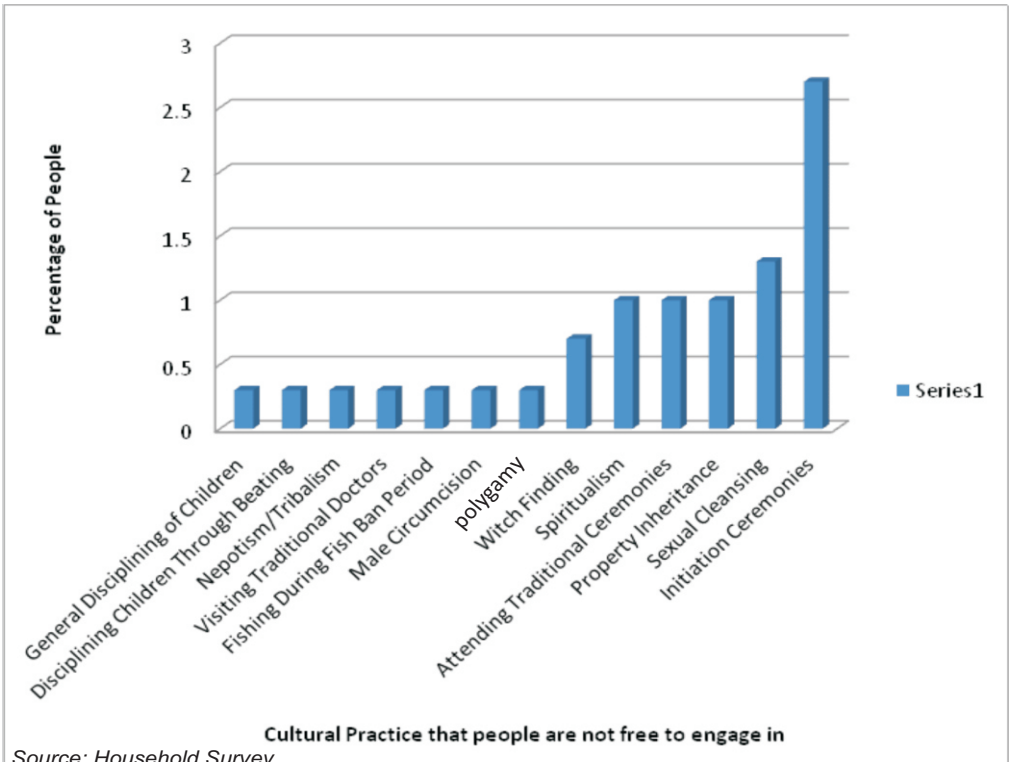
The majority of household respondents reported that they are free to practise their different cultures and cultural activities. Those that indicated that they were not free

[6]FGDs held in Lusaka on 15 November 2010
[7]The Post newspaper, Saturday, 2 April 2011
[8] Constitution of the Republic of Zambia 1991, as amended by Act No. 18 of 1996
[9]FGDs held in Livingstone on 20 October 2010 and in Lusaka on 15 November 2010.

accounted for only 10%of the 300 respondents that were interviewed. Figure 2.1 shows the cultural practices people said they are not free to engage in.

From Figure 2.1 it can be noted that the practices that many people are not free to engage in are associated with sexuality. According to representatives of government and civil society organizations that participated in the FGDs in Samfya district, many people in modern-day Zambia avoid sexual cleansing for fear of contracting HIV and AIDS. Sexual cleansing is also considered to be a retrogressive customary practice which exposes women to sexual exploitation. Initiation ceremonies are also less popular than before. Imbusa or ichisungu, under which girls that reach puberty are required to be confined indoors or away from the public for a certain period of time under the tutelage of elderly women, are disappearing because of the need for girl children to go to school. Girls also think that initiation ceremonies are old-fashioned.

Figure 2.1: Practices that people are not free to engage in



Source: Household Survey

In Zambia homosexuality and lesbianism are also prohibited by law and generally considered taboo. However, homosexuality and lesbianism have over the years become a reality and the practice is rampant.[10]

Comparing themselves to neighbouring countries such as Botswana and Tanzania, Zambians feel that they do not practice their culture to the maximum. According to representatives from government and civil society organizations who participated in Focus

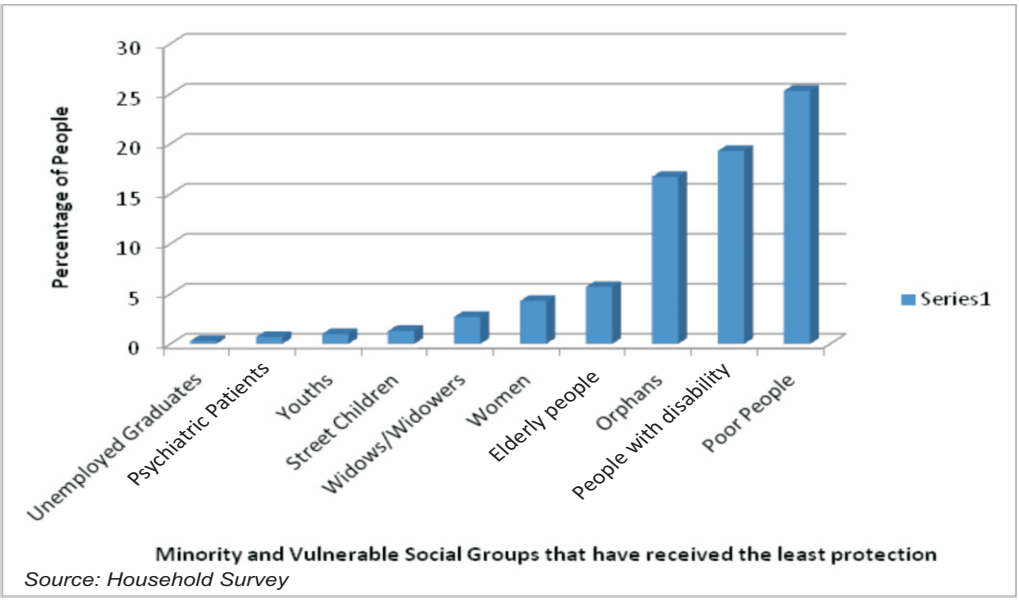
[10]FGDs held in Ndola on 13 January 2011

Group Discussions, Zambians are reluctant to practise their culture because of the influence of the English language which is foreign. In neighbouring countries such as Botswana and Tanzania, the people freely use Setswana and Swahili respectively, in addition to English as official languages. Late John Mwanakatwe, a Zambian educationist, lawyer and politician once suggested that a local language spoken by at least 60% of Zambians be selected and approved for use as the official language. However, making a particular local language official would not be easy in Zambia given the huge cultural diversity with over 70 languages spoken in the country. Other tribes would feel marginalized or excluded which may in turn be a source of conflict in the country. FGD participants concluded that English was a unifying factor, and therefore, the country should continue using it.[11]

Notwithstanding the acknowledgement contained in the Preamble of the Constitution of Zambia, there is a strong view that minority and vulnerable social groups are not very well protected in the country. The majority (74%) of the 300 local people interviewed indicated that the minority and vulnerable social groups were either less protected or were not protected at all. Only 22.7% of the people interviewed indicated that minority and vulnerable social groups were well protected. Figure 2.2 shows marginalised and vulnerable social groups that have received least protection according to the respondents.

From Figure 2.2, it can be noted that marginalized and vulnerable social groups that have received the least protection, according to responses of household respondents, place the poor people as highest, followed by people with disability and orphans. According to representatives of government and civil society organization, people with disabilities have received less protection because institutions that are supposed to protect their rights, such as the Ministry of Community Development and Social Services (MCDSS) and the Zambia

Figure 2.2: Marginalized and vulnerable social groups that have received the least protection



Source: Household Survey

[11]FGDs held in Samfya on 6 January 2011

Agency for Persons with Disabilities were poorly funded. The reason for the poor funding was that the MCDSS was not a priority ministry. In addition, the majority of people with disabilities were not aware that they were supposed to get help from the MCDSS. The government seemed to have no progressive plans for the disabled. Government policies for the disabled were not implemented because the government did not prioritize social and community development.[12] For instance, Samfya Ddistrict has no specialized teachers to handle the hearing impaired. In classroom, the hearing impaired are mixed with pupils that are not hearing impaired. The result is that the deaf stop going to school because they cannot access education at the same level as the able bodied.[13]

2.1.4 Treatment of refugees and asylum seekers, and immigration policy

Asylum seekers in Zambia were well looked after. During the liberation struggle of Southern Africa Zambia was a host to many freedom fighters that were fighting for political independence in their home countries. Some of these freedom fighters became presidents or are former presidents in their respective countries, but still call Zambia their second home. On the other hand, according to representatives from government and civil society organizations, Zambians who settled in some of the neighbouring countries are mistreated.[14] According to the *World Refugee Survey*, at the end of 2008, Zambia had 88,900 refugees and asylum seekers.[15] Some of the refugees are in camps while others are in residential urban areas, outside camps. Zambia is a signatory to the 1951 Refugees Convention. However, upon signing the Convention Zambia reserved guarantees of freedom of movement, access to employment and the right to primary education. Zambia's Refugees Control Act, 1970, has no protection against refoulement.[16] Refoulement is the process of sending refugees to countries where, for some reasons, it is not safe for them to return.[17]

2.1.5 Consensus on state boundaries and constitutional arrangements

Consensus on state boundaries has not been a major problem. In the past there were some border disputes between Zambia and Malawi which were amicably resolved.

2.1.6 Moderation societal divisions by constitutional and political arrangements

The Constitution of Zambia provides a basis for an inclusive society. Article 23 of the Constitution provides for the right of protection from discrimination. The Article further provides against laws or actions of a public authority that could be deemed as discriminatory. Clause (3) of Article 23 defines 'discriminatory' to be:

> affording different treatment to different persons attributable, wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, marital status,

[12] FGDs held in Mwinilunga on 11 January 2011
[13] FGDs held in Samfya on 6 January 2011
[14] FGD held in Mwinilunga on 12 January 2011
[15] World Refugee Survey, 2009
[16] ibid
[17] Refugees Control Act, 1970

political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

2.2 Rule of law and access to justice

This section presents an assessment of the extent to which the state and society are consistently subject to the law. The analysis is based on data collected through desk research, focus group discussions, household survey and interviews of people from civil society organizations and government.

2.2.1 Rule of law

Overall survey data indicate that there is no strong perception of the independence of the courts of law and their ability to deliver justice among respondents from members of the public. Out of the respondents interviewed, 17.3% stated that the courts were 'very independent' while 34.7% of the respondents stated that the courts were 'moderately independent,' while 30% of the respondents indicated that the courts were 'not independent'.

Almost an equal proportion, 26% and 29% of respondents, reported that they had been able to receive justice from courts of law "to a large extent" and "to a minor extent", respectively. Only 10% of respondents indicated that they had not been able to receive justice. In relation to receiving justice from the Police Service, a similar pattern of responses was noticeable with 21.7% indicated that they received justice "to a large extent" and 38% of the respondents indicated that they received justice "to a minor extent." A smaller proportion of 17.7% of respondents reported that they did not receive any justice from the Police Service. Table 2.1 shows the households' responses.

In contrast, respondents seemed to have relatively strong perception about how difficult it is to access justice and about unfair treatment of some alleged criminals by courts. As high as 57.7% of respondents from households reported that it was difficult to access justice. The responses for male and female respondents were proportionally high at 59.9% and 55.2%, respectively.
Overall, 60% of the members of the public surveyed indicated that not all alleged criminals were treated fairly by courts of law. Out of the 60% respondents, there were more male (64.3%) than female respondents (55.2%).

Although courts of law endeavour to operate independently, they face many challenges such as capacity problems, corruption and political interference. Lack of sufficient human resource has led to trial delays. Pre-trial detainees are held for a long period of time, sometimes for a few years, under bad living conditions.[19] It has been very difficult for accused Zambians to have access to legal aid due to inadequate capacity of the Legal Aid

Board to cope with the cases. The announcement by government in 2007 of its intention to introduce free legal services for the poor has not yet been realized. Local courts whose jurisdiction is over customary law can only decide on civil matters. Decisions made by these courts are sometimes in conflict with the Constitution and the Penal Code. Although decisions of any court that are inconsistent with the Constitution can be quashed on appeal, many affected people are not in a position to lodge appeals, let alone understand the technicality. Although the independence of the judiciary is guaranteed by the Constitution of Zambia, there has been loss of public confidence in the independence of the judiciary.

Table 2.1: Households' responses on extent of justice received from police and courts of law in percentages

Responses	Justice from Police	Justice from Courts
To large extent	21.7	26
To minor extent	38	29
Not at all	17.7	10
I don't know	1.7	5

Source: Household Survey

The extent to which public officials are subjected to the rule of law is influenced by circumstances. As evidenced in some cases where public officials were brought to account for offences they allegedly committed during the time they were in office. These cases included the case of Dr. F. J. T Chiluba & others v. the People and that of Dora Siliya who was subjected to a Tribunal Inquiry under the Parliamentary and Ministerial Code of Conduct Act. In 2007, Lands Minister Gladys Nyirongo, her deputy Moses Muteteka, Commissioner of Lands Frighton Sichone, Provincial Minister Joseph Mulyata and a Commissioner from the Drug Enforcement Commission (DEC) Ryan Chitoba were removed from their positions in order to facilitate investigations in alleged abuse of office.[20]

In addition to the foregoing, some participants at various validation fora observed that in some cases the media and members of the public, by their pronouncements, rendered accused people guilty even before the due judicial process took its course. As a result, when the decisions of the court are different from their preconceived views, they accuse the judicial system of lacking independence.

It was the general view of FGD participants in Lusaka, that public officials clearly understood the Rule of Law and that they were required to adhere to codes of conduct in the performance of their duties. However, some of these public officials deliberately choose not to follow the law and codes of conduct in order to acquire for themselves some benefits. As a result, a noticeable number of high ranking officials have abused their positions.[21] It is the feeling of many Zambians that public officials are not subject to the Rule of law and to transparent rules in the performance of their duties. The majority (70%) of the 300 respondents interviewed indicated that public officials were not subject to the

[18] http://international-care.orgAfrcontry.html
[19] Southern Africa Centre for Constructive Resolution of Disputes, *State of Political Governance in Zambia* (Lusaka: SACCORD, 2007)

Rule of law and to transparent rules in the performance of their functions while 16.3% indicated that public officials were subjected to the Rule of Law and to transparent rules in the performance of their duties.

2.2.2 Impartiality of criminal justice and penal systems

As the first contact of the criminal justice system, the police are expected to be impartial in the manner they discharge their duties and in the treatment of citizens. Selective application of the law among citizens has been a source of concern. Whereas the police could move in quickly, arrest and prosecute citizens that are not in good terms with the government, the police are not seen to be doing the same with some citizens who seem to be supporting the government who commit similar offences. One example is a case involving former Defence Minister and Movement for Multiparty Democracy (MMD) Kafulafuta Member of Parliament (MP) George Mpombo. Mr. Mpombo issued a cheque in the sum of K10,000,000 which was dishonoured by his bank. He was subsequently arrested for issuing a cheque on an insufficiently funded account and taken to court where he was found guilty by a Ndola Magistrate's court. He was sentenced to 60 days' (2 months) simple imprisonment and was ordered to pay a fine of K4,000,000. After spending a few days in jail he was granted a K2,000,000 bail with three working sureties in his own recognizance by the same court pending appeal.

In contrast to the foregoing incident, Gender Deputy Minister and MMD Mkushi North Member of Parliament, Lucy Changwe, who issued a cheque in the sum of K10,000,000 on an insufficiently funded account that was also dishonoured by her bank in a house purchase transaction in 2010[22] was neither charged nor arrested by police by the time of writing this report in August 2011.

2.2.3 Independence of the judiciary

According to respondents, courts and the judiciary were not very independent from the Executive arm of Government and from all kinds of interference. The respondents explained that it was difficult for the judiciary to be fully independent because of a number of reasons. One of the reasons is that the Executive plays a role in the appointment of judges. The judges are appointed by the President subject to ratification by the National Assembly in accordance with Articles 93 and 95 of the Constitution which provide for the appointment of Supreme and High Court (Puisne) Judges as follows:

> 93. (1) The Chief Justice and the Deputy Chief Justice shall, subject to ratification by the National Assembly, be appointed by the President.
>
> (2) The judges of the Supreme Court shall, subject to ratification by the National Assembly, be appointed by the

[20]FGD held in Lusaka on 15 November 2010
[21]*The Post Newspaper*, Wednesday, 11 August 2010, www.postzambia.com

President.

95. (1) The puisne judges shall, subject to ratification by the National Assembly, be appointed by the President on the advice of the Judicial Service Commission.

Another reason, according to representatives of government and civil society organizations, is that the judiciary is not independent because it is the Executive which determines how much money is allocated to the judiciary.[22]

Only 17.3 % of the 300 household respondents interviewed indicated that the courts and the judiciary were independent from the executive and from all kinds of interference whilst the majority (64.7%) of respondents indicated that the courts and the judiciary were not free from the executive and from all kinds of interference. There are two reasons to show why the majority said that the courts and the judiciary were not free from the executive and from all kinds of interference. According to information obtained from representatives of government and civil society organisations, the judiciary and the courts were not independent because the appointment of judges is considered political and compromises the professionalism of the appointees. The representatives perceived that in court cases that involved the ruling party versus civil society or the opposition political parties, the outcome or judgment was likely to favour the ruling party.

It was thought that the judges would not want to make decisions that would be in conflict with the interests of the appointing authority or the President because this was an issue of bread and butter. 'You cannot judge against a finger that feeds you. The President of this country is on record saying to the judiciary that you must be loyal to me.'[23] However, as indicated earlier, evidence from literature review indicates that there have been cases where the courts' rulings have not always necessarily favoured the interest of the government.

2.2.4 Equality and security of access to justice

It is not easy for all citizens to attain equal and secure access to justice as well as to due process for redress in the event of maladministration of justice in spite of the fact that the Constitution of Zambia guarantees equal access to justice for all the people in Zambia. Only 8.7% of the 300 household respondents interviewed indicated that they had 'very easy access to justice' while 26.7 % of them indicated that they had access to justice 'with difficulty'. A large proportion (57.7%) of the respondents indicated that they had 'no access to justice' at all. Respondents that said they accessed justice with difficulty or not all attributed their situations to poverty and shortage of human resource capacity in the judiciary. According to representatives of government and civil society organizations poverty was a hindrance to accessing justice in the country. The rich people were the ones who got fair justice because they had money for legal expenses. The poor got imprisoned because they had no money to pay for legal fees. The courts and the judiciary have a shortfall

[22]FGDs held in Samfya on 6 January 2011
[23]FGDs held in Kafue on 5 November 2010

of staff or little human resource to be able to dispose of cases quickly. There was a backlog of cases which slowed down the judicial process.[24]

The majority of Zambians are unable to hire lawyers to represent them in court because of the high fees charged. Zambia has a Legal Aid Board which has offices in Livingstone, Lusaka, Kabwe, Ndola and Kitwe. The Board has, however, a small team of lawyers who handle many court cases. Furthermore, the Board is unable to attract and retain lawyers because of poor conditions of employment and has insufficient transport. Because of these problems the Board is forced to limit its legal aid to accused persons facing serious criminal cases in the High Court and to handling a few civil cases. As a result of the various problems facing the Legal Aid Board, poor individuals, especially those residing in rural areas, are unable to secure legal aid.[25]

It was noted that access to justice was hampered by the long time it took for court cases to be heard. Representatives of government and civil society organizations, for instance, pointed out that there were too many adjournments which made people forget dates of court sessions. The consequences of forgetting dates of court hearing was best illustrated by one FGD participant who had advised his friend to take the matter to court but the friend ended up being arrested because of missing court sessions. His friend kept forgetting the dates he was supposed to be in court, as a result the police looked for him and arrested him.[26] Such delays and adjournments by the courts is an extra legal cost which also hampers access to justice for all.

Language barrier is another factor which inhibits people to full access to justice. As many people do not speak English, thus they are forced to rely on court interpreters, which is not a satisfactory situation as there is likely to be some distortion of information or evidence. Many people prefer the local courts where they can express themselves freely in their local languages.[27]

According to representatives of government and civil society organizations, it was not easy to make any appeal in Zambia in a case where a citizen was not satisfied with the judgement of a lower court. To make the appeal to a higher court, one needed to have money to bribe someone. 'Appeal is possible if you 'oil' somebody, without this oil, files have a tendency to get lost and thus an appeal becomes impossible. Legal aid is not free either.'[28]

As previously indicated in sections 2.2.1 and 2.2.2 receiving justice when dealing with the police is difficult in Zambia. The reasons for this are many. According to representatives of government and civil society organizations, reporting a crime to the police is a cost on the part of a person reporting the case. Police require that the persons making the report pay for fuel and stationery to enable the police process and pursue the case. The reason given was that the Ministry of Home Affairs was underfunded. According to the FGD participants, the police seemed to have money for pursuing mini-bus drivers and squeezing

[24] FDG held in Solwezzi on 13 January 2011
[25] Institute for Security Studies, 2009
[26] FGD held in Ndola on 13 January 2011
[27] Institute for Security Studies, 2009

them out of the little money they had. The police were considered the most corrupt organ in the justice sector, according to FGD participants. A bribe was an extra cost, which prevented access to justice for all.[29] People who appeared to know the law received justice from the police while those who appeared not to know the law did not receive justice. What the police did was to assess if one knew the law. If they discovered that you did not know the law, then you would not receive justice or you would not be treated fairly.[30]

2.2.5 Confidence of the public in the legal system to deliver fair and effective justice

Many FGD participants stated that people had little confidence in the Zambian legal system to deliver fair and effective justice because they believed that the judiciary was controlled by the Executive. FGD participants claimed that the legal system in the country was not reflective of a democratic state. They argued that it did not make democratic sense to have one person serving concurrently as Vice President, Minister of Justice and Member of Parliament.[31] According to the representatives of government and civil society organizations, the judiciary did not make fair judgments because the President appointed judicial officers.

2.3 Civil and political rights in Zambia

2.3.1 Context

The existing political environment reveals that the Zambian Government has failed to domesticate international conventions and to develop a culture of good governance that includes the fight against corruption, constitutional and electoral reforms, and improving levels of accountability and transparency, despite having committed itself to doing so. Overall, the government continues to have a poor human rights record with some improvements in just a few areas. Human rights abuses include: 'unlawful killings; torture, beatings, and abuse of suspects and detainees by security forces; official impunity, poor and life threatening prison conditions; arbitrary arrests and prolonged detention; long trial delays; arbitrary interference with privacy; restrictions on freedom of speech, press assembly and association, "government" corruption; violence and discrimination against women; child abuse; trafficking in persons; 'discrimination against persons with disabilities; restrictions on labor rights; forced labor and child labor.'[32]

The nation appears to lack institutional capacity to strengthen good democratic governance established so far and also to uphold human rights, as a result, citizens continue to be subjected to human rights abuses, discrimination, gender imbalance and violence against women. The state apparatus that is mandated to provide security and maintain peace remains at the forefront of gross violations in terms of abuse and torture. Gaining

[28]FGDs held in Livingstone on 20 October 2010
[29]FGDs held in Monze on 21 October 2010
[30]FGDs held in Mansa on 8 January 2011
[31]FGDs held in Solwezi on 12 January 2011
[32]Bureau of Democracy, Human Rights and Labor, 2008 Country Report on Human Rights Practices, 25 February 2009

access to information remains bureaucratic and denies Zambians their rights under the Universal Declaration of Human Rights (UDHR) and the African Charter to both of which Zambia is a signatory. The same institutions lack credible oversight mechanisms that have made a mark in terms of strengthening and promoting good governance.

While the Constitution stipulates provision for civil liberties and political rights for every person, this provision is not adequately fortified by an elaborate mechanism such as appropriate laws that can be enforced to safeguard the various aspects of the democratic process. For instance, the provision for press freedom in the Constitution is weak as it seems to be an after-thought of the provision for the freedom of expression. Although the government has taken measures to improve the provision for press freedom, not much has been done in respect of enacting the Freedom of Information (FOI). Because of limited publicity, it is regrettable that many Zambians do not understand and appreciate the importance of the FOI in relation to critical and contentious national issues that affect their everyday lives. It is only by enhancing freedom of expression and opinion, freedom of information and the ability to communicate that Zambians can share ideas and information. The FOI is a cornerstone of sustainable democracy as it helps build a culture of tolerance and co-existence.

2.3.2 Freedom of opinion, expression, information and communication

There is no firm commitment by government to implement policies that promote an open, transparent and accountable society. Article 20, of the Zambian Constitution provides for the protection of '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'. In spite of this protection, Clause (3) of the Article includes derogations that allow for broad interpretation that can restrict the very same freedoms. The government has openly infringed on the rights to 'exercise open criticism of it policies using intimidating tactics.

State owned print media, *Zambia Daily Mail* and *Times of Zambia* newspapers have for a long time been known to practise self-censorship and will not publish articles that criticize the government but rather praise its policy design and implementation. In the same papers, opposition political parties are painted in a bad light. Since 1991, Zambia has seen an increase in the number of independent media houses with *The Post* newspaper emerging as the leading and most controversial publication that openly questions government policies. What emerged were incidents of antagonism between the ruling Movement for Multi-Party Democracy and The *Post* newspaper.
Thomas Nsama, a photojournalist at *The Post* newspaper was publicly harassed by MMD cadres at Chipata airport where he had gone to cover President Banda welcoming Jacob Zuma of South Africa.[33] In May of the same year, two *Post* newspaper journalists, George Chellah and Eddie Mwanaleza were equally assaulted at Lusaka City Airport and no charges were filed against the cadres[34].

2.3.3 Freedom of assembly and association

Article 21(1) of the Constitution of the Republic provides for the protection of the freedom of assembly and association, but Clause (2) of the same Article restricts the very same rights. For instance, there is no law that requires groups or individuals to acquire permits to hold rallies. The Public Order Act requires event organizers to notify the police seven days before the rally takes place. However, the same law allows the police to use their discretion to block the rally.

There are additional instruments that hinder the freedom of association such as the Societies Act, which requires that every organization is registered through this Act. Some organizations have either been refused registration or have been deregistered, as was the case with the Southern Africa Centre for Constructive Resolution of Disputes (SACCORD) which was deregistered allegedly for engaging in 'activities likely to compromise state security' and appealed to the Supreme Court and still remained operational, albeit unable to effectively meet its mandate for fear of its case being rejected.[35] In addition, government introduced the Non-Governmental Organization (NGO) Act so as to regulate the work of civil society organizations. Section 31 of the Act provides for an NGO Council established under the Act to develop and administer a Code of Conduct. Section 26 of the Act stipulates the need for NGOs to submit annual returns, including disclosure of sources of funding and makes it illegal for unregistered NGOs to operate. Many people view this legislation as an attempt to restrict the freedoms of vocal civil society organizations. Zambian civil society organizations remain opposed to the NGO Act as it hinders the right to freedom of association as guaranteed in a number of instruments that Zambia is a signatory to.

2.3.4 Equality before the law

Part III of the Constitution guarantees equality of people before the law. Zambia is also a signatory to the Universal Declaration of Human Rights (UDHR), which includes the following:

i. Arbitrary or Unlawful Deprivation of Life: Everyone has the right to life, liberty and security of person (Article 3, UDHR).
ii. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 5, UDHR).
iii. Arbitrary Arrest or Detention: No one shall be subjected to arbitrary arrest and detention (Article 9, UDHR).

The Ministry of Home Affairs which is responsible for prisons has continued facing the problem of overcrowding in prisons that contributes to poor health and unsanitary condition. Exposing prisoners to poor health and unsanitary conditions is a violation of human rights. The country continues to develop and implement domestic policies without

[33] www.newswatch.in/newsblog/4051
[34] timeszambiapost.com/topix/abraham-lincoln.html
[35] *Times of Zambia*, 16 November 2004

putting in place strong monitoring and evaluation (M&E) systems while remaining a signatory to a number of important international and regional conventions. Given the poor state of prisons, law enforcement agencies are viewed with suspicion as they are seen as reckless and lacking capacity in upholding human rights. There are serious concerns on the inability of such officers to maintain human and ethical standards and laws.

2.3.5. Guarantees of civil and political rights equally for all

The Zambian Constitution provides guarantees of civil and political rights equally to all, but there is need to sensitise people on these rights to ensure that people fully understand them in terms of content and application. The Zambian environment reveals a situation whereby by openly attacking people perceived to be critical, as indicated in section 2.3.2, the ruling party appeared to openly encourage the non-enforcement of state laws and was at the forefront of curbing and violating people's rights. This could be largely attributed to the autocratic nature of the ruling party at the time. People have been able to exercise their freedom of religion and freedom of expressing their opinions, but the extent of these freedoms has been limited, while the freedom of assembly is restricted especially for opposition parties or any human rights activists that appear anti-government. Although press freedom is provided for in the Constitution, the ruling party restricts journalists from private media from fully exercising this freedom.

2.3.6 Freedom from physical violation of person

Part III, Article 11, section (a) of the Constitution states that 'It is recognised and declared every person in Zambia has been and shall continue to be entitled 'to life, liberty, security of the person and the protection of the law'. However, many Zambians continue to feel like second class citizens in their own country and thus they have become indifferent to issues of national importance. FGD participants in Livingstone felt that there was no freedom from harassment. It was a common habit by the ruling party to intimidate people. People in Zambia were unable to speak up on what was right because there would inevitably be some harassment from the government. It was noted that, 'The ruling MMD and other political parties use harassment as an effective technique of intimidation. The only protection available is by aligning oneself with those having specific connections to powers that be.' Majority of the participants felt that the protection of rights had been diluted and those spearheading the fight were afraid to speak up especially if they did not have a powerful person to protect them. Some discussants felt that Gender Based Violence (GBV), child abuse and paedophilia were on the increase and the state had not developed a deliberate policy to safeguard the rights of these vulnerable groups.

2.3.7 Protection of freedoms of movement, expression, association and assembly

Responses given in Table 2.2 reflect that the prevailing view from the household survey contrasts with what was stated during FGDs in section 2.2.4. The majority of household

respondents indicated that the protection of the freedoms of movement, expression and assembly was 'very effective'.

However, some participants in FGDs indicated that there were no rights being enjoyed in Zambia because the type of democracy is 'indirect', a term used to define how the minority/elites control the majority thus leading to their marginalization. The laws in the country were considered weak and one's freedoms could only be safeguarded 'by oiling people's hands'.

Table 2.2: Responses of households to effectiveness of the protection of freedoms in percentages

	Very effective	Moderately effective	Not effective
Freedom of movement	73.3	21.7	4.7
Freedom of expression	61.3	24.3	14.3
Freedom of assembly	64.3	20	10.7

Source: Household Survey

The participants said that although ordinary people supported leaders, they did not enjoy freedom of expression because it was not always easy to criticise these leaders. They noted that even government employees were under a threat of dismissal if they expressed honest opinions critical of the leaders.

When discussing the issue of freedom of information, participants aired varied views, some being modest while others were extreme. It was pointed out that the majority of the Zambians did not have the information and were not exposed and thus they were easily manipulated by the system. It was also observed that civil servants were considered a threat by government because the government did not want civil servants to discuss politics or speak out against injustices or how the state operated. There were fears expressed that government could track one down and even have him or her fired. What government needed, however, was to give civil servants a forum in which to discuss political issues to help sensitize the communities.

FGD participants generally shared the view that intimidation had to do with education levels and general levels of ignorance. There was a perception among participants that when MUVI TV obtained a nation-wide broadcast licence and introduced a smart card at a monthly subscription fee, the ruling MMD had designed a deliberate policy to keep Zambians ignorant and unaware of their rights by denying them access to information.
For instance, MUVI TV used to be free and now it is not free. Government designed a deliberate policy to censor the station and put it on cable. Few people can access cable or even purchase the decoders, as they are rather expensive for the poor. It is for this reason that people wanted MUVI to remain free, but the government did not. The FGD participants stated that the public media did not cover the wide view of the general public.

The news was about one person 'the president'. It was for this reason that a suggestion that if Zambians wanted to access the media, they should go to Zambia News and Information Services (ZANIS) which is always looking for stories.

The participants also observed that access to information was important to poverty reduction and effective service delivery but government needed to ensure that citizens had access to information for them to contribute effectively to poverty reduction.

As regards to safety, many people expressed fear that they were not safe because of the limited number of police officers. While acknowledging that the level of safety had improved as compared to the days of UNIP, during the one-party state, people felt insecure. They said it was the police who initiated harassment because they treated every one as though one had already committed an offence. As a result, people were reluctant to report any crime to the police for fear that they would be harassed. Each time a report was made, the police seemed to side with criminals against whom the report was made. This gave the impression that police collaborate with the criminals.

Most FGD participants said they feared driving or walking at night when they felt they were being followed. They cited some unpractical laws that restricted freedom of movement such as the 'loitering (shishita) law,' whereby police arrest people, including those who have genuine reasons for walking at night after knocking off as late as after 22.00 hours. They observed that it was wrong for the police to arrest people at 22.00 hours because at that time both bars and clubs are still open.

Overall, as shown in Table 2.3, the majority of household respondents in all the five provinces indicated that they felt safe from harm by other people. Respondents in North-Western Province were in the majority at 91.2%, followed by Southern Province at 72.3%
It was noted that FGD participants in the North-Western Province agreed that freedom of speech, movement, religion and assembly were guaranteed in Zambia. Views of civil servants, however, were somewhat different because they stated that whenever a civil servant was seen with an anti-government social groups, he or she was likely to be victimized, but this did not happen if one was seen talking to people associated with the ruling MMD, it is all smooth sailing.

Table 2.3: Household's responses on whether or not they feel safe from harm by other people in percentages

Province	Yes	No	Total
Southern	72.3	27.7	100
Lusaka	56.9	43.1	100
Luapula	59.1	40.9	100
Copperbelt	61.2	38.8	100
North-Western	91.2	8.8	100
All Provinces	65.7	34.3	100

SourceHousehold Survey

Overall, the participants felt that freedom of speech was heavily restricted because if one was heard saying bad things about government, he or she was reported to authorities, but the solution lay in lobbying for support through social groups. The FGD participants were of the view that freedom of assembly was guaranteed except for political gatherings where police tended to be biased against opposition parties when enforcing the law on gatherings and processions using the authority of the Public Order Act.

2.3.8 Freedom from harassment and intimidation of individuals and groups working to improve human rights

It was observed that groups and individuals working to improve human rights were free to carry out their work. It was pointed out that when such individuals and groups called for meetings to sensitise people about human rights, people normally did not readily attend, unless they were promised some gifts or food at the end of the meeting. This may have arisen as a result of a habit that developed since the start of Third Republic whereby participants at a workshop or seminar were paid transport refund or some allowance. The participants expressed concern over individuals and groups or organizations which paid people in return for attending meetings because they tended to paint a bad picture of possible harassment by the government.

2.4 Economic and social rights

Both African and international agreements and conventions provide justification for respecting economic and social rights. Basic subsistence rights have generally been taken to include adequate nutrition and a minimal level of health care. Education is also a key right. Economic, social and cultural rights aim at guaranteeing each and every person the right to basic necessities of life such as clean water and sanitation, proper medical care, adequate housing, and clean environment as well as securing working conditions of all forms of labour. The international community recognised the significance of these rights such as the United Nations Declaration of Human Rights (UNDR) (1984) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966).

The economic, social and cultural rights are also incorporated in other international conventions such as the African Charter on Human Rights and People's Rights of 1981, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1985, the Declaration on Millennium Development Goals (MDGs) of 2000 as well as the Dakar Declaration on Education for All of 2000.
Zambia ratified the ICESCR in 1984 and submitted its Initial Report during the 34th Session of the Committee on Economic, Social and Cultural Rights in 2005. The primary role of this committee is to monitor compliance of state parties with the ICESCR. ESC rights appear in the Zambian Constitution, as amended in 1996, under Part IX on the Directive Principle of State Policies and Duties of a Citizen. In Zambia, economic and social rights are defined in the current Constitution as Policy directives, *(Poverty Reduction Strategy Paper (PRSP) 2002-2004 and the Fifth National Development Plan 2006 -11)*[36]. They are

not specifically referred to in Part III which forms the Bill of Rights of the Constitution, where the fundamental rights and freedoms of an individual are contained. Insofar as they are in Part IX as Directive Principles of State Policy, they make their enforcement weak. This is because Article 111 of Part IX states that, 'the Directive Principles of State . . . shall not be justiceable and shall not thereby . . . despite being referred to as rights in certain circumstances, be legally enforceable in any court, tribunal or administrative institution or entity'. The non-justiceable character of the Directive Principles of State Policy is seen by some people as a major hindrance to the full realisation and enjoyment of ESC rights in Zambia. Advancing an argument for making ESC rights justiceable, Mwale argues that this was legally and morally feasible' *(Mwale, 2000)*.

In Uganda, Malawi and South Africa constitutions allow citizens to seek legal redress to secure protection of ESC rights and to ensure government priority spending to comply with these rights *(OMCT 2000)*. However, district discussion forum participants felt that while it was agreed that the rights were important, it was pointed out that making them justiceable could lead to too many court cases for the government to handle.

Zambia's performance with regards to issues that are central to the realisation of ESC rights involving work, food, health, education and housing was poor at the beginning of the millennium *(OMCT 2000)*. A majority (76.7%) of household respondents reported that people in Zambia were not adequately catered for in terms of food, another majority (73%) of household respondents reported that people in Zambia were not adequately catered for in terms of shelter, while 71.3% of respondents indicated that people were not catered for in terms of clean water.

[36]Poverty Reduction Strategy Paper (PRSP) 2002-2004 and the Fifth National Development Plan 2006 -11

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Chapter 3

Representative and accountable government

3.1 Free and fair elections

3.1.1 Introduction

Any meaningful elections in any liberal democratic society can only take place with the existence of a well functioning political party system in the country and in an environment free of political intimidation and fraudulently run elections.

3.1.2 Elections

Zambia has adopted the first past-the-post (FPTP) electoral system for both presidential and parliamentary elections. There has been intense debate over the adoption of the FPTP electoral system in respect of the election of the president. A number of people, in several forums including the Constitutional Review Commissions, have called for a system that requires that for somebody to win the presidential elections, he or she must get absolute majority of 50% +1 votes cast. During the National Constitutional Conference in 2010, the issue of absolute majority for a winning presidential candidate was again raised. The requirements for anyone to contest presidential elections are that he or she must be at least 35 years old, should pay a nomination fee and his or her candidature must be supported by 200 registered voters. In addition, both parents must be Zambians by birth or descent. For anyone to qualify for nomination as a parliamentary candidate, he or she must be at least 21 years old, pay a nomination fee and be supported by nine registered voters. The qualifications for local government elections are similar to those for the nomination in parliamentary elections. In the case of local government elections, however, a candidate must be a registered voter in the ward in which he or she seeks to be elected and must not be an officer of the council or owe anything in form of rates and other similar charges to any council. The issue of the FPTP is not as contentious in relation to parliamentary and local government elections as it is with presidential elections. Indeed it was not even an issue in the Mung'omba Constitutional Review exercise and it has thus been retained without any reservations.

The voter registration procedures are relatively straight forward and the requirements for one to become a voter are not difficult to meet. In order to qualify as a voter, one merely needs to be a Zambian citizen aged 18 years or above. This has never been a controversial issue. In fact during the survey undertaken for this study, the majority of respondents indicated that the registration procedures were easy and the requirements made it easy for

citizens to register as voters. The majority (76%) of the respondents indicated that it was 'very easy' and another 17.3% of respondents indicated that it was 'moderately easy', giving a total of 95.6% of respondents who thought that the registration procedures and requirements did not pose an impediment to becoming a voter. The largest number of respondents who indicated that it was very easy to register as a voter was in the Southern Province at 92.3%, followed by those from Luapula Province at 88.6%, the Copperbelt came third at 76.4% and Lusaka Province at 70.6%. In terms of rural urban breakdown, more respondents in the rural areas indicated that it was very easy at 77.0% compared to 75.7% for respondents from urban areas.

Although it was acknowledged that it was easy to register as a voter, it was widely pointed out that accessing centres for national registration cards and the voters' registration cards was a problem. In order to register as a voter, one ought to have a national registration card first. While this problem was particularly prevalent in the Southern, Lusaka and North-Western Provinces, respondents in the Southern Province and North-Western Province observed that people living far from national registration centres had to raise their own money to reach these centres, yet these people did not in fact have the money.

The fact that it was relatively easy to register as a voter was of great significance considering that most people believe that voting is very important. In the survey undertaken for this assessment, all but 3.9 % of household respondents indicated that it was important to vote and only 0.03% offered no opinion. In terms of provincial breakdown, 100% of respondents in the Southern Province indicated that it was important to vote. A large proportion of respondents was in the Southern Province, followed by Luapula Province at 97.2%, North-Western Province at 97.1%, Lusaka Province 95.5% and lastly Copperbelt Province 94.1% of those that indicated that it was very important to vote. Interestingly there were more (99.3%) of respondents in the rural area than with 94.1% of respondents in urban areas that indicated that voting was important.

Zambia has held five general elections following the re-introduction of multi-party democracy in 1990. These were held in 1991, 1996, 2001, 2006 and 2011. There have been several parliamentary by-elections in between general elections due to deaths or resignations of Members of Parliament (MPs) and due to expulsion of MPs by their political parties. There has been only one presidential by-election, which took place in 2008 following the death of the incumbent president. The major contenders in the 1991 elections were the then ruling party, the United National Independence Party (UNIP), the then main opposition party, the Movement for the Multi-party Democracy (MMD), which saw the latter winning the elections. In 1996, the major contenders were the MMD and Zambia Democratic Congress (ZADECO). The two featured the incumbent president of the country, Chiluba and a former deputy minister in the Chiluba Government, Dean Mung'omba. In the 2001 elections, the major contenders were the MMD featuring former vice president Levy Mwanawasa, the United Party for National Development (UPND) which featured Anderson Mazoka, and the Forum for Democracy and Development (FDD) which featured General Christon Tembo, a former republican vice-president under

Chiluba's administration.
In the 2006 elections,13 political parties contested but the presidential contenders were mainly from the MMD which again featured Levy Mwanawasa by then president of the country, the Patriotic Front which fielded Michael Sata, Hakainde Hichilema, then president of UPND, but under a United Democratic Alliance formed by UNIP, FDD and UPND, Heritage party which fielded Godfrey Miyanda and All Peoples Congress Party which featured Winright Ken Ngondo.

3.1.3 The management of elections

The Electoral Commission of Zambia is the body responsible for managing all elections in the country, i.e. presidential, parliamentary and local government elections. Article 76 (1) of the Constitution provides for the establishment of an autonomous Electoral Commission but members of the Commission, including the Chairperson, are appointed by the President of the Republic and ratified by the National Assembly.

Although the elections have been generally free, there has, however, been widespread feeling that the elections in Zambia have, in general, been unfair. In the FGDs and during interviews with key informants, the issue of the electoral process not being fair featured prominently and previously groups monitoring and observing elections in the country expressed similar views.

The first issue that was consistently raised in relation to the unfairness of the elections was the bias displayed by the public media towards the ruling party during election campaigns. Reports from International Observer Groups and Local Monitoring Groups in the 1991, 1996 and 2001 Elections raised serious concerns about the fairness of the elections in Zambia. The content analysis of television and radio news by Z-Vote observer group in 1991 indicated heavy bias towards the then ruling party, UNIP.[1] A similar content analysis of the public media undertaken by the Committee for Clean Campaign (CCC) and Foundation for Democratic Process (FODEP) of the 1996 elections also showed the heavy bias towards the ruling party, the MMD. The pattern was repeated in the 2001 elections when the CCC undertook a content analysis of the public media. This bias towards the ruling party in the 2001 elections was also noted by other observer groups, notably the EU Observer Mission, the Carter Centre and the SADC Parliamentary Forum Observer Group. The Carter Centre reported that state-owned television and the newspapers gave extensive coverage to the ruling party during the campaign period[2], while the SADC Parliamentary Forum Observer Group noted that the coverage of election-related news by the state-owned media house was overwhelmingly favourable towards the ruling party, a position noted by the EU Electoral Observer Mission as well.[3] It was not just the groups monitoring and observing elections that commented on the biases of state-owned media towards the ruling party. The view that the public media was biased towards the ruling party also came up during FGDs. It was pointed out that the public media just reported about the

[1] National Democratic Institute for International Affairs, The 31 October, 1991 National Elections in Zambia, available at http://www.ndi.org/ndi/library/192_zm_oct31_91_nat.txt.
[2] Carter Center, Carter Center Observation Assessment of the 2001 Zambian Pre-election Period, 13 December 2001. Available at http://www.cartercenter.org/documents/298.dpf.
[3] EU Election Observation Mission, op. cit

President, focusing on building his image.
The foregoing glaring biases of the state-owned media prevailed in spite of the Electoral (Conduct) Regulations (Statutory Instrument No.179 of 1996) (The Code of Conduct) which at the time restricted such tendencies. The Code of Conduct stipulated that (a) all electronic media should provide fair and balanced reporting of the activities of all registered political parties; (b) all media should report news in an accurate manner and should not make abusive editorial comments and all media personnel should conduct interviews with fairness; and (c) all television and radio broadcasters should allocate equal airtime to parties for their political broadcasts. However, although the regulations provided for a penalty of either a fine or three months imprisonment for contravening the provisions of the Code of Conduct, both the Electoral Commission of Zambia (ECZ) and the Police Service failed to enforce the provisions of the Code of Conduct during the 2001 general elections. The failure by both the ECZ and the Police to enforce the provisions of the Code of Conduct was noted by observer and monitoring groups.

There are several other aspects of the management of elections that created an uneven competition ground for opposition parties during elections such as the monopoly access to state resources that the ruling party enjoyed during the election times. This was an issue that featured prominently during FGDs where it was pointed out that while opposition political parties faced serious financial problems, the ruling party uses government resources for campaign purposes. In relation to transport, it was alleged that the government officials campaigning for the ruling party 'switch GRZ number plates to ordinary ones'. It was also pointed out that the ruling party had a tendency of starting so-called development projects in an election year, thereby tying down requests for votes to development projects.

The impartiality of the ECZ has also been questioned. As indicated earlier, although the Constitution provides for an autonomous Electoral Commission, the members of the Commission, including its Chairperson, are appointed by the President who is an interested party in the outcome of the elections. In the 2001 elections, the EU Observer Mission questioned the impartiality of the ECZ in its report on the elections. In the Focus Group Discussions, the negative attitude towards the ECZ came out very prominently as well. Among some of the points raised in these discussions was that the Electoral Commission of Zambia is not free because the Chairperson is appointed by the President. This factor led to possible manipulation of the Commission to favour the ruling party, which also easily intimidated the ECZ. It was strongly suspected that in practice the Commission was answerable to the ruling party in order for those in the Commission to maintain their jobs. At one such meeting, it was alleged that commissioners were given 'big cars and fat gratuities'. Largely because of the intimidation that the Commission was suspected to be subjected to, it was said that it succumbed to the executive.

The overall assessment was one that gave rise to serious concern. Some key informants expressed the view that the electoral process was prone to manipulation by the ruling party. This was because the ruling party was supposedly responsible for appointing members of the Electoral Commission who in turn, were answerable to the appointing authority.

An opposing view was that the ruling party was not in a position to manipulate elections because the process was quite transparent and it was, therefore, not easy to manipulate. Moreover, it was argued by other key informants that counting of votes was done openly, in the presence of representatives of political parties participating in the elections. What came out clearly, during FGDs was that there was need to overhaul the Electoral Act to empower the Commission to function as a truly independent body which should be adequately funded.

3.2 The democratic role of political parties

3.2.1 The party system

The formation and registration of political parties is governed by the Societies Act (Cap. 119 of the Laws of Zambia). The Act provides that within 28 days of its formation or adoption, a society - in this a case a political party - should make an application to the Registrar of Societies for registration. On registration the Registrar shall issue to such a political party a certificate that will be a prima facie evidence of registration. The registration is largely a routine matter, and so far there has never been a case of a political party that has been denied registration since 1991. The main problem encountered once the party has been formed is one of sustainability. This problem has over the years been commonly recognised in the country and was also acknowledged by the participants during FGDs. At one such meeting, it was observed that it was very easy to form a political party in Zambia but running one is the problem as it is too costly. It was said that great pressure was always put on the party president to provide resources to finance all party structures at all levels or else 'it would go under the following day' if the person who formed it had no money. For a political party to survive and for people to remain loyal to the party leader, he or she must therefore have money.

There are more than 30 registered political parties in Zambia[4] but out of this number, the MMD, Patriotic Front, UPND, UNIP and FDD are consistent serious contenders for political power. The Societies Act also guides the operation of political parties. There are several other legislations that govern the operations of political parties besides the Societies Act. One piece of legislation that specifically governs the operations of political parties is the Electoral Code of Conduct noted earlier. There is also the Public Order Act which has at times been used against the opposition political parties because of the way it has been operationalised.

3.2.2 Problems faced by political parties

As noted in the preceding section, the process of forming a political party in Zambia is very easy but these parties, particularly opposition political parties face a number of problems which seriously weaken their competitiveness during general and by-elections. The first problem is that of poor funding for both managing a political party and participating in elections. Opposition political parties face more difficulties in raising funds for both party

[4] Source, Registrar of Societies

organisation and elections than the ruling party that enjoys extensive access to state funds and other resources such as government vehicles during election times. This issue was highlighted by participants during Focus Group Discussions,but what was puzzling was that some parties seemed to have a lot of money for election campaigns and it was not clear where the money came from.

The second problem opposition political parties encountered was harassment from the state. Notwithstanding the fact that the MMD came to power on a platform of reintroducing a multi-party system, once in power, the MMD became very reluctant to create a conducive environment for effective and meaningful competitive politics. This harassment was exemplified by the selective application of the Public Order Act whereby opposition political parties were either inconvenienced in obtaining permits or restricted from holding campaign rallies in preference for the ruling party.

Thirdly, all political parties including the ruling party lacked internal democratic systems and accountability to the party members. Political parties are the instruments through which the will of the people is exercised as they provide the persons who would run for higher national political offices. The extent to which political parties reflected the views of their members in both policy formulation and selection of candidates had been one issue that was advanced to explain some of the democratic shortcomings of political parties.

The lack of internal democratic systems and accountability was confirmed by most respondents of the household survey who indicated that political parties were not responsive to the wishes of their members. Views expressed by FGD participants regarding political parties was that political party leaders did not consult with their party members when formulating policies. This was also reflected in the responses of the members of the public who were interviewed. Only 16.3% of the respondents indicated that party members were able to influence party policies and the majority (56.6%) of respondents were either not sure or said the party members did not influence party policies. Similar results were recorded in relation to the extent to which political parties consulted their members in respect to who should be nominated to contest the elections on behalf of their political parties. At least 24.0% of respondents were of the view that party members influenced the selection of parliamentary candidates, another 21.0% indicated that they did not and 31.3% of the respondents were not sure about the extent to which members influenced the selection of candidates to contest parliamentary elections.

Furthermore, the lack of significant input in party policy fomulation and in the selection of candidates came out very strongly during the FGDs as well in the survey data from almost all the districts that were visited in the five provinces. For example, FGD participants in one district in North-Western Province noted that people at the grassroots level did not influence political party policy. It was further pointed out that ordinary party members did not understand the process itself and they could not have an impact on policy because parties were structured in such a way that only leaders were able to articulate issues and needs. In addition, party leaders did not leave room for members to influence party

policy as the process was also not consultative.
It was observed that it was very difficult for ordinary members to influence the choice of candidates to stand in an election because party secretariats are in Lusaka. While party members in the districts might submit a short list of their preferred candidates, the National Executive Committee (NEC) of political parties would instead select candidates that were close to them or part of the inner circle. This effectively means that the ordinary members made no impact on the selection of candidates.

In addition, it was pointed that in many political parties, the general membership had no influence on party policies and this meant there was no dialogue between leadership and the grassroots. It was stated that those close to the party president and had money were given the opportunity to stand in an election. It was also observed that the extent to which party members influence party policies was very low as usually members just received instructions from the top leadership. In fact, adoption of members is done centrally which denied the grassroots any influence although in certain cases the selection of candidates was done by office bearers at constituency, district, provincial and national levels. It was however, noted that party policy was formualted by executive committees of the respective political parties.

Lastly, political parties have over years faced problems of internal conflicts that adversely affected operations. Internal conflicts that seemed ceaseless could be attributed to the lack of internal discipline, bickering over leadership and factionalism, all done sometimes in the name of internal democracy. The conflicts have in turn, greatly weakened political parties. Almost all political parties in Zambia have experienced serious internal conflicts at one stage or another since the time of their formation.

The MMD perhaps is among the few political parties in southern Africa that was able to stand up to its president to defend the country's Constitution. The sitting president was prevented from manipulating the constitution in order to contest the elections for the third term. It was significant that a number of cabinet ministers including the country's vice-president, were able to stand up against their own president and in the process lost their government positions and the benefits that go with them.

UNIP, the ruling party from 1964 to 1991 had serious difficulties adjusting to being an opposition political party. This took the form of very serious internal conflicts over who should lead the party after its defeat in 1991. The Patriotic Front (PF) suffered several defections since the 2006 elections when the party posed a serious challenge to the MMD, particularly in the presidential elections. Perhaps the most serious internal conflict was over the decision by several PF Members of Parliament and councillors to defy the party position not to participate in the deliberations of the National Constitutional Conference[5]. The United Party for National Development (UPND) faced its share of several internal conflicts, particularly after the death of its founding President, Anderson Mazoka in 2006. The first major conflict was over succession to late Mazoka by a person who had not been

[5] *Times of Zambia*, 12 and 13 December, 2007

part of the party structure over two former vice-presidents.
The two UPND vice presidents subsequently resigned together with several other party leaders and members. Early in 2009, the UPND expelled its secretary-general from the party. He was accused of gross misconduct, insubordination and behaviour that is detrimental to the party interests.[6]

Table 3.1: Households' responses on belonging to a political party in percentages

Province	Yes	No
Southern	66.2	33.8
Lusaka	50	50
Luapula	50	50
Copperbelt	43.5	56.5
North-Western	32.4	67.6
Total	49.7	50.3

Source: Household Survey

The summary of results of household responses in Table 3.1 reflects a fluctuation in membership of political parities depending on the geographical location.
Southern Province had the largest number of respondents at 66.6% who indicated that they belonged to a political party. North-Western Province had the lowest number of respondents who indicated that they were members of a political party at 32.4% while Lusaka Province and Luapula Province had 50.0% each followed by the Copperbelt Province at 43.5%. This may further reflect a lack of stable membership of existing political parties. A number of party leaders and ordinary members particularly at the lower and middle levels cadres have gone to almost every party that showed some possibilities of forming government and therefore offered prospects of jobs and access to state resources. This 'rolling stone' syndrome can only be explained in material terms - politics is seen as a source of livelihood. This syndrome to some extent is encouraged by lack of rigorous membership requirements for people intending to join a political party. It is in fact possible for somebody to join one party, leave it the next day and join another.

According to household survey data, overall total membership of political parties was not that high, only 49.7% of the respondents claimed to belong to a political party compared to 50.3% who indicated that they did not belong to political parties. Interestingly, it was from the rural respondents that the largest number of respondents indicated that they belonged to a political party. Only 44.6%% of the urban respondents indicated that they belonged to political parties compared to 55.4% from the rural areas. In the Southern Province where more respondents indicated they belonged to a political party, the majority were women who scored 70.0% compared to men at 62.9% as shown in Table 3.2. Most of the female respondents came from the urban areas of the Southern Province at 69.7%.
Apart from Southern Province, all other provinces indicated that people in the rural areas showed stronger propensity to belong to political parties, for example, 50% of respondents

[6] *Times of Zambia*, 8 January, 2009

in the North-Western Province were from the rural areas and only 12% were from the urban areas. People are generally free to join any party of their choice but notwithstanding this freedom, there are some circumstances in which people are perhaps forced to join political parties. Participants at FGDs in Ndola pointed out that a person's right to belong to a political party of his or her choice was interfered with because one was forced to join the ruling party if one wanted to have access to government money. Interestingly, both during FGDs and interviews with members of the public, the common view was that political party membership was generally pluralist and not very much based on ethnic, religious and similar affiliations.

From interviews with the public, only 37.0% of the respondents thought the political

Table 3.2: Households' responses on belonging to a political party by sex and province in percentages

Province	Sex	Yes	No
Southern	Male	62.9	37.1
	Female	70	30
Lusaka	Male	51.4	48.6
	Female	48.6	51.4
Luapula	Male	48	52
	Female	52.6	47.4
Copperbelt	Male	48.8	51.2
	Female	38.6	61.4
North-Western	Male	36.8	63.2
	Female	26.7	73.3

Source: Household Survey

parties were predominantly ethnic and another 2.3% thought they were predominantly religious. A total of 40.7% of the respondents thought they were pluralist while another 20.0% of the respondents was not sure. The view that the political parties were largely pluralistic in nature was attributed to the fact that membership of these parties cuts across social status and ethnicity. This was also very strongly supported during interviews with key informants. Accountability of party funds, particularly by party candidates and campaign committees, was considered rather weak even for those political parties which claimed that some financial reports on the use of such funds by parliamentary candidates and campaign teams were made in order to assure those who donated the funds that their money was properly utilized.

3.3 Effective and responsive government

This section examines the extent to which the Zambian Government is effective in serving the public and responsive to its concerns. The section proceeds by highlighting and analyzing aspects that are essential in measuring the effectiveness and responsiveness of the government.

3.3.1 Extent to which the elected government is able to influence or control those matters which are important to the lives of its people

The effectiveness and responsiveness of the Zambian Government can be appraised by looking at three institutions namely; National Assembly, Parliament and local councils. The National Assembly consists of 150 elected members, not more than eight nominated members and the Speaker, while Parliament consists of the National Assembly and the elected Republican President. On the other hand, a local council consists of Members of Parliament (MPs) in the district, all the elected councillors in the district and two representatives of the chiefs appointed by all the chiefs in the district *(Government of the Republic of Zambia, 1995)*.

The extent to which the elected government is able to influence or control those matters that are important to the lives of its people varies from one category of the Government to the other. Going by the powers given to each organ under the Constitution and laws, the most influential is the Republican President. The President is the Head of State and Government as well as the Commander-in-Chief of the Defence Force. Article 44(6) of the Constitution empowers the president to act in his own deliberate judgement and is not obliged to follow the advice tendered by any other person or authority *(Government of the Republic of Zambia, 1996a)*. Based on these powers, the President, therefore, has the ability to influence or control matters that are important in the lives of people. As Head of State and Government, he/she also has the power to decide how the government should be organised and resourced.

However, in practice, the President of Zambia has not been able to use his powers to organize the government properly, ensure the availability of adequate resources and to control matters that are important to the lives of the people. For instance, the government has been unable to build enough houses for teachers and police officers in Mansa district due to limited resources. In addition, there were complaints of rampant corruption that had eroded the essence of humanity in the country. According to government and civil society officials who participated in FGDs, those in power were seen behaving selfishly and acquiring wealth for themselves by using government resources for personal gain [7].

The next organ that has relative influence is the National Assembly. Article 78(1) of the Constitution provides for the National Assembly to exercise the legislative power of Parliament by way of passing bills that are assented to by the President. This function therefore gives the National Assembly the opportunity to craft bills in such a way that it can influence or control matters that are important to the lives of the people. In practice, there is evidence that the National Assembly of Zambia has been able to influence matters that are important to the lives of the people. For instance, the National Assembly voted against the Constitution of Zambia (Amendment) Bill, which was presented in March 2011 to amend the 1996 Constitution. The action by the National Assembly was in line with people's views that the Bill should not be passed because it did not include the concept of 50 % + 1 vote as the presidential winning threshold and the presidential running mate clause *(Kalaluka, 2011a)*.

[7] FGDs held in Mansa on 8th January 2011

However, to some extent the influence of Parliament is limited due to the power that the President has over it. For instance, when a bill is presented to the President for assent, he/she has the right to either assent or withhold it. In the event that the President withholds his/her assent to a bill, he/she returns it to the National Assembly with a message requesting that the National Assembly reconsiders the bill or amends it as he/she may recommend in his/her message *(Government of the Republic of Zambia, 1996a)*. Consequently, this action creates a situation whereby the National Assembly fails to effectively control matters that are important to the lives of people, but rather meet the needs or wishes of the President. For instance, in 2007, many individuals, civil society organizations and opposition political parties urged Members of Parliament not to enact the National Constitutional Conference (NCC) Act aimed at establishing the NCC as a platform to amend the Constitution. The general public argued that the NCC was not going to be a representative body to be given the responsibility of producing a Draft Constitution. The wish and demand of the people was to use a Constituent Assembly to adopt the Draft Constitution produced by the Mung'omba Constitution Review Commission. However, this demand was rejected and Parliament went ahead to enact the NCC Act.

3.3.2 Effectiveness and openness to scrutiny of the control exercised by elected leaders and their administrative staff and other executive agencies

The Government of Zambia has put in place a system through which elected leaders such as Members of Parliament can exercise control over Executive agencies. This is done through the Committee System of Parliament. The system enables some of the functions of Parliament to be performed through specific committees whose proceedings are followed by other stakeholders such as members of the public, civil society and the media. One such committee is the Public Accounts Committee (PAC). The functions of PAC are 'to examine the accounts showing the appropriation of sums granted by the National Assembly to meet the public expenditure, the report of the Auditor-General on these accounts and such other accounts, and to exercise the powers conferred on them under Article 117(5) of the Constitution of the Republic of Zambia' *(Public Accounts Committee, 2006a)*. Upon completion of its deliberations, the PAC compiles a report which is tabled in the National Assembly for consideration and subsequent adoption. After adoption, a copy of the report and a covering letter are sent to the respective ministries to take action on the observations and recommendations made by the committee on the various issues considered *(National Assembly of Zambia, 2006)*.

To some extent, the control by MPs over Executive agencies is effective. This is in cases where respective ministries and government departments are seen taking action against some administrative staff cited as having misappropriated government resources. For instance, the Zambia Revenue Authority (ZRA) summarily dismissed all the members of staff who were cited as being involved in financial irregularities during the financial year ended 31 December 2004. The dismissals were done in accordance with the ZRA disciplinary procedure *(Public Accounts Committee, 2006b)*. There are also instances where

such staff are prosecuted.
For example, in February 2011, Magistrate Exornobit Zulu sentenced three Zambia Army officers to prison for varying durations for theft of about K326,000,000 from the Public Service Pensions Fund *(Kalaluka, 2011b)*. However, to a large extent, the control by MPs is ineffective. This is because 'Parliament does not submit cases for prosecution and does not follow up prosecutions' *(Mudenda et al., 2007:30)*. Consequently, there are many individuals and agencies that are cited in the Auditor-General's report as having misapplied government resources but no action is taken against them. For instance, Non-Governmental Organisations Coordinating Council (NGOCC) Board Chairperson, Beatrice Grillo, argued that the Auditor-General's report had revealed high levels of corruption and abuse of taxpayers' money but no corrective measures had been taken to ensure that public resources were utilised for the intended purpose *(Wangwe, 2011)*.

On the other hand, despite the control exercised by MPs over administrative staff and other executive agencies being somewhat ineffective, the PAC is quite open to scrutiny. This is because in the process of examining the report of the Auditor-General on public accounts, the Public Accounts Committee adopts the strategy of considering both oral and written submissions from controlling officers in charge of institutions that are audited. The Committee may also consider submissions of other stakeholders such as trade unions of institutions that are audited *(Public Accounts Committee, 2006a)*. The Committee is also 'at liberty to call any person and/or document that they feel will assist them in their work,' and their proceedings are open to the public. The press is also allowed to comment and report on the Committee's activities during its proceedings. When the National Assembly is considering the Committee's report, it is also open to the public as is the case with other parliamentary proceedings *(National Assembly of Zambia, 2006)*.

3.3.3 Openness of public consultation on government policy and legislation, and equality of access for relevant interests to government

According to representatives of the government and civil society organizations that participated in FGDs, there were no open and systematic procedures for effective public consultation at the stage of initiating government policy and legislation. Instead, the government just appointed its own people or officials to initiate formulation of government policies. In addition, the appointed officials did not even consult local people or their representatives such as councillors for input.[8]

However, despite this ,Civil Society Organizations (CSOs) tend to use their own initiatives to try and promote public participation in the formulation of government policy and legislation. The initiatives include inviting various organizations and ordinary citizens to discuss contentious issues in the country, releasing position papers and making recommendations to the government *(Nchite and Nsana, 2004)*. For instance, Transparency International Zambia (TIZ) made recommendations aimed at addressing the problems of efficient service delivery, accountability and transparency of local authorities in the country. Similarly, the Catholic Commission for Justice, Development and Peace (CCJDP) holds pre -and post budget discussions with organizations and ordinary citizens involved in

[8]Focus Group Discussion held in Mwinilunga on 11th January 2011

public finance management to critically analyze the budget and its implications on people's livelihoods.
Through such forums, policy recommendations are made *(Nchite and Nsana, 2004)*. However, this arrangement does not guarantee effective participation of CSOs in the legislation process. This is because the government is at liberty to decide whether to adopt or reject the recommendations made by CSOs. In the long run, democratic principles are compromised at the stage of initiating government policy and legislation.

The stage where some form of open and systematic procedures for public consultation occurs is when a bill is referred to an appropriate committee of the National Assembly for thorough scrutiny of the legislative proposals. At this stage, the committee decides its own programme of work for the year and is empowered to call witnesses from inside and outside government to provide information and to appear in person *(Burnell, 2002)*. The committee proceedings are also open to the public. However, since it is up to the committee to decide who to call, there is no guarantee of equal access for relevant interests to government.

3.3.4 Accessibility and reliability of public services for those who need them

The Zambian Government has not been effective in serving the needs of its people. Only 13% of the 300 people interviewed indicated that they had easy access to public services such as justice, health, clean water and education. The majority of the people either accessed the services with difficulty or they did not access them at all. However, the levels

Table 3.3: Accessibility of public services in Zambia by sex

Sex	How accessible are public services					Total
	Easy to access	Difficult to access	Not accessible	Don't know	No response	
Male	23 14.6%	119 75.8%	8 5.1%	6 3.8%	1 0.6%	157 100.0%
Female	16 11.2%	112 78.3%	12 8.4%	3 2.1%	0 0.0%	143 100.0%
Total	39 13.0%	231 77.0%	20 6.7%	9 3.0%	1 0.3%	300 100.0%

Source: Household Survey

of accessibility tended to vary according to gender, geographical location and age of the person seeking the service or services as in Tables 3.3, 3.4 and 3.5.
From Table 3.3, it can be noted that majority (75.8%) of all male respondents and the majority (78.3%) of all female respondents, giving a total average of 77%, indicated that they had difficulty in accessing public services.

From Table 3.4 it can be noted that majority (78.3%) of all urban respondents and the majority (75.73%) of all rural respondents, giving a total average of 77%, that indicated that they had difficulty in accessing public services. The proportion of respondent easily

Table 3.4: Accessibility of public services in Zambia by residential area

Residential Area	How accessible are public services					Total
	Easy to access	Difficult to access	Not accessible	Don't know	No response	
Urban	18 11.8%	119 78.3%	10 6.6%	5 3.3%	0 0.0%	152 100.0%
Rural	21 14.2%	112 75.7%	10 6.8%	4 2.7%	1 0.7%	148 100.0%
Total	39 13.0%	231 77.0%	20 6.7%	9 3.0%	1 0.3%	300 100.0%

Source: Household Survey

accessing public services in both urban and rural areas was comparatively the same, with a total average of 13.0%. Table 3.5 shows that when disaggregated according to age groups, the majority (91%) of the respondents fell within 21-30, 31-40, 41-50 and 51-60 years categories.

Age groups 18-20, 61-70 and above 70 years constituted the remainder 0.9% of the total respondents. In this regard, a paltry 7% and another 3.6% of the respondents fell in age group 21-30 years and 31-40 years respectively, indicated that they had easy access to public services. On the other hand, 26.6% of the respondents fell in age group 21-30 years and indicated that they had difficulty in accessing public services. Presumably, young people tend to be disadvantaged because of their weak socio-economic status. According to the Fifth Africa Development Forum *(2006)*, youths in Zambia have no adequate access to the basic conditions required to develop and live an independent life such as adequate education, occupational expertise and work experience. Age groups 31-40, 41-50 and 51-60 constituted 21.3%, 14% and 9%, respectively, of the respondents that indicated that they had difficulty in accessing public service.

Table 3.5: Accessibility of public services in Zambia by age group

Age Group	How accessible are public services					Total
	Easy to access	Difficult to access	Not accessible	Don't know	No response	
18 – 20 years	1 12.5%	7 87.5%	0 0.0%	0 0.0%	0 0.0%	8 100.0%
21 – 30 years	12 11.9%	80 79.2%	6 5.9%	3 3.0%	0 0.0%	101 100.0%
31 – 40 years	11 12.9%	64 75.3%	6 7.1%	4 4.7%	0 0.0%	85 100.0%
41 – 50 years	6 11.8%	42 82.4%	1 2.0%	1 2.0%	1 2.0%	51 100.0%
51 – 60 years	5 13.9%	27 75.0%	3 8.3%	1 2.8%	0 0.0%	36 100.0%
61 – 70 years	2 16.7%	8 66.7%	2 16.7%	0 0.0%	0 0.0%	12 100.0%
Above 70 years	2 28.6%	3 42.9%	2 28.6%	0 0.0%	0 0.0%	7 100.0%
Total	39 13.0%	231 77.0%	20 6.7%	9 3.0%	1 0.3%	300 100.0%

Source: Household Survey

In addition, the FGDs with government and civil society officials revealed that public services were easily accessed by a few rich people in society while the majority poor people did not.
The officials also revealed that those living along the line of rail tended to have easier access to the services than those living further from it[9]. In fact, the majority of people in Zambia are poor. According to Central Statistical Office (2004), the population of poor people in Zambia is around 67 per cent.

Furthermore, while respondents indicated difficulty in accessing public services, the levels of reliability of the services were low. Only 36.7% of the 300 respondents indicated that the quality of public services in their areas was either good or very good but the rest of the respondents indicated that the services were either poor or very poor.

In terms of systematic consultation with users over service delivery, this was also poor. FGDs revealed that local people were rarely consulted over public services delivered in their communities. For instance, MPs may be seen in their communities once a year. This also depends on the individual leader's willingness to visit the community. The only sector that was cited as having an element of consultation is the education sector. In this sector, there are times that the Ministry of Education is seen approaching chiefs or councillors over services they deliver in the communities.[10]

On the other hand, the Zambian Government implements policies and programmes that are initiated by external agencies and organizations. For instance, the Government implemented the Structural Adjustment Programme (SAP) in the 1990s as agreed with the International Monetary Fund (IMF) and World Bank. Similarly, during the period 2002-4 the country implemented poverty reduction programmes in accordance with plans outlined in the Poverty Reduction Strategy Paper (PRSP), which was prepared under the World Bank and IMF supported Highly Indebted Poor Countries (HIPC) Initiative *(Organisation for Social Science Research in Eastern and Southern Africa, 2008)*.

3.3.5 Comprehensiveness and effectiveness of the right of access for citizens to government information under existing laws

The Constitution of Zambia and other laws do not comprehensively give citizens the right of access to government information. Instead, there are laws that restrict access for citizens to government information. For instance, 'access to public archives, including public records', is restricted by the National Archives Act, Chapter 175 and allowed only at the discretion of the Director of the National Archives. In addition, there is the State Security Act, which provides for non-disclosure of all official documents on grounds such as national security *(Article 19, 2010)*. This shows that access to government information is not a citizen's right, but at the discretion of government officials.

[9]FGDs held in Livingstone and Mwinilunga on 20th October 2010 and 11th January 2011, respectively
[10](FGDs held in Samfya on 6th January 2011).

3.3.6 Confidence of the people in the ability of government to solve the main problems confronting society and in their own ability to influence it

People in Zambia in general appear to have little confidence in their government being able to solve various problems confronting society. The reason for this is that MPs as the representatives of the people, do not often visit their constituencies to get views from the people.
In addition, even what is debated in Parliament does not reflect the main problems confronting society.[11] (FGD with Government and civil society officials held in Mansa on 8th January 2011). During FGDs with government and civil society officials the situation was compounded by the fact that the Constitution of Zambia does not have a provision to recall MPs who do not perform in line with people's expectations. MPs are therefore not daunted by prospects of losing their parliamentary seats despite their failure to consult or work towards solving people's problems. [12]

In contrast, on the other hand, most of the local people have confidence that they can influence the government to solve the main problems confronting them. A majority (74 %) of the 300 respondents interviewed indicated that they were either very confident or moderately confident that they could exert some influence on the government to solve the critical problems that they faced. But consensus at FGDs with government and civil society officials was that the influence of local people would be stronger if the Constitution had a clause to recall MPs who did not perform in line with the people's expectations.[13]

At least 26 per cent of the respondents indicated that they had no confidence that people could exert any influence on the government to solve the main problems confronting them. There were two reasons for this lack of confidence. One was that even if people were to make demands, the government would not listen to them and the other was that the government would not respond satisfactorily because its resources were limited [14].

3.4 The democratic effectiveness of parliament

This section assesses the extent to which the Zambian Parliament or legislature contributes effectively to the democratic process. It examines some key aspects that are important in measuring the democratic effectiveness of Parliament.

3.4.1 Independence of legislature from the executive and freedom of expression of members of parliament

As the third organ of government, the Zambian Parliament is independent of the Executive. This is because Parliament is taken to be the supreme law making body in the country. This is borne out of the provisions of Articles 62 and 86(1) of the Constitution which give Parliament the legislative power and the power to determine its own procedure. However, the independence and powers of Parliament are liable to be compromised by the

[11] FGD with Government and civil society officials held in Mansa on 8th January 2011
[12] ibid
[13] ibid
[14] FGD with Government and civil society officials held in Solwezi on 12 January 2011

role of the Executive in the legislative process. For instance, there are members of the Executive who are also MPs. These members include the Republican Vice President, Cabinet Ministers and Deputy Ministers. Further, Article 81 of the Constitution imposes restrictions on the National Assembly to legislate on certain financial matters such as imposition of taxation, general revenues of the Republic, and the composition or remission of any debt due to the Government. Parliament can only act on such matters 'upon the recommendation of the President signified by the Vice President or a Minister.' *(Government of the Republic of Zambia, 1996a)*.

However, it is also true to state that to a large extent, MPs in Zambia are free to express their opinions in the process of legislation. This is because their actions are protected by the National Assembly (Powers and Privileges) Act. The Act provides for members of Parliament to speak and debate freely in the Assembly. The Act further protects members of parliament against civil or criminal proceedings for words spoken before or in a report to the National Assembly or to a committee *(Southern African Legal Information Institute, 2010)*.

3.4.2 Extensiveness and effectiveness of the powers of the legislature to nitiate, scrutinise and amend legislation

The Zambian Parliament has the powers to initiate and amend legislation through private members bills. These powers, however, are neither extensive nor effective because of a constitutional restriction concerning the extent to which these powers can be exercised. As stated in the preceding section 3.4.1, Article 81 of the Constitution does not allow Parliament to legislate or amend legislation on certain financial matters such as imposition of taxation, general revenues of Zambia, and the composition or remission of any debt due to the government unless it is 'upon the recommendation of the President signified by the Vice President or a Minister' *(Government of the Republic of Zambia, 1996a)*. In this regard, it can be asserted that, 'the executive has monopolised the introduction of new legislation' in the country *(Burnell, 2002)*.

Despite having limited powers to initiate and amend legislation, Parliament has got extensive power to scrutinise legislation through the Parliamentary Committee System.
In this regard, when a bill is introduced to the National Assembly, it is referred to an appropriate parliamentary committee for thorough scrutiny of the legislative proposals. The committee decides its own programme of work for the year. It is also empowered to call witnesses from inside and outside government to provide information and to appear in person (ibid). Upon completion of its deliberations, the committee compiles a report which is tabled in the National Assembly for consideration and subsequent adoption (*National Assembly of Zambia, 2006)*. Once the committee report has been adopted by the National Assembly, the Executive is supposed to 'reply within 60 days in the form of an Action-Taken report tabled in the National Assembly' *(Burnell, 2002)*. However, in practice, the power of Parliament to scrutinise legislation is somewhat ineffective. This is because 'the Executive is not required to implement committee recommendations providing it gives a convincing reason' *(ibid)*.

3.4.3 Extensiveness and effectiveness of the oversight powers of the legislature over the executive

The Zambian Parliament exercises its powers to oversee the Executive and hold it to account through committees such as the Public Accounts Committee which examines the report of the Auditor-General on public accounts. This includes all accounts required under the Public Finance Act to be kept by ministries, departments or statutory corporations in respect of transactions involving assets or liabilities of the Republic *(Government of the Republic of Zambia, 2004)*.
The other committee is the Committee on Government Assurances which is 'mandated to scrutinise all assurances, promises and undertakings made by Cabinet Ministers and Deputy ministers on the floor of the House, usually at question time or during the budget presentation with the objective of ensuring that they are implemented' *(Burnell, 2002)*.

However, the powers of Parliament to oversee the Executive and hold it to account are not extensive, thereby compromising Parliament's effectiveness. This is because Parliament has no power to directly punish officers who misappropriate public funds. Instead, this responsibility is passed on to the Executive, which is 'required to submit a Treasury Minute or Action Taken Report to the National Assembly after six months outlining what measures it has taken to correct the anomalies that were pointed out by the PAC' *(Nchite and Nsana, 2004)*. Another explanation for Parliament's ineffectiveness is that the assurances by the executive take long to be implemented, thereby increasing the backlog. As a result, some of the issues especially older ones are closed so that the entire process is not overwhelmed by an increasing backlog *(Burnell, 2002)*. Interestingly, some of the issues are closed even when very little redress has been achieved. For instance, the matter involving ZRA members of staff who were cited for financial irregularities during the financial year ended 31 December 2004 was closed after it was observed that disciplinary action including dismissals had been taken against the officers. This was done in spite of the fact that the misappropriated amounts of money had not been recovered *(Public Accounts Committee, 2006b)*.

3.4.4 Rigour of the procedures for approving and supervising taxation and public expenditure

Existing procedures for approval and supervision of taxation and public expenditure in Zambia are quite rigorous. These procedures begin at the stage when the Minister of Finance and National Planning presents the Budget Address to the National Assembly. The Budget Address contains proposed estimates of revenue and public expenditure for the following year. After the Budget Address, the whole House resolves into the Committee of Supply to 'meticulously consider the expenditure proposals ministry by ministry.' At the same time, the House resolves into the 'Committee of Ways and Means for purposes of approving revenue proposals for the funding of suggested expenditures' *(Mudenda et al, 2007: 6)*.

Each expenditure proposal is discussed through the three stages of the House. After the deliberations, the House approves an Appropriation Bill, which when assented to by the President, becomes the Appropriation Act. Thereafter, the President issues the general warrant addressed to the Secretary to the Treasury to authorise the release of funds to controlling officers through treasury authorities. Similarly, the Committee of Ways and Means approves the presentation of several bills on the raising of revenue, which when approved by the National Assembly are presented to the President for assent. Thereafter, they become law. This authorises law the collection of the revenue including taxation.
However, there are cases where unapproved or unconstitutional or excess expenditures are incurred. In such cases, Article 117(5) of the Constitution of Zambia stipulates that:

> Where, in any financial year, expenditure has been incurred without the authorisation of Parliament, the Minister responsible for finance shall, on approval of such expenditure by the appropriate committee of the National Assembly, introduce in the National Assembly, not later than thirty months after the end of that financial year or, if the National Assembly is not sitting at the expiration of that period, within one month of the sitting of the National Assembly thereafter, a Bill to be known as the Excess Expenditure Appropriation Bill, for the approval by Parliament of such expenditure *(Government of the Republic of Zambia, 1996a)*.

The Bill becomes the Excess Expenditure Appropriation Act when the President assents it, thereby regularizing the excess expenditure as it is deemed legally approved henceforth.

In terms of supervision of taxation and public expenditure, Article 118 of the Constitution of Zambia requires the Minister of Finance and National Planning to prepare a financial report and lay it before the National Assembly not later than nine months after the end of each financial year. The financial report includes the following:

> a) accounts showing the revenue and other moneys received by the Government in that financial year;
> b) expenditure of the Government in that financial year;
> c) payments made in that financial year;
> d) a statement of the financial position of the Republic at the end of that financial year;
> e) such other information as Parliament may prescribe *(Government of the Republic of Zambia, 1996a)*.

In this regard, 'Parliament is empowered by law to scrutinise and make follow-up audit reports through the Public Accounts Committee and other sessional committees.' These committees have power to summon any office holder or person to explain how public funds were used. 'The committees then recommend to Parliament the necessary course of action. However, Parliament does not submit cases for prosecution and does not follow up prosecutions' *(Mudenda et al., 2007:30)*. Instead, this responsibility is passed on to the

Executive *(Nchite and Nsana, 2004)*. Because of this arrangement, the supervision of taxation and public expenditure undertaken by Parliament tends to be somewhat ineffective. This is because the Executive has got the power to decide on its own, the cases to prosecute and those not to.

3.4.5 Freedom of parties and groups to organise within the legislature and contribute to its work

Being one of the three branches of government, Parliament is supposed to enjoy independent debate and expression of various interests. Like most of the parliaments in Africa, the Zambian Parliament is an inherited institution. Its practices, procedures and conventions are similar to those of the British House of Commons (Simutanyi, 2005). To a large extent, political parties and groups that are represented in the Parliament are free to organize themselves and contribute to its work through Parliamentary Caucuses or parliamentary groups. For instance, all MPs of a particular political party belong to the same Parliamentary Caucus or group. This arrangement is aimed at ensuring that MPs debate and vote according to the instructions or preferences of the party (ibid). In addition, MPs are free to form voluntary groups or caucuses based on various interests across party lines. For example, there is the Parliamentary Caucus on Children (PCC) established by MPs who are interested in the welfare of children. There is also the Zambian Women Parliamentarians Caucus (ZWPC) established by female MPs aimed at empowering women within Parliament and the country at large *(Talakinu, 2004)*.

Despite various political parties and groups being free to organize themselves within the Zambian Parliament, their effectiveness in influencing the legislative process depends on the number of MPs belonging to each particular political party or group. This is because of the game of numbers, which favours dominant parties and groups when it comes to voting on a motion. For instance, there are more male than female MPs in the Zambian Parliament. This means that the women caucus lacks the numerical force to have meaningful influence in the legislative process. Similarly, it is easier for the caucus of the ruling party to play a meaningful role in the policy-making process than opposition parties *(ibid)*.

3.4.6 Extensiveness of procedures of the legislature for consulting the public and relevant interests across the range of its work

There are a number of procedures that have been put in place in Zambia for parliament to consult the public and relevant interests across the range of its work. They include the use of the Parliamentary Office established in each constituency in the country, visits by MPs to their constituencies, and Parliamentary Committees that are empowered to consult individuals and organizations in the process of their deliberations. However, in practice, these procedures are not extensive. The rates of consultation vary from one constituency or group of people to another. Some people are usually consulted while others are not.

Table 3.6: Frequency of consultation by MP or Parliamentary Office concerning their work in Zambia by sex

Sex	Frequency of consultation by MP or Parliamentary Office concerning their work					Total
	Very often	Sometimes	Not at all	Don't know	No Response	
Male	10 6.4%	54 34.4%	89 56.7%	2 1.3%	2 1.3%	157 100.0%
Female	8 5.6%	49 34.3%	78 54.5%	8 5.6%	0 0.0%	143 100.0%
Total	18 6.0%	103 34.3%	167 55.7%	10 3.3%	2 0.7%	300 100.0%

Source: Household Survey

Table 3.6 shows that the levels of public consultation by parliament across the range of its work are generally low. Very few people are usually consulted while the majority are not. The situation tends to be similar across gender lines. However, there are some variations in terms of age asshown by Table 3.7.

Table 3.7 shows that there are higher proportions of older people who are usually consulted by Parliament concerning its work than younger ones. What this implies is that there are higher levels of marginalization of young people in the governance process than the older generation.

Table 3.7: Frequency of consultation by MP or Parliamentary Office concerning their work in Zambia by age

Age Group	Frequency of consultation by MP or Parliamentary Office concerning their work					Total
	Very often	Sometimes	Not at all	Don't know	No Response	
18 - 20 years	0 0.0%	3 37.5%	5 62.5%	0 0.0%	0 0.0%	8 100.0%
21 – 30 years	4 4.0%	38 37.6%	53 52.5%	6 5.9%	0 0.0%	101 100.0%
31 – 40 years	6 7.1%	27 31.8%	50 58.8%	2 2.4%	0 0.0%	85 100.0%
41 – 50 years	2 3.9%	18 35.3%	30 58.8%	0 0.0%	1 2.0%	51 100.0%
51 – 60 years	2 5.6%	12 33.3%	22 61.1%	0 0.0%	0 0.0%	36 100.0%
61 – 70 years	3 25.0%	3 25.0%	4 33.3%	1 8.3%	1 8.3%	12 100.0%
Above 70 years	1 14.3%	2 28.6%	3 42.9%	1 14.3%	0 0.0%	7 100.0%
Total	18 6.0%	103 34.3%	167 55.7%	10 3.3%	2 0.7%	300 100.0%

Source: Household Survey

It was noted that the consultations were conducted either during the time of elections while or whenever need arose to undertake a development project in the community.[15]

3.4.7 Accessibility of elected representatives to their constituents

In a democratic society, it is important for elected representatives to be accessible to their constituents. This enables the representatives to receive correct views of their constituents and to ensure that the same views are effectively represented. To facilitate this kind of interaction, the Zambian Parliament makes provision for the MPs to visit their constituencies when Parliament is on recess and gives loans to MPs to buy vehicles to ease travel as they visit their constituencies. However, in practice, the MPs were rarely accessible to their constituents. In fact, the majority of the constituents never met their MPs but just heard about them on radios. There were very few MPs who visited their parliamentary Constituency Offices at least once in a month. Other MPs visited their Constituency Offices once every quarter, every six months or once in a year.[16]

One of the reasons for MPs being inaccessible is that some of them are Ministers and when contacted by their constituents, they claim that they are busy with their ministerial and parliamentary duties *(ibid)*. This kind of relationship between elected representatives and their constituents poses a challenge to the quality of democracy in the nation. On the one hand, ministers, as members of the Executive branch of government, are supposed to implement policies that are in line with the needs and wishes of the general public. As such, it becomes necessary for them to be MPs. This situation accords them the opportunity to interact with their constituents, understand community needs and to act responsively. In addition, having MPs who are also ministers reduces the amount of antagonism in the governance process. This is because there would be few instances of Parliament challenging the decisions and actions of the Executive and vice versa.

On the other hand, having MPs who are also ministers tends to compromise the quality of democracy in the country. This can be seen at two levels. Firstly, it defies the principle of Separation of Powers between Parliament and the Executive. In this case, there would be no effective checks and balances among the various organs of the government. As a result, government officials would not be fully accountable to the people they serve but to themselves. This situation creates fertile ground for abuse of power. It also curtails individual rights and liberties and leads to arbitrariness and injustice in society *(Basu, 1994)*. Secondly, when MPs are also ministers, they tend to have increased workloads, may make them less effective and less responsive to the needs of the people they serve.

The problem of MPs being inaccessible to their constituents worsens when it comes to constituencies that are distant from Lusaka, where the National Assembly is located, because most MPs physically relocate to Lusaka after winning the elections. They rarely go back to their constituencies until the next elections. The MPs are compelled to visit their constituencies during election time to appeal for votes once more.

[15] (Interview with Samfya Council Secretary held on 6 January 2011).
[16] FGD with Government and civil society officials held in Lusaka on 15 November 2010

In fact, it was clear from FGDs that the relationship between the constituents and their representatives ceased after each election.[17]

3.4.8 Effectiveness of the legislature as a forum for deliberation and debate on issues of public concern

In a democratic state, it is necessary for Parliament to provide an appropriate forum for deliberation and debate on issues of public concern. Such a forum is supposed to enable various stakeholders to bring out different views that may influence certain major policies and legislation. Within the context of the Zambian Parliament debate or suggestion on issues of public concern can be made during various stages through which a bill goes before being passed into law. There are five stages the bill goes through namely, the First Reading where no debate takes place, Second Reading which is followed by a detailed debate, Committee Stage where the bill is considered by a Committee of the whole House clause by clause, Report Stage where the bill is open to further changes and the Third Reading which is the final stage before Presidential Assent. To a large extent, the debates are inclusive of various view points and arguments. This is because all MPs have got the freedom to speak.

There are, however, some limitations in terms of the extent to which the MPs can effectively contribute to the debates. This is because of the little time allocated for Parliamentary sittings and Committee meetings *(Talakinu, 2004)*. For instance, during the Second Reading, an MP is only allowed to speak once so that many members are given the opportunity to contribute to the debate. In addition, there are times when some MPs may not be given the chance to speak because the initiator of the Bill has decided to wind up the debate. As a result, a lot of issues are left unattended *(ibid)*.

3.5 Integrity in public life

3.5.1 Introduction

Upholding integrity in public life basically means for public officials and political leaders performing their public duties and functions in an ethical or morally upright manner. This is presumed to be not only in the interest of free conscience but also in line with fairness and equity in providing public goods and services. In practice, partly due to human frailty and selfishness, integrity in public life is not always observed or assured. Consequently, dishonest and corrupt practices tend to take place from time to time. This section deals with the problem of integrity, in general and corruption, in particular in Zambia.

3.5.2 Extent and consequences of corruption in Zambia

3.5.2.1 Extent of corruption

Corruption continues to be a major problem in Zambia. The National Governance Baseline Survey in Zambia identified corruption in the public sector as one of the top four

[17]FGDs with Government and civil society officials held in Mansa and Solwezi on 12 January 2011.

'socio-economic challenges' facing the country in 2003 reported by respondents. The other three were high cost of living, safety concerns/crime, and infrastructure/quality of roads. The report further indicated:

> Corruption has many faces in Zambia, from administrative corruption (payment of bribes to obtain permits or a basic service) to nepotism and procurement mismanagement. Almost 40 percent of respondents report that they have been asked for a bribe to obtain a public service or licenses and permits. The police, the National Registration Office, courts and the Lands Department were among the public institutions reported to have high levels of corruption *(Government of the Republic of Zambia, August 2004)*.

Similarly, the Afrobarometer survey showed that when put together respondents in rural and urban areas who answered that 'some of' or 'most of', among others, the President and officials in his office, Members of Parliament, elected councillors, national and local government officials were involved in corruption constituted a significant majority compared to those who answered 'none' or 'all of them'.[18] The same categories of respondents also showed 'lukewarm' trust in leaders, public officials, organizations and institutions. Institutions and organizations included the Electoral Commission of Zambia, the ruling party, opposition political parties, and courts of law.

Corruption in Zambia appears to have reached great heights under the government of former President Chiluba who was later put on trial after removal of his immunity, but acquitted. According to a study commissioned by Transparency International Zambia, cases of 'grand corruption' included:

- The President and his Chief of Intelligence misappropriating or misusing at least US $52million dollars through the Zamtrop Account at the Zambia National Commercial Bank London Branch.
- Diversion by three Cabinet Ministers of the sum of K2 billion from the National Assembly account to the MMD party convention.
- Millions of dollars of proceeds from privatization of state-owned enterprises disappearing without being deposited in the Privatization Account, contrary to law.
- Payment of US $7million to a Canadian firm, Carlington Sales Ltd., for importation of maize for the country, which was never delivered.[19]

As can be seen from Table 3.8, according to Transparency International, Zambia scored 2.6 out of ten on the Corruption Perception Index (CPI) for each of the years from 2002 to 2007, except in 2003 when the score was 2.5. Some improvement took place in 2008, 2009 and 2010 when the scores were 2.8 (2008) and 3.0 (in 2009 and 2010). Zambia's score in 2010 was worse than scores by countries in Southern Africa such as South Africa (4.5), Namibia (4.4), Botswana (5.8) and Mauritius (5.4). However, it was better than the scores of Zimbabwe (2.4), Mozambique (2.7). Congo Democratic People's Republic (2.0), and Angola (1.9.[20)]

[18]Afrobarometer, *Zambia, 2005: Summary of Results*, Compiled by Peter Lolojih and Dr. A. B. Chikwanha. Afrobarometer, East Lansing, 2005, pp. 30 - 32
[19]ibid. pp. 28 - 30

3.5.2.2 Consequences of corruption

Loss of money or simply capital, is one of the major consequences of corruption where it occurs. According to a report of the African Union, Africa loses about US $148 billion as a result of corrupt practices.[21] Corruption far overshadows capital flight, food imports, expenditure on arms and the military and civil war and damage as a cause of Africa's loss of money.[22] The partial account given above suggests that Zambia has indeed lost a lot of money through corruption. In Zambia and elsewhere, corruption generally raises the cost

Table 3.8: Corruption in Zambia, 2002 to 2010

Year	Number of countries surveyed	CPI Score	Rank
2002	102	2.6	11
2003	133	2.5	11
2004	146	2.6	11
2005	159	2.6	10
2006	163	2.6	9
2007	180	2.6	13
2008	180	2.8	17
2009		3.0	19
2010	178	3.0	18

Source: Transparency International, Zambia (TI), The Guardian newspaper (online), 27 October 2011

of doing business and the cost of public services for members of the public. Many poor citizens, adversely affected by user fees find themselves having to cope with unofficial costs as well. The result is failure to access vital services.

By raising the cost of doing business, the environment becomes unfavourable for investors. Other effects, as listed by the Transparency International Zambia Report are:

- Violations of human rights;
- Discouraging foreign investment;
- Loss of confidence in political leaders and
- Poor service delivery by public institutions;
- Elections not being free and fair; and
- Withholding of vital donor aid.[23]

3.5.3 Efficacy of the National Integrity System

The key components in the system are the Anti-Corruption Commission (ACC), the Constitution and Acts of Parliament. The ACC was originally established in the era of the one-party state under the Corrupt Practices Act of 1980. This was repealed in 1996 when the Anti-Corruption Commission Act was passed. A major problem of the ACC is that

[20]Transparency International, Zambia, "Official Launch of TI Perception Index", Lusaka, TI, 17th November 2009, *The Guardian* (online), 27 October 2011

[21]Ayittey, George B. N. , "Poverty: Can Foreign Aid Reduce Poverty?: No", in Haas, Peter M., et al, eds., Controversies in Globalization, CQ Press, Washington D. C., 2010, p. 91

[22]ibid. p. 93

[23]TI Zambia, National Integrity Systems, opcit., p. 11

since its inception, it has not been availed adequate resources to effectively tackle the problem of corruption. It relies heavily on funding from donors. The number of well trained prosecutors to effectively argue cases in court is small and turnover tends to be high. After the Task Force on Corruption, later disbanded, was established, the ACC was sidelined and significant amounts of resources were channeled to the Task Force which was handling high profile cases, including those of former President Chiluba and former officials in his administration.

Among members of the public (households) interviewed in the five provinces of Zambia, 47% were of the view that the ACC is not effective. Responses by gender show that 51% of male and 42.2% of female respondents perceived that the ACC was not effective in dealing with cases of alleged corruption by public officials. Variations in responses by province indicate that Copperbelt recorded the highest percentage (68.2%) of respondents reporting that the ACC was not effective in dealing with cases of corruption by public officials. This is followed by North-Western Province with 61.8 per cent, and Luapula Province with 59.1 %.

Measures for preventing corruption in the country were also not perceived to be effective by the majority of household respondents, 56% of whom reported that measures for preventing public office holders from involvement in corruption were not effective. Similarly, 55.3% of the respondents reported that measures for preventing members of the public from involvement in corruption were not effective. The responses by female respondents are, respectively, 50.3% and 47.6% and those from male counterparts are 61.1% and 62.4%.

Article 52 of the Republican Constitution provides for a Code of Conduct for Cabinet Ministers and Deputy Ministers, while Article 77 provides for a Code of Conduct for Members of the National Assembly. Pursuant to these Articles, Parliament passed the Parliamentary and Ministerial Code of Conduct Act in 1994. Under this Act, if there are allegations of breach of the Code, a member of the public can write to the Chief Justice,

Figure 3.2

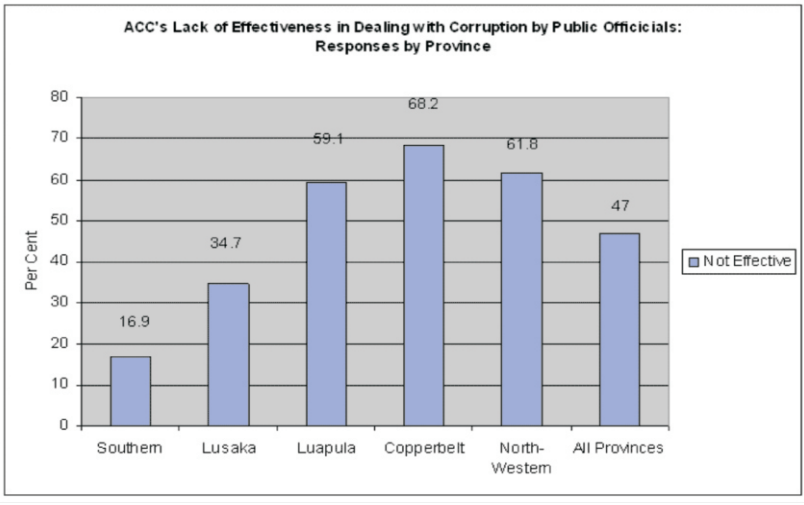


Figure 3.2

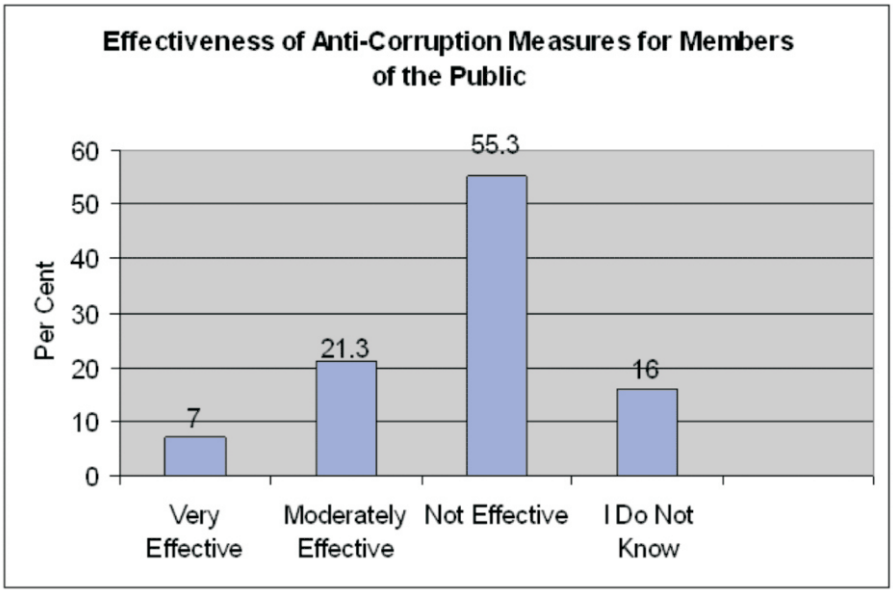
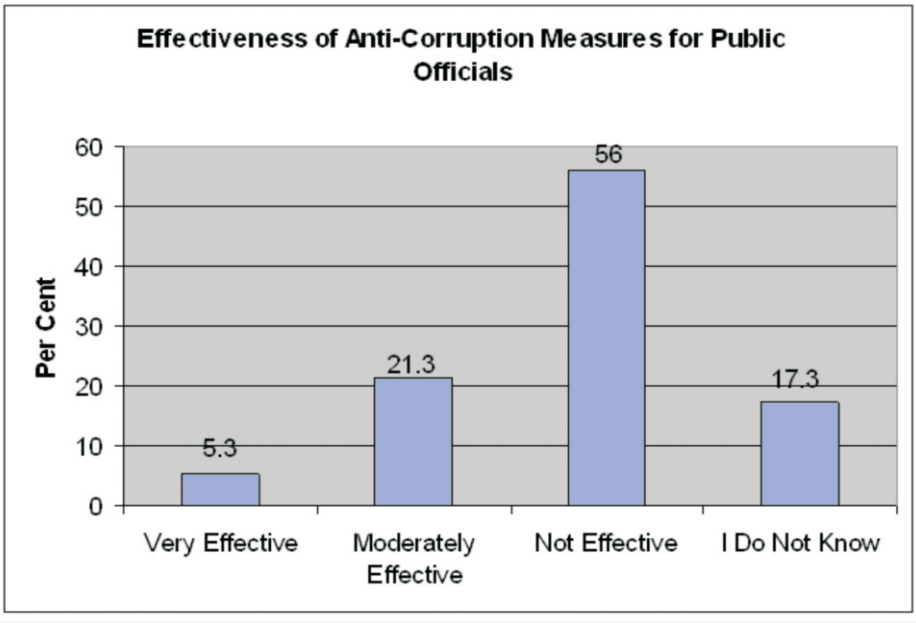


Figure 3.3



requesting to set up a tribunal. However, the best it can do is to cause the loss of parliamentary seats. It has no powers to prosecute. This has been its main source of weakness.

3.5.4 Conclusion

Since the era of the second Republic, Zambia has had in place an integrity system that has the potential to tackle corruption effectively. However, the scourge continues to be a major national problem. This suggests that there is need to institute measures to enhance the capacities of corruption fighting institutions to enable them deal with the problem effectively.

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Chapter 4

Civil society and popular participation

4.1 The media in a democratic society

4.1.1 Introduction

The media in a democracy has a number of overlapping but distinctive functions that include informing, educating and entertaining. To make informed decisions about public policy, people need accurate, timely and unbiased information. Because opinions diverge, they also need access to a wide range of viewpoints. This role is especially important during election campaigns when few voters would have an opportunity to see much less speak with candidates in person and rely more on the various forms of media to 'explain the issues and characterize the respective positions of candidates and their political parties.'[1] In Zambia, public media are inadequately funded and lack independence in the way they execute their functions. Although there are various recommendations made on media reforms in Zambia, these are yet to be acted upon by government. The media fraternity has been promoting initiatives on the Freedom of Information law, introduction of the Independent Broadcasting Authority (IBA) Act and extensive amendments to the Zambia National Broadcasting Corporation (ZNBC) (Amendment) Act. However, Freedom of Information (FOI) Bill has not been enacted hence the consistent call for the enactment of the FOI Bill as well as the reform of various laws that impede press freedom and are considered archaic by stakeholders.

This section provides an updated evaluation of the role that the media plays in the process of democratisation in Zambia. It will respond to questions such as has the media fostered or sustained democracy in Zambia and, if so, how important is its role in comparison with that of similar forces in society? How independent are the media from government? How pluralistic is its ownership?

4.1.2 Media scenario in the Southern African Development Community (SADC)

Article 19 of the United Nations Universal Declaration of Human Rights states that: 'Everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek and impart information and ideas through any media and regardless of frontiers.' This right has been confirmed by the

[1]Principles for Election Management, Monitoring and Observation in the SADC Region, Electoral Handbook No. 13, Electoral Institute of Southern Africa (EISA) Publication 2003.

African Charter on Human and Peoples' Rights *(Article 9)* and many other international conventions.
The right to freedom of expression straddles numerous aspects of democratic society in a manner quite unlike other fundamental rights enjoyed. It encompasses the rights to freedom of speech, media, academic inquiry and artistic endeavour. It extends to and can conceivably be regarded as essential to other fundamental rights such as freedom of choice, religion, conscience, association, protest and political freedom. It includes the right of access to information and the right to receive and impart information. Both the right of access to information and freedom of expression form the backbone of many vital institutions and activities of civil society.

In undertaking an audit of freedom of expression in the region, one is mindful that over the past few years, the right to freedom of expression and many of its component parts, have featured in numerous public debates. It proves that while this right has been entrenched in member states' constitutions, it remains controversial. The controversy includes the issue of abuse and the question of whether a fundamental human right such as freedom of expression can be abused and how. In this regard, many countries in Southern Africa, Zambia inclusive, media practitioners face harsh consequences when they try to hold governments accountable. However, the intensification of media violations takes its greatest toll on media practitioners who work in countries whose governments exhibit dictatorial autocratic and authoritative tendencies. Among the SADC countries, Angola, Zimbabwe, Swaziland and Malawi are reported to be the most repressive environments in which journalists attempt to work.[2]

The violations of media freedoms and harsh treatment meted against media practitioners in countries that comprise the Southern African Development Community (SADC)[3] involve actions such verbal and physical harassment, threats of death, assault, detentions and imprisonment. This has been characterising the difficult situation faced by most media practitioners in the SADC countries during the recent past and relationships among media and governments have continued to deteriorate. The Media Institute of Southern Africa (MISA), based in Windhoek, Namibia, which was formed in 1992 with a SADC regional mandate of promoting the provisions of the Windhoek Declaration of May 1991 that declared 'independent, pluralistic and free press' essential for democracy and economic development, has been documenting these media violation incidents through its monitoring, investigations and reportage on media freedom violations in the SADC countries.[4]

As media practitioners work to hold government officials accountable to the people and to democratic norms, some SADC governments have intensified their clampdown on the media through actions meant to stifle and silence its voice. The space for political debate and dissent in the region is being squeezed tightly as governments enact legislation aimed

[2]Chipare, Luckson A (2002) When African Governments Stifle Press Freedom
[3]SADC comprises Angola, Botswana, Democratic Republic of the Congo (DRC), Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe
[4]So, this is Democracy?-MISA, 2009

at suppressing the independence of the media and providing avenues by which to punish those who might publish stories of wrongdoing by government or opposition political parties. In Zambia, several media personnel have been harassed by both opposition political parties and ruling party cadres on allegations of biased reporting especially in the run-up to the 2011 tripartite elections.
The largest opposition political party, the Patriotic Front (PF) even issued instructions to its aspiring candidates countrywide not to participate in discussion programmes on the state-owned broadcaster, *Zambia National Broadcasting Corporation (ZNBC)* because of alleged unfavourable coverage. On the other hand, Zambia has been involved in a fierce debate on whether to introduce statutory or self-regulation for the media. In Zimbabwe, despite being a liberal democracy, many laws and policies that suppress political and civil liberties including media freedom have been enacted since 2000 such as Access to information and protection of Privacy Act (AIPPA) and Broadcasting Services Act (BSA) among others.[5]

In Zimbabwe, working as a media practitioner has become dangerous. As the government becomes more paranoid about losing power, it has passed repressive legislation that criminalizes the work of media practitioners, who are required to apply for annual licences from a government appointed and controlled Media Commission, which requires that they work for 'registered' media houses. Freelance journalists must provide proof of agreements with those to whom they will be selling stories and supply samples of previous journalistic work to be licensed. Only Zimbabwean nationals who reside in the country are allowed to be 'foreign correspondents' which has forced most of those who were working there as foreign correspondents to leave because they were denied licences to do their job. Within a year of passage of these laws, more than 80 journalists were arrested and detained under spurious charges including writing 'falsehoods' or 'creating a feeling of despondency against the president.' In April 2004, in reacting to an article headlined 'Government silenced Zimbabwe's only independent newspaper' then Zimbabwe Minister of Information Jonathan Moyo reportedly said that the country has enough prison space for local media practitioners who peddle 'lies' in the foreign media. To date, no media practitioner has been convicted, though harassment of the independent media by the government is rampant. The new regulations have also left many media practitioners without jobs.

Not satisfied with harsh treatment of media practitioners, the government effectively shut down three independent newspapers that were critical of the government after realizing that bombing their printing presses and offices had failed to silence them. The few independent newspapers remaining were not assured of continuing their operations since their two-year registration was up for renewal in December 2004. Moyo called the *Zimbabwe Independent* and The *Standard Weekly* newspapers 'running dogs of imperialism,' and in October 2003 he said, 'We should shut these papers down because they are trash; they injured our national interest.' Moyo made this statement just a month after the independent *Daily News* and *Daily News on Sunday* ceased publication.

[5]OSISA (2011) Open Space, Zimbabwe at the Crossroads, issue No. 1 June 2011 page 75

The justice system has been effectively used in silencing the independent media in Zimbabwe. In what became notorious 'dirt hands' doctrine saga, the Supreme Court ruled that The *Daily News* ought to have registered first before its case could be considered. When the publishers applied to register, they were told that they could not be registered since they were already operating illegally.

In Angola, reporting on activities of the president and government officials whether in caricature, print or broadcast is one of the most dangerous assignments for media practitioners in that country. In March 2000, Rafael Marques, a freelance journalist and Aguiar dos Santos, the director of the independent weekly newspaper, *Agora,* were convicted of defaming, injuring and slandering President José Eduardo dos Santos in an article headlined 'The Lipstick of Dictatorship' Marques wrote and published in Agora. His crime was describing the president as a dictator 'responsible for the destruction of the country and the promotion of corruption.' Marques was convicted on an additional charge of defaming, injuring and slandering Angolan Attorney General Domingos Culolo. Covering the leader of the opposition party has also posed serious threats to Angolan journalists.[6] Doing so has resulted in many media practitioners being banned, imprisoned, censored and excluded from official press conferences. In August 1999, journalists working for the church radio station, Radio Ecclesia, were arrested, their materials confiscated, and the radio station was shut down for some hours for broadcasting an interview the BBC had done with UNITA rebel leader Jonas Savimbi.

For Swaziland, reporting on the King's private life, as well as, his many wives and would-be-wives gets media practitioners in trouble, since such reporting is considered disrespectful of the monarchy, a punishable taboo. At one time, the then Sunday Times editor, Bheki Makumbu, learnt this when he was detained for publishing an article detailing the background of one of the king's fiancées. The intolerance of the monarchy does not only limit itself to independent publications. In March 2000, the state-owned and controlled Swazi Observer was shut down ostensibly because of financial difficulties, but it later emerged that the real reason for its closure was its critical reporting about the monarchy, its errant governing, and the paper's refusal to reveal sources of its information. The paper reopened in February 2001, but the editor and senior journalists responsible for these earlier reports were not among the rehired employees. The Guardian of Swaziland was also banned in May 2001 because of the newspaper's reporting about the illness of the king and for suggesting that he was poisoned by one of his many wives.[7]

In Malawi, some journalists have been beaten up for reporting about President Dr. Bakili Muluzi's attempt to change the constitution and rule for another term. His political party organised vigilante groups of youths that assaulted media practitioners for covering events other than those of the ruling party. Those reporters who dared to write any articles against the ruling party were severely beaten, even in front of police, who did nothing to protect them. Journalists George Ntonya and Chikondi Phikiso were, in fact, beaten by police for attempting to take pictures of a scuffle between the police and a motorist at a police roadblock on 18 October 2003.[8]

[6]OSISA (2011) Open Space, Zimbabwe at the Crossroads, issue No. 1 June 2011 page 75
[7]ibid
[8]ibid

Similar attacks on the independent press have also been made in Namibia. In August 2003, President Sam Nujoma called *The Namibian* newspaper and its editor, Gwen Lister, 'unprofessional and reactionary.' And in May 2001, the Botswana government imposed an advertising ban on *The Guardian* and *Midweek Sun* newspapers, which were accused of being too critical of the country's leaders.
The intent of this ban was to demonstrate the government's displeasure about 'irresponsible reporting and exceeding of editorial freedom.' That nation's High Court ruled later that year, however, that the ban had violated the papers' constitutional right to freedom of expression.

It is against this background that the regional body, MISA, has been and continues to be engaged in an intensive campaign for media law reforms in the SADC region to ensure that a supportive legal environment is created for free and independent media. In 2000, the Promotion of Access to Information Act became law in South Africa, and this remains one of the region's most important press developments. This Act enables the media and ordinary citizens to access information from the state as well as from private organisations and individuals when such information is considered necessary in the public or individual's interest. Positive provisions of Promotion of Access to Information Act, however, were broadly reversed with a proposed Protection of Information Bill of 2011 which sought to provide every organ of government with authority to place a blanket of secrecy over its documents.

In 2002, there were positive developments in Zambia, including the enactment of two pieces of legislation, the IBA Act and ZNBC (Amendment) Act. However, the Zambian media and a coalition of non-governmental organisations were not successful in securing passage of a Freedom of Information (FOI) bill, which for a long time remained on the government shelves. Unfortunately, there has been a misconception that the FOI bill, once passed would be used exclusively by media practitioners. In reality, the FOI essentially empowers people, all people - through access to information held by government thereby promoting transparency, accountability and good democratic governance. Many challenges remain for media practitioners working in the region as they try to do their jobs in places where democracy is emergent but still weak. Though some progress has been made, media practitioners working in independent media in Africa is now focused on finding approaches necessary to changing the oppositional climate in which many of them now must work while also strengthening its ability to report.[9] Therefore, state-media relations in the Southern African region and Zambia in particular have painted a grim picture of an uneasy relationship between the private and state-owned media institutions.[10]

4.1.3 Media scenario in Zambia

The changeover of power from UNIP to MMD in 1991 was as peaceful as it was in 2011 when power transferred from MMD to the Patriotic Front. The peaceful transition of 1991

[9]Chipare, Luckson A. (2002) *When African Governments Stifle Press Freedom*
[10]ibid
[11]Lise Raknera; Lars Svasandb (2005) Democratization:
Stuck in transition:Electoral processes in Zambia 1991-2001

raised expectations of a smooth process towards democratic consolidation through increased tolerance of divergent viewpoints. But similar to experiences in other African countries and Eastern Europe, the Zambian democratic process has remained stuck in a 'transitional zone' between actual democracy and authoritarian systems.[11] Article 20 (1) of the Constitution provides for freedom of expression and Article 20 (2) provides for press freedom but this is followed by Article 20(3) which restricts these freedoms in the interests of defence, public safety, public order, morality or public health among other broad stipulation. Constitutional safety nets are watered down by derogations. The derogations have made it possible for legislation restrictive of freedom of expression to be passed. These include the State Security Act which permits the government to ban publications deemed to be contrary to public interest.

As the 'fourth estate', the media to some extent play its role of being a watchdog over government and other powerful institutions in the country.[12] However imperfect the media in Zambia may be, it has exposed the truth behind the claims of government and held public officials accountable for their actions. An example is the arrest and re-arrest of a former Ministry of Health Permanent Secretary and Human Resources Officer in 2005 and 2009, respectively. Other examples of arrests and prosecutions in which the media played a critical role in exposing the wrongs of the public officials are the prosecution of former President, Frederick Chiluba, his Finance Minister and a number of top security officials for corruption and abuse of office. The media also has taken a more active role in public debate. Through editorials or investigative reporting, the media has campaigned for specific policies or reforms that they feel should be enacted such as the ZNBC Act, establishment of an IBA and now the campaign, with other civil society organisations for enactment of the FOI and establishment of a self- as opposed to statutory - regulatory body. Though, with a lot of censorship, the media in Zambia serves as a forum for organisations and individuals to express their opinions through 'letters to the editor', and contributing articles with divergent viewpoints. Another very important role of the media is that of 'setting the agenda'. Acknowledging the important role of the media, former Information Minister Vernon Mwaanga contended that the country 'cannot pursue social, economic and political development without the participation of the press.'[13]

However, it is a recognised fact that the media disseminates news which is inevitably filtered through biases and sensibilities of individuals and the enterprises for which they work. They can be sensational, superficial, intrusive, inaccurate and inflammatory. It is better to encourage pluralism of the media and broaden public debate on various issues so that people make personal analysis and choices than impose laws that stifle the work of media practitioners. A distinguished US Supreme Court Justice, Oliver Wendell Holmes Jr. (1919) once said, 'The best test of truth is the power of the thought to get itself accepted in the competition of the market.' However, the government's reaction to media or organisations that abuse freedom of speech or publish information that, in the opinion of the majority, is false, repugnant, and irresponsible or simply in the bad taste, has been that of judgment, instead of strategic engagement.

[12]GRZ (1999) Governance: National Capacity Building Programme for Good Governance in Zambia
[13]*The Post* Newspaper, 3 May 2006.

4.1.4 Media legislation and regulation

Access to media by the majority Zambians is still low and one of the reasons for this is inhibitive laws. In acknowledging of this reality, the late Zambian Deputy Chief Justice David Lewanika stressed the need for citizens and not just media practitioners to take an interest in campaigns for media law reforms and the need to lobby the government to pass sound legislation and establish mechanisms for the implementation of media law to avoid misunderstanding. 'Freedom of information legislation will ultimately require governments to disseminate information that is of significance to public interest and such legislation fosters transparency in both the private and public sector'.[14] MISA agrees that it is not averse to democracy to have media laws in any society but that it is the spirit and intention of such laws that need to be scrutinised to see whether they are reasonable and justifiable in a democracy. The media in Zambia is governed by the clauses both in the supreme law of the land and other subsidiary pieces of legislation. Some of these pieces of legislation are old while others are new. There is a raft of new laws such as media regulatory bodies whose net effect shall be to erode the already limited guarantees of freedom of expression. Government argues that it was prompted to call for the establishment of the regulatory bodies because media practitioners failed to uphold the highest standards of ethical reporting as well as to ensure truthfulness, balance, accuracy and fairness. Lack of a viable media regulatory body and the demise of the Media Ethics Council of Zambia (MECOZ) in 2009, although considered 'toothless', created a great void in ensuring standards and upholding of media ethics in Zambia. This has led to erosion of integrity of the media, from the perception of government, as an important institution in the democratisation process. As MISA rightly observes, the lowered media standards exposes the media to attacks which justify its gagging.[15]

The government prepared a raft of new media bills. A case in point is the controversial FOI Bill which was drafted in the early 2000s and tabled before the National Assembly for enactment but was suddenly withdrawn after the Second Reading on 18 December 2002. During the July 2009 National Assembly session, the government stated that the Bill would remain shelved for further consultations and further argued that the FOI law could be used for espionage in light of some journalists' unpatriotic and irresponsible reporting. Vice-President and Legal Affairs Minister George Kunda then, reassured the nation that the government would only take back the Bill to Parliament when it was in the best interest of Zambians.[16] Other legislations relating to the media include the Draft Media Bill aimed at regulating the operations of journalists should the media fail to establish an effective self-regulatory body, the IBA Act and the ZNBC (Amendment) Act. The two Acts of 2002 have not been fully operationalised. The struggle to implement media law reforms in Zambia has been long and arduous. Although the government has repeatedly pronounced that it is committed to media law reforms, its words have not been matched by deeds *(Matibini 2006)*.

[14]The Post Newspapers 4 May, 2005
[15]MISA (2009) So this is Democracy? : State of media freedom in Southern Africa 2009, annual publication of the Media Institute of Southern Africa (MISA)
[16]ibid

4.1.5 Current media landscape

It is a recognized fact by all stakeholders that the media play a very critical role in the democratization process. Civil Society for Poverty Reduction (CSPR), an umbrella organization for civil society in its proposal for the Fifth National Development Plan 2006-2011 argued that freedom of expression was not only the lifeblood of democracy but also one of the essential foundations of a democratic society. According to CSPR, freedom of expression entails the right to express one's thoughts, wishes and criticisms by words and actions without fear of reprisal *(CSPR, 2003)*.
The media have been characterized by great polarization in the coverage of events. In Zambia, government owned and controlled media continue to dominate the print media sector. These media, as with state-owned and controlled broadcaster, for a long time continued to be used as propaganda mouthpieces of the ruling parties, UNIP and the MMD and their governments.

Elections have also posed a huge test for both the private print and state-owned media institutions in Zambia. The election coverage in the country has attested one fact of just how polarized the media are. The privately owned media openly support the opposition parties, while the state-owned and controlled media support the ruling party[17] and propagate a positive view of government policies. Elections by their nature tend to be characterized by robust debate and conflicting ideas and opinions and fair coverage can drastically reduce the tension and electoral violence that Zambia has been experiencing of late. MISA in its publication entitled *So this is Democracy* published in 2009 acknowledges and summarizes its observation on the Zambia media thus, 'It was all too obvious that the public media was used to dispel negative or critical coverage of the government in the private media. It seemed to publicise only positive stories about the government. The private media on the other hand, provide coverage to opposition political parties and those with divergent views.' This biased reporting for the media does not augur well for democracy. Playing a positive role in a democracy requires objective and professional reporting in the media on issues so that the readers can understand issues and make rational decisions.

Due to the apparent anti-government coverage by some private media, the government renewed its call to regulate the operations of the media. Regulation was to be effected by passing legislation. The government's argument was that previous attempts allowing the media to regulate themselves through the Media Council of Zambia (MECOZ) had been unsuccessful as MECOZ was despised and viewed as not being inclusive. The government through the Vice-President announced in 2009 that it had prepared a Draft Media Bill aimed at regulating the operations of journalists in the country. This generated a lot of discourse between the government and the media associations in the country. It culminated in the formation of the Zambia Media Council (ZAMEC), which is supposed to be a self-regulatory body for individual reporters, member institutions and associations but was also disowned by the MMD government which poured scorn on the ZAMEC as being

[17]MISA (2009) So this is Democracy? : state of media freedom in Southern Africa 2009,

toothless and a replica of the defunct MECOZ. Following the change of government after the 2011 elections, the Patriotic Front government has indicated support for the launch of ZAMEC as a self regulatory body for media practitioners.

Former *Post* Newspaper Freedom Committee Chairperson Webster Malido once bemoaned the failure by the government to pass the FOI legislation and the need for the government to implement the media laws namely the IBA Act and the ZNBC (Amendment) Act of 2002 that had already been enacted by Parliament in 2002. In his lamentation, Malido states,

> Where we have succeeded and managed to have certain media laws passed, the government has totally refused to apply the law. As for the Freedom of Information (FOI) Bill, which has been withdrawn from Parliament, we are at a loss to appreciate the reasons advanced by government. We do not want government to use reasons of national security as a blanket and end up limiting the right to information access. As media professionals, we are alive to the fact that rights such as access to information imply corresponding responsibilities for both the people and practitioners.[18]

The observation that pluralism in media sector in Zambia is critical has been underscored by many scholars who have strongly argued that although a pluralistic media was key in good governance of democratic societies, African governments including Zambia have not moved towards policies that enforced democratic tenets. Echoing the sentiments late Zambian Deputy Chief Justice David Lewanika stated when addressing the media in 2005 during the World Press Freedom Day celebrations that Zambia could not talk about transparency and accountability if the media had no access to information. Justice Lewanika further observed that a free press ensured transparency, accountability and participation which ultimately contributed to the fight against poverty.

> It is clear that there cannot be good governance if the media do not have the freedom to disseminate information. And this cannot be assured if legal barriers continue to protect the state officials from scrutiny of their activities and conduct. If we truly want to develop our democracy and realise the benefits of good governance, we have no choice but to put in place progressive policies and legislation on access to and dissemination of information, and other legal regulations that foster a culture of openness, transparency and accountability. If we take such a route, we will not only reap the fruits of democracy and good governance, but also record more equitable growth.[19]

Arising out of FGDs held in 10 districts in the five provinces covered under the assessment, mixed sentiments about the status of the media in Zambia were expressed. Some discussants strongly believed that the government felt so threatened by the media that it rushed to devise control mechanisms against them. In Kafue town, some participants observed that the media in the country were not operating freely and they cited the example of the local private television station ,Muvi TV which had problems in acquiring a licence to broadcast nationally as one clear case demonstrating government interference .

[18]The Post Newspaper, May 4, 2005
[19]Ibid

However, some participants affirmed that Zambians were free to access the media. They attested that there was no harassment from the media on the public. They urged the public to make use of public media because they were always looking for stories. Some participants alleged that the government wanted to control the media while others observed that everything in the newspapers was biased. Nonetheless, the overall agreement among participants was that there was serious bias perpetuated by various media houses.

During the Lusaka FGD, participants alleged that the government in Zambia was so threatened by the private media that it was rushing to control them, which was observed as a source of worry to every Zambian.
It is true that the media should not be given a very long stick but the media and the citizenry should be able to reach a consensus. It is not for the government to regulate the media but rather the media are able to regulate themselves. In Samfya, Luapula Province, a rural province, participants expressed the view that the media in the country were not independent. They affirmed that the members of public were very free from media harassment. However, participants stressed that the media were fond of harassing those in certain positions such as Permanent Secretaries, District Commissioners and MPs, while ordinary citizens were free from intrusion and harassment.

In Mwinilunga in the North-Western Province, participants observed that the media in the country were not independent from government control and interference. They observed that the media largely bowed to government interference and became a mouth piece for the elites and not the ordinary people. They also observed that private media which were supposed to operate independently were the same as they bowed to events of the day. *The Post Newspaper*, preferred headlines and stories that focused on opposition Patriotic Front and was supposedly heavily controlled by one person making it a 'one man show'. Both

Table 4.1: Households' responses on the independence of the media in Zambia

Province	Responses (%)		
	Very independent	Moderately independent	Not independent
Southern	41.5	30.8	12.3
Lusaka	22.2	34.7	12.5
Luapula	22.7	36.4	38.6
Copperbelt	18.8	27.1	50.6
North-Western	50	41.2	8.8
All Provinces	28.7	32.7	26.7

Source: Household Survey

government and private media were said to be biased. Participants suggested that the media must remain neutral to allow people to freely get all the views and use their own analysis of issues. However, participants were in agreement that the media currently were operating more freely and independently from government than was the case during the Dr. Kenneth Kaunda era. They noted that there is clear improvement now ;though the space to perform is limited.

Table 4.2: Households' responses on effectiveness of the media in investigating government in Zambia

Province	Responses (%)		
	Very effective	Moderately effective	Not effective
Southern	29.2	36.9	15.4
Lusaka	18.1	34.7	16.7
Luapula	22.7	40.9	31.8
Copperbelt	12.9	29.4	52.9
North-Western	38.2	50	8.8
All Provinces	22	36.3	28

Source: Household Survey

In Solwezi, North-Western Province, participants observed that the media were free to operate and added that the private media were now political and not development oriented. Accordingly, they said the private media's role was misplaced in national society. They noted that government media are reactive to government statements.

Table 4.3: Extent of private citizens' freedom from intrusion and harassment by the media

Response type	Responses by gender (%)		
	Males	Females	All Respondents
Very Free	51.6	53.8	52.7
Moderately Free	38.2	32.2	35.3
Not Free	8.9	13.3	11

Source: Household Survey

Some participants pointed out that government media did not get money from government, meaning that salaries came from the sales of newspapers. For the same reason private media also had to sell papers to make money for their respective owners and meet their running costs. It was observed that the private media provided checks and balances to the government.

At least 32.7% of the 300 respondents stated that the media in Zambia were 'moderately independent' while 28.7% and 26.7% stated that the media were 'very independent' and 'not independent' respectively. Only 12% did not know whether the media were independent or not. From Table 4.1 it can be noted that 50% of respondents in North-Western Province indicated that the media were 'very independent' followed by respondents in Southern Province at 41.5%. Similarly, many (41.2%) of respondents in North-Western Province indicated that the media were 'moderately independent' followed by respondents in Luapula and Lusaka Provinces at 36.4% and 34.7%, respectively. A high proportion (50.6%) of respondents in the Copperbelt Province indicated that the media were 'not independent' followed by respondents in Luapula Province at 38.6%.

On the effectiveness of the media in investigating government in Zambia, 36.3% of the respondents felt that the media were 'moderately effective' while 28% of the respondents indicated that the media 'were not effective'. According to 22% of the household respondents, the media were 'very effective', while only 13.7% of the respondents did 'not know' about the effectiveness of the media in the Zambia. Respondents also expressed opinions on intrusiveness of the media and their harassment of private citizens. According to 52.7% of the household respondents, private citizens were 'free' from intrusion and harassment by the media, while according to 35.3% of the respondents private citizens were 'moderately free' from media intrusion and harassment. However, 11% of the respondents felt that private citizens were 'not free' from intrusion and harassment by the media and a paltry 1% of respondents gave no response. According to responses by gender, 51.6% of the male household respondents interviewed indicated that private citizens were 'very free' from intrusion and harassment by the media, 38.2% and 8.9% of respondents reported that private citizens were 'moderately free' and 'not free' respectively, from media intrusion and harassment. Corresponding responses by female respondents indicated that private citizens were 'very free' at 53.8%, 'moderately free', at 32.2% and 'not free' at 13.3%. The pattern of responses indicated that the differences in the perception between male and female respondents on the issue were very narrow.

4.2 Political Participation

4.2.1 Background

Political participation is the foundation stone of good governance and is a fundamental principle of democracy which can only be achieved within the right political environment. This means that state institutions, laws and regulations must provide the right to participate, competence to participate, forums for participation and participatory customs. These

prerequisites allow for the development of strong institutions that promote and uphold systems which ultimately foster civil and political rights, economic, social and cultural rights, and electoral processes, political parties, civil society and an educated citizenry. When such an environment is shaped, citizens can claim to have 'popular control over public decisions and decision makers.

The IDEA Assessment Framework defines democracy on the basis of the creed's basic principles being, 'popular control over public decision making and decision makers; and equality between citizens in their exercise of that control'. According to the Assessment Framework, these principles are identified by a series of mediating values which are, 'participation, authorisation, representativeness, accountability, transparency, responsiveness and solidarity'.
It is through these values that state institutions and governments draw their democratic nature. Therefore, in order to assess the level of political participation, the framework seeks to measure the interaction between institutions and processes and to measure if these mediating values are supported by institutions that provide the basic requirements and promote their actual realization.

The IDEA Assessment Framework argues that civil society and popular participation can only be effective 'if the citizenry is active, vibrant and supported by independent platforms for popular participation, in this case civil society organizations. Such a state of affairs can only materialize with independent and pluralistic media of communication and a vigorous network of voluntary associations of all kinds through which citizens can act to manage their own affairs and influence public policy'. It is only then that people can claim to obtain responses from government policy and provisions of effective service delivery. The emerging question is why measure popular participation and how relevant is this analysis? The analysis will be done by discussing different means of participation.

4.2.2 Citizen participation in public life

Since 1991, Zambian society has emerged as active and vibrant in the democratic process. There is a high degree of self-organisation in cultural, religious and agricultural issues. Party activism has intensified and is undertaken by various social groups with some making very little contribution to party policy. There is also a rise in the number of civil society organisations (CSOs), faith-based organisations (FBOs), community-based organisations (CBOs) and other institutions at both formal and informal levels of society. Most communities are familiar with local structures that are closer to them and have taken an interest in policy development and implementation revealing an increase in awareness of democratic governance. What the country lacks are institutions that can provide the basic requirements and promote the realisation of political participation. It is said that political participation is the foundation stone to good governance and is a fundamental principle of democracy which can only be achieved in the right environment. The government respects civil and political rights of its citizens, what is lacking, however, are avenues and institutions that facilitate effective political participation. Assessing the level of political participation in

[19] http://civilsocietyindex.wordpress.com/2011/02/22/accountability-in-zambian-civil-society/2011-08-04

this analysis will take the form of evaluating the interaction between civil society organisations, citizenry, state institutions and government.

4.2.3 Extensiveness of the range of voluntary associations, citizen groups, social movements and their independent from government

The CIVICUS Civil Society Index *(2008:16)* defines the concept of civil society as 'the arena outside of the family, the state, and the market, which is created by individual and collective actions, organizations and institutions to advance shared interests.'[19] The political landscape in Zambia is supported by a number of voluntary, self help groups and social movements that have largely contributed to shaping the country's path to democratic consolidation.
This emergence can be traced as far back as 1990, with the civil unrest that had taken root due to high levels of inflation, economic instability and growing desire to return to multi-party democracy.

Since 1991, a number of good governance Non-Governmental-Organisations (NGOs), CBOs and FBOs has emerged with each having separate mandates but focusing on contributing to the democratisation of the country. It is reported that 'by 2003, in a country of some ten million people, about ten thousand civil society organisations have been registered, making up even double as many with their branches.'[20] There are also NGOs that are umbrella bodies such as the Non-Governmental Organisation Coordinating Council (NGOCC), which focuses on enhancing female participation and human rights, Civil Society for Poverty Reduction (CSPR) which advocates for poverty reduction. Among other noticeable ones is Transparency International Zambia (TIZ), which works to curb corruption at all public and private levels. There is also the Foundation for Democratic Process (FODEP) which works on consolidating democracy through election monitoring, human rights, local governance and much more. Zambia Council for Social Development (ZCSD) is another umbrella organisation that focuses on fighting for social justice. The Zambia National Women's Lobby group (ZNWL) primarily focuses on enhancing women participation in politics and decision making. As the country headed for the September 2011 tripartite elections, the ZNWL pledged to push for more women to contest the elections.[21] It is worth mentioning that the ZNWL is one of the first organisations that monitored the 1991 elections under the umbrella of Zambia Election Monitoring Coordinating Committee (ZEMCC).

Many of the NGOs tend to be based in urban centres and very few have a national reach because some of these organisations do not command a noticeable presence and some do not have members at all tiers. In most cases, NGOs do not have a national reach owing to limited financial constraints of managing offices in all nine provinces with a total of 73 districts. This inability to have a national reach has become a huge problem for Zambian CSOs which remain donor dependent in the absence of public financing of civil society organisations. Many of these organisations face challenges of maintaining offices at ward, district and provincial levels, this is largely due to resource limitations as a result of reduced

[20] Role of Civil Society in Democratization: A Case Study of Zambia, Ms. Sreya Maitra, p.4
[21] Tamala Kambikambi/IPS news/ 2011

donor support to which many NGOs are dependent upon to increase their national reach. Notwithstanding such limitations, there are times, when governance related NGOs challenge government to adhere to democratic principles but government responds by insisting, 'show us your constituency' a term used to challenge the legitimacy and mandate of Zambian NGOs.

Organisations, such as the CSPR are able to maintain a national reach because donor funding in the area of poverty reduction is more consistent than in election monitoring or civic education. The CSPR was a key participant on the formulation of Zambia's Poverty Reduction Strategy Paper (PRSP). This effective performance was largely possible by a consortium of civil society organisations. All in all, since 1991, Zambian civil society organisations have been a key force in shaping important national policies. There have been times when speaking with one voice have managed to thwart government efforts erode democratic gains.
The Oasis Forum, a consortium of CSOs, came together to thwart former President Chiluba's attempt to run for a third term. The Oasis Forum was widely backed by majority of the Zambian people and when Zambians evaluate the effectiveness of civil society as a platform of popular participation, they usually refer to this case. On 6 April 2011, the Oasis Forum, re-launched the 'Green Ribbon Campaign' and issued a press briefing calling for the resignation of George Kunda as Minister of Justice and Chief Advisor to government on the legal reform process. This was after the Constitutional Amendment Bill 2010 failed to go through Parliament after 'colossal sums of tax payers money had been expended on the process'. The process stalled due to the 2011 elections, but the nation waited anxiously to see what constitutional making efforts the new Patriotic Front government would initiate.

An in-depth look at NGOs in Zambia reveals that many of these tend to lack capacity in lobbying and advocacy strategies as most of them tend to be confrontational in their approach to government. This in turn, leads to a misunderstanding on the role of Civil Society Organisations in the political arena. Most Zambian civil society organisations do not understand the importance of lobby and advocacy in strengthening democracy. They generally lack capacity to effectively target the Executive and Legislature and engage in issues in a constructive manner. Many reject the notion of 'give a little and take a little' and for most civil society organisations, it is 'all or nothing'. Weak analytical capacity coupled with limited resources have caused some organisations depart from their core mandate to addressing seasonal issues as long as they secured them the much needed resources.

Many of these problems can be attributed to the donor dependency syndrome, where organisations have to compete for the same sources. CSOs have seen that donor aid is dwindling and most of these organisations are either one-person shows or are overseen by 'Ghost Board Members' and this reduced funding has become a survival issue. For example, if election monitoring brings money, there is no harm for an organisation that deals in economic governance to join the band wagon. When one takes a closer look at civil society organisations in Zambia, one will find out that most of them will cease to exist once their core business is achieved. Now more than ever, civil society in Zambia has become divided.

There is a great deal of mistrust amongst organisations and much of this mistrust stems from competition for limited donor funds. In the Zambian context, civil society is criticised when perceived to be partisan.

On one side of the coin, some organisations have been labelled as 'puppets' of outside forces by the ruling party, pro-opposition by some fellow civil society organisations. A good example is how Caritas Zambia was linked to the opposition Patriotic Front (PF). However, the organisation denied any such reports, and defended itself by stating that it is a credible non-partisan organisation that had worked in Zambia for many years. Caritas Zambia is a faith based organisation fighting for social justice as part of the Catholic Church. Sadly, there has been no analysis over the same allegations conducted by the media because of the lack of capacity of both private and public media to embrace investigative journalism and thus Zambian society remains ill-informed and left in speculation. On the other side of the coin, other civil society organisations have been labelled as pro-government and more so in 2011, a number of civil society organisations such as the Forum of Leadership Search and the Committee of Citizens did speak out against those civil society organisations that spoke out harshly against the then ruling party, MMD and were thus called government sponsored Non-Governmental Individual Organisation (NGIO).

It was in 1997 that Zambia first introduced the Non-Governmental Organisation (NGO) Bill. It was later withdrawn but reintroduced in 2007 as part of President Levy Mwanawasa's effort aimed at curbing the work of civil society organisations. The Bill went through Parliament and became known as the Non Governmental Organisation (NGO) Act and it was meant to regulate the activities of civil society organisations. When looking at the section on the independence of voluntary associations, participants cited the NGO Act as an impediment . Many see this regulation as a means of 'political intimidation'. Zambia civil society organisations have remained opposed to the NGO Act as it hinders the right to freedom of association as guaranteed in a number of instruments that Zambia remains a signatory to. The CSOs in Zambia are working towards developing a voluntary self-regulatory framework to counter the NGO Act through a platform called the Non-Governmental Organisation (NGO) *Insaka*. This initiative was first spearheaded by the ZCSD an umbrella organisation with the support of the NGOCC.

A Baseline Study was undertaken by NGOs and CSOs to assess accountability and self-regulatory practices amongst this group. The findings of the study revealed that most civil society organisations in Zambia recognize the importance of accountability. The Societies Act and the Companies Act provide sufficient regulation on the same issue. Insofar as the NGO-*Insaka* had no Secretariat, the mistrust and back-biting more or less destroyed this process and momentum was slowed down all because of the fight for control of the Insaka Secretariat. In some sections of society, civil society in Zambia is viewed to have lost the desire to echo the voices of the people but largely driven by donor interests thus fragmenting this hitherto close knit network. It has been very difficult for organisations to build momentum on the issue of self-regulation. What has happened now is that upcoming

[22]http://civilsocietyindex.wordpress.com/2011/02/22/accountability-in-zambian-civil-society/ 2011-08-04

Non-Governmental Organisations have resorted to registering under the Companies Act. The bottom line is that, in as much as government has brought the NGO Act to regulate the workings of CSOs, individual organisations remain resilient and are confident that many other Acts need to be repealed before the NGO Act can be seen as a threat and this gives civil society ample time to develop a self-regulation tool. The challenge that remains is to what extent will civil society organisations in Zambia trust each other enough to look at the bigger picture and seize this opportunity?

There are other factors that contribute to the effectiveness of these civil society organisations and their ability to deliver. According to CIVICUS, 'the CIVICUS Civil Society Index *(CSI 2008-2010)* Zambian diamond, the extent to which civil society is able to impact the social and policy arena is at 60.34%, as indicated by internal and external surveys. This proves a decisive role played by CSOs across the country.'[22] However, this is not to say that Zambian civil society organisations are angelic while government is not. In fact, some Zambian civil society organisations are characterised by the same institutional challenges that the Zambian Government has.
The challenges of internal governance within certain civil society organisations currently makes it impossible for them to effectively shape national and regional governance. This is mainly because these organisations have failed to address internal accountability, thus affecting their credibility and legitimacy on the regional level. Like the Zambian Government, some of these organisations are littered with corruption scandals, misapplication of donor funds, breaches of the rule of law, lack of respect for the separation of respective boards and secretariats (separation of powers), excessive powers of the President or other Board Members and the erosion of the meaning of public service. Many of these problems are common in organisations that suffer from inadequate funding, 'it makes it very difficult for organisations that have no institutional support to implement projects. Donors give money for project implementation and cannot support the financing of administration costs.'[23] The fact remains that most full time staff go years and months without pay or any hope of any financial compensation, which is a gross violation of human rights. This is not to say that all civil society organisations in Zambia face these challenges. It is a proven fact that organisations that have institutional support always have good internal governance, for example Caritas Zambia, Jesuit Centre for Theological Reflection (JCTR) just to name a few.

The challenges raised make it very difficult for certain organisations to speak with confidence as they seek to hold government accountable. Most harmful to the stability and existence of these organisations is the lack of understanding of the role of the Board and this inept desire to micro-manage technocrats. This has resulted in a few cases where individual board members can easily terminate the contracts of technocrats that are supposed to be in charge of managing the day to day affairs of the organisation for simply speaking out against a breach of the rule of law. Board Members are consistently at loggerheads with staff and tend to use dictatorial tendencies to intimidate staff and thus jeopardizing the capacity of the organisations to implement projects effectively.

[23]Dr. Neo Simutanyi, Executive Director, Centre for Policy Dialogue(CPD)/ 2011

On the issue of independence of voluntary organisations, FGD participants in Solwezi observed that, 'The government has tried to regulate affairs of human rights activists through the NGO Act. This intimidation has led to upcoming NGOs to register with Patents and Companies Registration Agency (PACRA) as non-profit companies rather than with the Registrar of Societies.' Another group of participants felt that the NGO Act was not a bad thing. 'The NGO Act is not a bad law, there is need to strengthen the work of NGOs and not stifle it. Human rights activists should be brought to the centre stage and encouraged to strengthen laws.' Zambia is a signatory to the African Charter on Popular Participation which clearly states that, 'there must be an opening up of political process to accommodate freedom of opinions, tolerate differences, accept consensus on issues as well as ensure the effective participation of the people and their organisations and associations'. The state mechanism remains reluctant to domesticate the principles on the African Charter. Although there is political space for civil society organisations and freedom for people to participate in their organisations and associations More needs to be done to strengthen state mechanisms that are mandated to safeguard the political participation of citizens.

4.2.4 Participation of women in political life and public office

Article 11 of the Constitution provides in part that, 'every person in Zambia has been and shall continue to be entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed, sex or marital status . . .' In 1991 the country witnessed the emergence of a vibrant women's movement in Zambia spearheaded by the (National) Women's Lobby Group. Since then, a number of women's groups have campaigned for women to run for parliament and high level positions in public life. Today, women in Zambia make up 51%[24] of the population and 50.14% of the registered voters and yet only a small number of them occupy decision-making positions. A SADC study on women in decision making positions in Zambia indicates that women hold only 15.2% of parliamentary seats and 6.6% of local government seats which is far below the 50% target of the SADC's Protocol on Gender and Development. The proportion of women in the Zambian Parliament was at 14% which falls short of the original 30% and sadly, Southern African Development Community (SADC) Protocol levels.[25] The former Speaker of the National Assembly of Zambia, Amusaa K Mwanamwamba had acknowledged the need for the country to improve on the participation of women. He said, 'Zambian female parliamentarians must ensure that the various political parties find a formula to increase the membership of the Zambian Parliament in terms of women representation.'[26] Overall, 46.7% of household respondents indicated that the participation of women was low compared to 40.7% of respondents who thought it was high. Responses segregated by gender showed that 46.5% of male and, 46.9% of female respondents perceived the participation of women to be low, while 41.4% of male respondents and, 39.9% of female respondents considered the

[24]Central Statistical Office, 2000: Censes of Population and Housing
[25]http://www. http://www.parliament.gov.zm/index.php?option=com_content&task=view&id=1304&Itemid=1/2011-03
[26]http://www.parliament.gov.zm/index.php?option=com_content&task=view&id=1304&Itemid=1/2011-04
[27]www.wunrn.com/news/2007/03_03_12
[28]www.ipsnews.net/africa/nota.asp?idnews=50047

participation to be high.

Some respondents felt that the government had not done much in ensuring that women are equal participants in local and national governance structures controlling state resources. It was observed that while policies were in place, they were not implemented and as a result women continue to be exploited and undermined. Such views were supported by remarks made by women in decision making positions. For example, Tamala Kambikambi, former board Chairperson of the Zambia National Women's Lobby openly stated, "Patriarchal attitudes, negative traditions and customs that did not recognize women as equal partners with men are responsible for the low participation of women in governance. In addition to the that, political party structures do not promote women's participation as leadership positions were usually reserved for men. None of the parties have changed their processes on how candidates got chosen to run for a constituency to make it accessible for women.' [27]
Elizabeth Chitika, then Member of Parliament (MP) for Kawambwa Central stated, 'Everything is run by men who hold meetings and caucuses amongst themselves about who gets elected to which committees. It's not true to say women are not visible, they are but just ignored.'[28]
The implementation of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) has stalled and the Constitution may need to be amended to conform to the CEDAW provisions. In addition, Zambia still needs to work at ensuring that the discriminatory customary behaviour is abolished and customary law brought in line with the international and regional conventions that the country has signed. The Zambia National Gender Policy attributes the underrepresentation of women at all levels of decision making to various social, cultural and economic aspects. These barriers contribute to poverty and the majority of those affected are women. It was noted by respondents that poverty levels contributed to the lack of female participation in public and private life, thus making women the politically excluded group. This is coupled by the fact that most of them lack the financial capacity and the general gender roles which women carry out constrain their ability to campaign. Even against the SADC Protocol, Zambia had done very little. According to FGD participants, Zambian women are used to dancing and cooking for male politicians within the political structures only because by tradition, women are not supposed to be assertive and traditional leadership roles are reserved for men.

FGD participants were agreeable that the gender inequality in positions of decision making and promotion of degrading female roles ought to come to an end especially since women constitute 51% of the Zambian population, noting that, 'Most women are in decision-making processes especially in the Ministry of Education.
This is symbolic of how the government views women because women are traditionally responsible for teaching children in the homes.' Contrary views were expressed that some women were as bad as men and cannot be trusted. An elected female MP was cited as having excelled as one of the best female candidates. After being elected, she never consulted her constituency and in spite of having a background in special education, she has not positively contributed to the lives of vulnerable groups within her community. This implied that increasing the presence of women in decision-making would not automatically yield

positive results. As a way forward, it was felt that Zambia can be progressive but as long as relevant international conventions are not domesticated, Zambians would continue taking advantage of the women because it was a common practice to use women for selfish ends in the country. There was need, therefore, to pass legislation that deliberately facilitated the speedier empowerment of women. An example was cited of South Africa that supported the black community by enacting a law that deliberately empowered the black people economically. It was observed that a similar deliberate policy vis-a-vis empowering women in particular, could be made in Zambia.

FGD participants generally agreed that there were many lame excuses given for the existing situation. There was, therefore, a need to look forward more positively by providing an enabling environment and sensitising women, especially for those in the rural areas on their rights so that they can confidently contribute to the country's development. It was acknowledged that women need to be assertive by taking full advantage of the many government policies that are favourable to them. Women need to be risk takers to change what is happening in the education sector where most primary teachers are women while more men take up the majority of positions at secondary level.
The seeming lack of drive could be attributed to fears that some women have not wanted to move up or even hold positions at higher institutions of learning. It was also noted that the government has provided equal opportunity for women through the deliberate policies of increasing the female entry quota at learning institutions such as the University of Zambia (UNZA) or even secondary schools.

The general reflection from the FGDs in the five provinces was that there was a need for women to support each other during elections if their participation in politics is to be strengthened. It had up to now been observed that where there was a group of men and women, women would prefer to be led by a man and not by a fellow woman.

4.2.5 Citizen participation in voluntary associations, self management organizations and in other voluntary public activity

The political landscape in Zambia is supported by a number of voluntary, self help groups and social movements that have largely contributed to shaping the country's path to democratic consolidation. It was acknowledged during FGDs that trade unions exist and that many workers are unionised but the general impression was that, while more trade unions have mushroomed since 1991, the trade union movement has become weak over the years. This was because until 1991, government policy allowed only one union per industry and Zambia Congress for Trade Unions (ZCTU) as the only umbrella organisation for trade union. When the MMD came to power on the platform of liberalisation, there was a proliferation of trade unions and another 'umbrella body' Federation of Free Trade Unions of Zambia (FFTUZ) parallel to ZCTU emerged. Many FGD participants held the view that the current quality of trade unions was ineffective as it provided poor representation. It was alleged that some trade unions had become compromised to the extent that Zambians felt they did not exist. This could be explained by

the fact that President Frederick Chiluba, having come from the trade union background, understood the strength of trade unions prior to 1991 and feared their influence. Participants perceived that Chiluba had therefore embarked on a deliberate campaign to weaken trade unions so that he could consolidate his power .They observed that when Chiluba became President he decapitated the unions, the same big and small unions that had brought him to power.

FGD participants stated that prior to 1991, unions such as the ZCTU were strong and had Chiluba, who was Chairman General of the ZCTU for 17 years, died in 1991, he would have had more respect from the people. They said his contributions to the trade unions were greater than those of his presidency. Former President Frederick Chiluba actually died in June 2011.

Participants in Solwezi affirmed that weakening of trade unions was a deliberate policy hatched by Chiluba and Michael Sata to create divisions within unions that eventually became toothless to the extent that they bargain for small percentages of salary increments. It was noted that unionised Zambian workers were now at the mercy of trade unions that are driven by government interests, as when the need arises to demand for better working conditions, trade union leaders are alleged to be offered bribes.
It was not surprising, therefore, that such same leaders tend to suffocate their workers' rights.

There was a general consensus that trade unions are fragmented because they speak with different voices. Government is taking advantage of this as it says one thing to one team in public and behind closed doors there are allegedly a number of dealings. Furthermore, FGD participants thought that union leaders were just interested in getting allowances or simply pocketing member contributions and yet these were ordinary members who used to walk but now are seen driving very expensive and posh vehicles .The perception of FGD participants was that as union leaders, they should continue sharing the life of the general membership which did not reflect superior material gains.

The church in Zambia has emerged as a strong platform for political participation and this is evident in the number of religious organisations and bodies that have taken an interest in promoting social justice for the Zambian people. It is important to note that constitutionally, Zambia is a "Christian Nation" and so the society has taken this to mean that Zambians as a whole should uphold Christian values in all aspects of their lives. It is also important to note that the Constitution makes no special reference to having a clear separation between church and state. In addition, there are a number of church bodies such as the Zambia Episcopal Conference (ZEC) which is made of Roman Catholics and Evangelical Fellowship of Zambia (EFZ) which is an umbrella body for evangelical and Pentecostal churches and the Council of Churches in Zambia (CCZ) which is the mother body of various protestant denominations, church organisations, mission agencies and individuals. These organisations wield considerable influence over political efficacy in that they believe they have a calling to fight any form of social injustice as it affects their flock.

For instance, the Oasis Forum was initially made up of all three organisations and other Civil Society Organisations.

The church has remained a key watchdog in the governance arena and continues to challenge government on policy implementation and design. As the country prepared for the 2011 tripartite elections, the dangers of not having a clear separation of church and state emerged, especially on how far the church advanced in addressing issues of justice and peace. For the then ruling party, MMD, the calls for justice and peace from Catholic Bishops around the country were being seen by some forces within the ruling party as interference in state affairs. This put the work of faith based organisations such as Caritas Zambia on the spot. Early in 2011, the organisation was labelled as part of a consortium of civil society organisations that were advocating for regime change and prominent supporters of the opposition Patriotic Front. However, the Catholic Church continues to speak up against what it deems as social injustices and the fact that Catholics remain the largest percentage of voters in the country, it makes any government jittery to speak out harshly against the church as a whole while preferring to target individual Catholic bishops and priests. Comparatively smaller church communities such as the Seventh-Day Adventists (SDA), United Church of Zambia (UCZ) and many more tend to provide platforms for citizen participation and these are extremely active.
Participation of all members of society is highly dependent on having an informed and free thinking citizenry as clearly expressed by the African Charter on Popular Participation as 'there must be an opening up of political process to accommodate freedom of opinions, tolerate differences, accept consensus on issues as well as ensure the effective participation of the people and their organisations and associations'. Zambia has been viewed as a trend-setter in the Southern African region in terms of democratic consolidation and generally the country has made tremendous progress but there is still room for improvement. Zambia remains a signatory to major international and regional statutory instruments that seek to improve this field. The state machinery and successive governments have drafted excellent policy papers that provide a road map for improving political participation. Most of the irrefutable political challenges faced by the country especially those linked to an inadequate constitution and limitations on freedom of expression, information and to communicate can best be resolved through the promotion of popular participation.

Popular participation in Zambia is made up of various key actors ranging from the state and local government, Civil Society Organisations, the media, professional associations, private sector and citizens at large. However, much as each of these stakeholders has its own source of legitimacy and therefore acts according to its comparative advantage, the state and government tends to limit the legitimacy of some of these actors. Secondly, the Zambian Governance environment is tempered by weak institutions and unfair processes that allow for ineffective decision making through limited participation of the said actors. This needs to be redressed so that it is fully opened up and supported by strong institutions. The country has been undergoing the African Peer Review Mechanism (APRM) process and the government has done a good job in identifying the key challenges and developed a clear road map for promoting good governance. This is a good start, the challenges as with everything

else in Zambia, is effective implementation of the recommendations or putting theory to practice.

In addition, the Governance environment is overshadowed by a legally unaccountable government and a closed and intolerant political culture. There is need for government to take an active role in promoting a civilized democratic culture that encourages open debate, tolerance and dialogue. Zambian citizens remain excluded and marginalised from decision making and much as the government and state are capable of producing excellent theoretical plans of action, the practicality is that Zambia may not meet the Millennium Development Goals (MDGs) and Vision 2030 without the inclusive participation of all Zambians.

As stated earlier, Zambia is a signatory to the African Charter on Popular Participation which clearly states that, 'there must be an opening up of political process to accommodate freedom of opinions, tolerate differences, accept consensus on issues as well as ensure the effective participation of the people and their organisations and associations'. In as much as the state has embraced this instrument on behalf of the Zambian people, successive governments have failed to translate this into tangible benefits. It is state mechanism that is controlled by the ruling party that remains reluctant to domesticate the principles in the African Charter.
There is political space for Civil Society Organisations and freedom for people to participate in their organisations and associations but more needs to be done to strengthen the state mechanisms that are mandated to safeguard the political participation of citizens. Once this is done, policy declarations will contribute to poverty reduction, the achievement of MDGs and conflict prevention and resolution.

4.3 Decentralisation

This section assesses the extent to which decisions taken at the local level of government are most appropriate for the people affected. In order to effectively handle this task, the section discusses specific aspects that are important in measuring decentralisation in Zambia.

4.3.1 Independence of sub-central tiers of government from the centre, and their powers and resources to carry out their responsibilities

Zambia, like many other countries in the sub-Saharan Africa, has embraced decentralization in its governance process. In this regard, Zambia has a dual system of decentralisation, which consists of democratic decentralisation on the one hand and administrative decentralization on the other.

This approach has created two structures of government at the local level. Under democratic decentralisation, the central government has transferred or devolved some of its powers and authority to democratically elected local councils. On the other hand, under administrative decentralization, some units or departments of deconcentrated sector

ministries have been established at the local level. Here, the central government has transferred some of the functions performed at the headquarters of sector ministries to provincial, district and/or sub-district offices.

What is referred as 'local council,' is 'a body of democratically elected representatives responsible for policy formulation and delivery of services in a given geographically defined area' *(Government of the Republic of Zambia, 2002: iii)*. The establishment of local councils in Zambia has been done in such a way that the country is divided into nine provinces, which in turn are divided into 74 cities and districts. The number of cities or districts varies from one province to another. For instance, there is one city and three districts in Lusaka Province while Central Province has got six districts. For purposes of local government, a local council is established in each city or district. In this case, there are 74 local councils in Zambia. These councils are classified into three categories, namely, city council, municipal council and district council. The classification of the councils is based on the level of urbanisation of the locality. The highly urbanized ones are called city councils, the moderately urbanised are called municipal councils while the least urbanised (typically rural ones) are called district councils.

For purposes of electing the representatives, each city or district is further divided into constituencies. The number of constituencies varies from one city or district to another depending on the number of people residing in the city or district.
Densely populated cities and districts tend to have more constituencies than the sparsely populated ones. For example, Kapiri Mposhi District has got one constituency, Mkushi District has got two constituencies, Mumbwa District has got three constituencies while Lusaka city has got seven constituencies. In addition, each constituency is subdivided into wards. The number of wards varies from one constituency or district to another. For example, there are 20 wards in Mumbwa District. Some districts in the country have less than 20 wards while others have more than 20 wards. A councillor is then elected by local people to represent each ward in the local council. There are 150 constituencies and 1422 wards in Zambia.

Sector ministries have been established in such a way that each ministry is in charge of a particular sector of the economy. For example, the Ministry of Education is in charge of education services throughout the country, while the Ministry of Health is in charge of health services throughout the country. Similarly, the Ministry of Agriculture and Cooperatives is in charge of agricultural and cooperative issues throughout the country. There are also many other ministries in charge of other sectors of the economy. The ministries are organised in such a way that they have got ministerial headquarters based at the centre, then provincial departments which represent the ministries at provincial level. These are followed by district departments which represent the ministries at the district level.

In terms of independence, some of the lower tiers of government are quite independent of the centre. This is the case especially with local councils that are empowered by law to

determine local taxes, raise own revenue and decide on how to use it *(Government of the Republic of Zambia, 2002: iii)*. In this regard, there is no law that specifies the amount of local tax that should be raised by a council. However, Section 70 of the Local Government Act prohibits councils from imposing any fees or charges without the prior approval of the Minister of Local Government and Housing *(Government of the Republic of Zambia, 1995)*. Since local councils have been empowered to raise their own revenue, as the central government has been reducing its grants to these institutions. For instance, there were no grants from central government to urban councils from 1992 to 2001 *(Braathen et al, 2001)*.

In addition, Section 76(1) of the Local Government Act gives the council power to draft and suggest by-laws to the Minister of Local Government and Housing 'for the good rule and government of its area' *(Government of the Republic of Zambia, 1995)*. The council is also required to perform 63 functions that are prescribed by the Act. Some of the functions are in the areas of promoting agriculture, community development, public amenities, education, public health, public order, sanitation and drainage services *(ibid)*.

However, to some extent the independence and powers of the local council tend to be limited. This is because of the powers that the Minister of Local Government and Housing has over them. For instance, before a by-law becomes operational, the council is supposed to apply to the Minister for confirmation of that by-law. At this stage, the Minister may refuse to confirm the by-law submitted to him/her or may confirm it in whole or in part or with modifications as it appears to him/her. In addition, the Minister may, by statutory order, amend or revoke any by-law passed by a council *(ibid)*.
Furthermore, despite the local council having the power to determine local taxes, raise its own revenue and decide on how to use it, there are some limitations on the extent to which this power can be exercised. This is because of the need for supervision by the Minister of Local Government and Housing. In this regard, Section 46 of the Local Government Act gives the Minister power to make regulations for the control and management of the finances of councils *(ibid)*. The power of local councils to use their discretion as they perform their duties is also curtailed. This is because of Section 88(1) of the Local Government Act which gives the minister power to suspend all councillors of the council from performing all of their functions or to dissolve the council if he/she considers that the council has refused, failed or is unable to adequately discharge all or any of its functions. When such a decision is made, the Minister appoints a Local Government Administrator to discharge all the functions of the council *(ibid)*.

The implication of this Act and especially Section 88 (1) is that it compromises the quality of local democracy in the country. This is because the elected councillors, who constitute the local government, tend to become accountable to appointed officials such as the Minister of Local Government and Housing who might be a nominated Member of Parliament instead of being accountable to local people who elected them. For example, in 2002, the Minister suspended Siavonga District Council for failure to discharge its operations in accordance with the law *(The Post, 2002)*. Similarly, the Minister of Local Government and Housing, Eustarkio Kazonga, suspended the Livingstone City Council in

2010 and appointed a Local Government Administrator to discharge the functions of the Council. The reason for suspending the Council was that there was internal squabbling among the councillors and officers, particularly the Office of the Mayor and Town Clerk which were seen to have brought unwanted embarrassment *(Times of Zambia, 2010)*.

This has also created a situation where the local councils are somehow unable to independently carry out their responsibilities. This point is in line with the views of the respondents who were engaged in this research. The majority, 66.7% of the respondents, indicated that their councillor or MP was not able to influence matters that were important to the lives of people in the community. Only 29% of the respondents indicated that the councillor or MP had managed to influence such matters. A paltry 4% of the respondents were not sure of the ability of their councillors or MPs in this regard.

In addition, the policy *Government of the Republic of Zambia, 2002)* states that local councils do not have the capacity to effectively carry out all the 63 functions prescribed by the Local Government Act. The major problem in this regard is lack of finances. The central government expects councils to raise their own revenue but the sources of local revenue are not lucrative and are limited. There is also no law that compels the central government to allocate a particular percentage of its revenue to local councils. Instead, Section 45 (1) of the Local Government Act empowers the Minister of Local Government and Housing to use his/her discretion to determine the terms and conditions of giving constituency development grants or loans of money to a council for the purposes of discharging its functions *(Government of the Republic of Zambia, 1995)*.
According to government and civil society officials who participated in FGDs, local councils in Zambia lack funds to the extent that even their workers go for several months without salaries.[29] These include city councils such as Livingstone and district councils such as Mkushi.

Due to the nature of their creation, local councils tend to have a higher degree of independence from the centre than the lower units or departments of sector ministries. For example, despite the tiers of sector ministries performing functions at the local level, power and authority are retained by the centre. In this case, the district heads of sector ministries report directly to their ministerial headquarters through their provincial heads. This situation has negatively affected the ability of these tiers to carry out their responsibilities. For instance, decision-making at lower levels is ineffective due to centralisation of authority *(Government of the Republic of Zambia, 2002)*. In terms of financial provision and discretion, the lower tiers of sector ministries have got limited powers to make their own decisions. Instead, their budgetary allocations are determined by the centre *(ibid)*.

[29]FGDs held in Livingstone on 20 October 2010

4.3.2 Extent to which local authorities are subject to free and fair electoral authorisation, and to the criteria of openness, accountability and responsiveness in their operation

Zambia has only one tier of local government that is subjected to electoral authorisation. This is the local council while other tiers are not. Before the year 2001, local councils in Zambia were subjected to democratic elections every three years. However, this was changed to five years in 2001 so that the country could have one general election consisting of Local Government, Parliamentary and Presidential elections. The first such elections were held in 2001, the next ones in 2006 and the recent ones in 2011. During this period, there has been no postponement of local government elections in the country. For the purposes of such elections, Section 9 of the Local Government Elections Act gives the Electoral Commission power to divide the area of each council into wards. Thereafter, one councillor is elected for each ward *(Government of the Republic of Zambia, 1997)*.

There are a number of electoral arrangements in Zambia aimed at making the elections free and fair. These include the following:

i. People are free to put up their campaign advertisements in the media, posters or billboards.
ii. Political parties and candidates are allowed to hold public meetings as long as they are in compliance with the Public Order Act.
iii. Electoral monitors and observers are also allowed to monitor or observe the electoral process in accordance with the Electoral Code of Conduct and other written laws *(Electoral Commission of Zambia, 2011)*.

However, in practice, there have been instances that tended to compromise the freedom and fairness of the elections. These include the following:

a) Supporters of different political parties and/or candidates have been engaged in fighting. For instance, supporters of the Patriotic Front (PF) were beaten by supporters of the Movement for Multiparty Democracy (MMD) in Chongwe District during the campaigns for the 2011 tripartite elections.

Table 4.4: 2006 Local government election results for selected constituencies in Zambia

Constituency	Residential area	Number of registered voters	Number of votes cast	Voter turnout
Chisamba	Rural	33,263	22,278	66.97%
Mambilima	Rural	12,028	8,250	68.59%
Chifubu	Urban	29,238	22,117	75.64%
Lusaka Central	Urban	48,048	35,803	74.51%

Source: Calculations based on Electoral Commission of Zambia (2006a); Electoral Commission of Zambia (2006b)

b) There are instances when campaign posters for some political parties and/or candidates are pulled down by their opponents.

c) There have been also several complaints about media organisations being biased in their coverage of political parties and candidates. For instance, during the 2011 tripartite elections, the public media were seen to have covered the ruling party more than opposition parties. Similarly, the private media were seen to have covered opposition parties more than the ruling party.

As a way of promoting free and fair elections, parties and individuals that are aggrieved with the conduct of the elections are free to sue or appeal to the courts of law for redress. For example, an MMD supporter by the name of William Banda was sued by PF supporters for allegedly spearheading the violence that occurred in Chongwe District during the 2011 elections. The government was either reluctant or slow to arrest a member of its own political party who has been reported to the police. In this instance, Banda was arrested and charged as soon as the Patriotic Front government assumed power. A number of charges were laid against Banda and although he has appeared in court many times, the cases are yet to be concluded.

On the other hand, the relatively high voter turnout in local government elections indeed indicates that local government in the country do enjoy fairly high levels of legitimacy. This can be seen from the experiences of the 2006 Local Government Election Results shown in Table 4.4.

However, the voter turnout tends to vary according to the locality's level of urbanisation. As shown in Table4.4, constituencies that are located in urban areas tend to have higher rates of voter turnout than those located in rural communities. There are two major factors that can explain this variation. The first one is the long distances that rural voters are supposed to cover between their homes and the polling stations. The second factor is that the modes of transport to and from the polling stations in rural areas tend to be ineffective, inefficient and a burden to the voters. For example, the road network in these areas is so bad that it cannot be serviced by public transport. This leaves the rural voters with the options of either walking or cycling to and from the polling stations or altogether not voting. As a result, voter turnout in these areas is reduced. This implies that urbanised local councils tend to have stronger democratic legitimacy than the rural ones.

There is also legislation in Zambia that requires local councils to be open and accountable in the conduct of their affairs. This requirement is contained in the Local Government Act, which provides for the following:

I. Section 29(1) allows members of the public to attend council meetings. However, in practice, there are low levels of members of the public that attend such meetings. For instance, it was mentioned that the public gallery at Mansa Municipal Council is always empty during council meetings. One

[30] FGDs with Government and civil society officials held in Mansa on 8 January 2011

of the reasons cited for the low public participation is that local people are not aware of the time-table for the meetings.[30]

ii. Section 39(5) demands that the annual financial estimates of the council be open to inspection by any interested person.

iii. Sections 52 and 56 give the Minister of Local Government and Housing power to appoint an auditor to audit the accounts of the council for each financial year. After completion of the audit, the report of the auditor is submitted to the council for consideration. Thereafter, it is transmitted to the Minister. Eventually, the report is open to the inspection of any interested person *(Government of the Republic of Zambia, 1995)*.

There are times, however, that local councils in Zambia have not been open and accountable in the conduct of their affairs. There has been an element of secrecy in their deliberations which is even protected by law. For instance, Section 29(2) of the Local Government Act provides for the exclusion of the public from a council meeting (whether during the whole or any part of the proceedings) whenever publicity of such a meeting is considered to be prejudicial to the public interest. This provision has, therefore, created room for local councils to have weak public accountability. For instance, councillors at Lusaka City Council held a meeting on 17 November 2010 where they allocated themselves 82 plots in Lilayi area without following lawful procedure. This unlawful action was noticed in January 2011, and prompted the Minister of Local Government and Housing to suspend the Council *(Muvi Television, 2011)*.

4.3.3 Extensiveness of the cooperation of government at the most local level with relevant partners, associations and communities in the formulation and implementation of policy, and in service provision

There are legal provisions in Zambia that allow local governments to consult and partner with other stakeholders in the process of service provision. For instance, Section 62 of the Local Government Act allows local councils to join with the central government, other councils, any other person or authority in establishing and maintaining services or facilities.

Table 4.5: Extent of local councils' cooperation with local communities and other stakeholders in the formation of policy by residential area

Residential Area	How extensive is the cooperation of local councils with local communities and other stakeholders in the formulation of policy				Total
	Very extensive	Extensive	Not extensive	Don't know	
Urban	3 2.0%	51 33.6%	78 51.3%	20 13.2%	152 100.0%
Rural	10 6.8%	47 31.8%	81 54.7%	10 6.8%	148 100.0%
Total	13 4.3%	98 32.7%	159 53.0%	30 10.0%	300 100.0%

Source: Household Survey

In addition, the Act demands that the council should discharge its functions in accordance with the provisions of written laws relating to the discharge of those functions *(Government of the Republic of Zambia, 1995).*

Table 4.6: Extent of local councils' cooperation with local communities and other stakeholders in service provision by sex

Sex	How extensive is the cooperation of local councils with local communities and other stakeholders in service provision				Total
	Very extensive	Extensive	Not extensive	Don't know	
Male	6 3.8%	37 23.6%	96 61.1%	18 11.5%	157 100.0%
Female	4 2.8%	48 33.6%	78 54.5%	13 9.1%	143 100.0%
Total	10 3.3%	85 28.3%	174 58.0%	31 10.3%	300 100.0%

Source: Household Survey

A number of mechanisms have also been put in place to promote consultations between local councils and other stakeholders in policy and service provision. They include the establishment of the District Development Coordinating Committee (DDCC) whose mandate is to coordinate the planning and implementation of development activities in the district. The other structures are the Area Development Committees (ADCs) and Ward Development Committees (WDCs) established in wards as avenues through which the community can participate in local development activities and affairs. In terms of membership, the consultative structures are quite inclusive of various individuals and organisations operating at the local level. For instance, the DDCC is composed of representatives of the Office of the District Commissioner (DC), local council, heads of government departments based in the district, corporations, Civil Society Organisations and any other organisations operating in the district. In the case of ADCs and WDCs, they comprise members who are elected by local people.

In practice, these consultative structures have, however, not been extensively and efficiently used in the formation and implementation of policy, and in service provision. This is shown by the Table 4.5 and Table 4.6. From Table 4.5, it can be noted that generally the cooperation of the government at the most local level with relevant partners and communities in the formation of policy is quite low. The majority of the stakeholders are not engaged.
The situation is almost similar in both urban and rural areas, at 51.3% and 54.7% of respondents, respectively.

Lack of cooperation of the local governments with other stakeholders is also reflected at the stage of service provision. The extent of this practice is shown in Table 4.3. The table shows that generally the cooperation of the government at the most local level with

[31]FGDs with Government and civil society officials held in Livingstone on 20 October 2010 and Mansa on 8th January 2011

relevant partners and communities in the provision of services is quite low. The majority of the stakeholders are not extensively engaged in the process of service provision. However, there are some variations between the proportions of females and males that are engaged in this process. Table 4.6 shows that there was a higher percentage (36.4%) of female respondents who indicated that they were extensively engaged by local councils than the male respondents at 27.4%. Similarly, there was a higher proportion (61.1%) of male respondents who stated that they were not extensively engaged in service provision than the female respondents at 54.5%.

Because of inadequate consultations and cooperation with relevant partners and local people, local councils in Zambia have not been responsive to people's needs. For instance, Mansa Municipal Council has constructed a Civic Hotel instead of providing social services such as street lighting that local people have been complaining about. The FGDs revealed that there are no street lights in Mansa District. The other services that are poorly provided in the country include road maintenance, garbage collection, water supply and sanitation services. Local people have been complaining about poor service provision but very little or no action is taken to improve the situation.[31]

As mentioned earlier, despite local councils having the mandate to provide social services, they do not have adequate funds to do so. Some of the councils even default on salary payments for their workers.

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Chapter 5

Democracy beyond the state

5.1 External influences of the country's democracy

5.1.2 Background

External involvement in developing countries has been based around four main strategies namely, non-engagement attempts to exert influence and local pressure, the threat of coercive measures and the short-term assumptions of government function *(Debiel et al. 2005)*. Much of the criticism levelled against overseas aid to developing countries converges on the perceived disjuncture between, on one hand, the principles of good engagement, and on the other hand, their inconsistent or lack of application on the ground (White 2009). Furthermore, White observes that any call for improved mechanism for donor accountability and for donor strategies to allow for better local participation and ownership should be guided by a better understanding of the local context.

Respect for the sovereignty of African countries waned among Western governments and international institutions after the Cold War and the scope of the conditions attached to foreign aid expanded significantly. In the 1990s, donors moved beyond macroeconomic policy, placing conditions on a wide range of policy areas seeking to transform the administrative and political systems of the aid-receiving countries. By the year 2000, debt relief through Highly Indebted Poor Countries (HIPC) Initiative and the Poverty Reduction Strategy Papers (PRSPs) that came with it extended donor conditions to the process of policy making. African states' structures, many of which were already in poor condition, were profoundly weakened through these processes, along with the ability of government to plan and express coherent visions for national development *(Whitefield 2009)*. The legacies of these economic conditions explain to a large extent the limiting negotiating strengths of these countries. Other explanations are found in the political, ideological and institutional legacies of these countries' continuous engagement with the World Bank and the International Monetary Fund (IMF) as well as an expanding list of other official and private aid agencies. This continuous engagement has created a set of common characteristics in aid dependent countries today. These include a state of permanent negotiations with donors, the gradual enlargement of donor and government institutions alongside the limited rebuilding of the recipient's public administration. These characteristics have become key factors in shaping the incentives facing recipient governments. They explain why governments in these countries often strive to maximise aid flow without necessarily maximising control over their policy agenda *(Ibid.)*.

Aid is a vital resource with which these governments seek to deliver goods and services or other promises they have made. Thus, they are unwilling to take stronger policy positions or chart a development strategy outside the purview of donors, as they are afraid of risking reduction in aid and undermine their political support and or cost them the next election. The fragile domestic political support of government combined with their dependence on aid to shore up their legitimacy, therefore, provides strong incentives for governments to remain in a subordinate position to donors.

5.1.3 Donor influence on Zambia's development policies

Zambia is an unsuitable case for Breton Woods treatment *(Brown 2007)*. Zambia is one of the major aid recipient countries in Africa. For the earlier period, multilateral donors, and in particular, the International Financial Institutions (IFIs) were the most important donors. However, since the early 1990s bilateral flows have more than doubled while multilateral flows have fallen drastically, particularly since 2005. Donors have two major formal channels in engaging the government in Zambia, these being through policy dialogue and through direct funding of projects. Zambia (together with Mali, Mozambique, Ghana and Tanzania) is a case where the proliferation of donor and donor agenda to which the state has to respond has led to the diffusion of government control over its development programme . . . . characterised by that continuous and permanent negotiation has developed over policies, programmes and project between donors and governments. It is the permanent negotiation over the details of almost every policy that is a key constraining factor for these governments *(Ibid)*.

Restoration of donor relations and increased assistance to Zambia also marks one of the positive changes introduced by the MMD government under the leadership of Chiluba. Faced with poor economic performance and near bankruptcy, aid constituted a major source of finances required to embark upon the promised development reform programme *(Fraser 2007:9)*.[1] The burgeoning of external assistance witnessed in Zambia correlates closely with the MMD government's willingness to reform. During the1990s, external grants and loan finance covered as much as 40 per cent of total expenditure and net lending *(Fagernäs and Roberts 2004:15; Burnell 2001)*.[2] According to Saasa, donor support rose rapidly from 10 per cent of GDP in 1989 to 30 per cent of GDP in 1992 while net Official Development Assistance (ODA) flows in the years 1991-5 amounted to over US$1billion per annum, twice the average volume of net ODA in the 1980s *(Saasa 1997:190-1)*. This trend continued such that, by the end of the decade, the donor community was financing about 34 per cent of all government expenditures and about 62 per cent of all expenditure in economic sectors while covering 49 per cent of expenditure in the social sectors *(van der Heijden 2003:84)*.[3]

[1]For instance, aid accounted for as much as 63% of the share of Zambia's GNP, marking its highest peak during the MMD government's first term of office.
[2]According to Burnell, Zambia became one of the largest recipients of official development assistance of any African country in both absolute terms and proportional to Gross National Product (GNP).
[3]Van der Heijden further observes that in the financial year 2000, no less than 90 percent of public capital expenditures were being financed by donors.

Although the influence of aid over development is hard to establish, external aid played a key role in Zambia during this time in two major ways. First, this assistance was crucial in limiting the extent of Zambia's economic deterioration and national bankruptcy. Second, it boosted the government's financial standing by reducing fiscal deficits and sustaining public expenditures. However, it is also important to note that the availability of external aid did not generate a self-sustaining economic process for reasons that will be discussed in the latter part of this chapter *(Fagernäs and Roberts 2004:19; Saasa 2005:*[4]*; Bigsten and Kayizzi-Mugerwa 2000:13).*

The restoration of donor confidence and support, particularly as regards the implementation of the PRSP as well as completion of the HIPC process constituted the major elements that characterised state-donor relations when the late President Levy Mwanawasa took over power in 2002 *(Eberlei 2005:98).* To a large extent, these conditions were both an opportunity and challenge to the Mwanawasa administration. Adherence to HIPC conditionality proved a daunting task for the Mwanawasa administration. The implementation of the PRSP programmes was almost jeopardised as a result of the failure to meet the stipulated HIPC benchmarks. In turn, the failure to adhere to the benchmarks delayed Zambia's accession to the completion point *(Eberlei et al. 2005:7-9; GRZ 2004a; Situmbeko and Zulu 2004; Seshamani 2005:127).*

On the part of the state, the shift from conditionality to aid alignment and national policy ownership provided the Mwanawasa regime some space for policy negotiation. It was within this context that the Mwanawasa administration justified its case for deviating away from an economic policy framework that narrowly focused on extreme austerity measures to one that attempted to blend state support with the market system. On the part of the donors, this shift was expected to lead to three major outcomes. First and foremost, it was expected to promote better coordination of activities among the various donor agencies *(Saasa 1996:126)*[5] Second, this collaboration, if effective and strategic, was expected to enhance the ability of the donors in exerting pressure on the national government to adhere to the reform agenda *(Rakner 2003:183 Rakner et al. 2000:586)*[6] Third, alignment processes were intended to address the dilemmas of conditionality-based support in the absence of genuine government commitment *(Eberlei 2005:92).*[7]

[4]It was only after 2001 that the donor community, though with hesitancy, accepted government's policy decisions on the withdrawal of user fees, setting of the floor price for prime agriculture commodities, namely maize, subsidization of maize seed and fertiliser. In addition, even some of the programmes that were strictly initiated on market principles were now redesigned to pay attention to poverty concerns. For instance, the Citizens' Economic Empowerment Fund (CEEF) was slotted into the Private Sector Development (PSD) programme but structured in a manner that would allow the state to provide funds for economic projects to targets groups that had been marginalised during the adjustment period. This was largely because of the strong stance on the need to address the poverty concerns alongside the pursuit of a market-based economy. 5

[5]Saasa observes that although donor coordination with respect to policy-based lending had significantly improved in the 1990s, it still appeared to lack coordination as evidenced by the diversity of agencies involved in supporting the same sectors but with different positions

[6]This is against the realisation of their limitation of their powers in influencing the decisions of the national government and securing the desired reform outcomes despite their overwhelming economic and financial leverage. For instance, as a result of lack of coordination, it was not uncommon in Zambia that the multilateral donors would announce further support for the government just at the time when the bilateral donors took the decision to withhold or reduce aid on the basis of dissatisfaction with the performance of the MMD government on governance issues, as was the case under Chiluba's regime.

[7]Eberlei identifies five main weaknesses associated with traditional aid modalities. These include weak coordination among donors, small and isolated bilateral projects based on individual donor priorities, rapid proliferation of aid agencies guided by different procedures, aid mainly delivered as off-budget assistance, and imposition of western-based accountability and transparency frameworks

The first most comprehensive attempt on alignment and policy ownership only appeared in the late 1990s with the introduction of the PRSPs *(OECD 2005)*.[8] However, this new approach did not seem to have significantly influenced the donor input in the I-PRSP which was prepared under the Chiluba regime *(Eberlei 2005:98)*[9]. A stronger effort by the donors to adhere to the principles of alignment and policy ownership were, to a certain degree, reflected in the final 2002 PRSP.[10] Overall, the problem of aid fragmentation persisted even under the PRSP framework. To improve coordination amongst themselves, the donors decided to introduce the 'Harmonisation in Process' (HIP) group. In 2004, the donors signed a Memorandum of Understanding (MoU) with the government of Zambia on HIP *(OECD 2005:143)*.[11] Following the Paris Conference in 2005, seven major bilateral donors agreed to combine their efforts on 'harmonisation and alignment.'[12] Subsequently, the HIP was extended to the 'Wider HIP (WHIP)' with the inclusion of 12 other donors. The WHIP adopted the Joint Assistance Strategy for Zambia (JASZ). However, although most of the donors' programmes began to reflect Zambia's development priorities, especially poverty reduction, misalignment of donor assistance and the lack of national policy ownership continued to characterise state-donor relations *(Eberlei 2005:106; World Bank 2004)*[13]

A major concern is that levels of donor dependency remained considerably high under Mwanawasa's leadership *(GRZ 2004c; Eberlei 2005:98)*. Most notably, the revenue from the copper boom experienced towards the end of the first term of Mwanawasa's presidency did not seem to have a significant impact, especially in terms of increasing the levels of state resources or in terms of reducing the amount of donor assistance to the state *(Fraser and Lungu 2007)*. This condition poses a serious development challenge. When a government depends on external resources for a large part of its public finance, it tends to become more accountable to those external agencies than to its own citizens. This makes it difficult for the state to forge credible developmental contracts with its own citizens.[14] This was reflected in the 2006 general election campaigns. Mwanawasa regime had no option but run a campaign that dwelt on achieving the HIPC completion point at the expense of other national pressing development concerns *(Alastair 2007:15)*.[15]

[8]The main guiding principles of the PRSP directly address these issues. These include country-driven, results-oriented, comprehensive, partnership-oriented and long-term perspective. Thus by design, the PRSPs were perceived to contain the potential of facilitating effective aid coordination and effective alignment of this aid to the national development priority needs and on the other hand, promote national ownership of development through participatory processes.

[9]This paper was basically a reaffirmed commitment to the earlier reform agenda between the state and the donor community, reflecting the primacy of economic concerns in the relations between the two parties. Although the stage to promote donor alignment and national ownership of policy was set under the leadership of Chiluba, most of the significant changes took place under the Mwanawasa administration.

[10]Under HIP, the donors focused on harmonising their projects and selecting a "lead donor" to represent the donors with similar interests in particular sectors of the economy as well as coordinate their policy inputs. Where possible, they also intended to subsume their work within the Government's initiatives as well as provide an increasing share of their aid directly into the central budget.

[11]For details, see the Memorandum of Understanding: Coordination and Harmonisation of GRZ/Donor Practices for Aid Effectiveness in Zambia, Lusaka, 2004

[12]These include Denmark, Finland, Ireland, Norway, Sweden, the United Kingdom and the Netherlands

[13]A key point highlighted by Eberlei refers to the visible gulf between rhetoric and practice in donor programmes. In some cases, donor documents reflected adjustment in rhetoric while others appeared stagnant. In both cases, the main observation is that the long-standing structural and asymmetrical features of the donor-state relations appeared to have persisted. At the same time, the restructuring of these relations did not appear to significantly strengthen the position of the government as regards policy ownership nor its capacity to effectively implement development programmes.

[14]Large aid flows can also endanger government accountability in the sense that it reduces the urgency in the ruling elites to perform and secure the support of the public and their legislature as they do not financially depend on these groups nor need to raise the required resources domestically. In such cases, government usually focused on satisfying donor requirements for the purpose of sustaining the flow of aid.

[15]According to Alastair, chasing of HIPC offered no ideological coherence but simply threw most of Zambia's development priorities such as poverty reduction, MDGs programmes and good governance into disarray.

On one hand, this is an indication of how donor aid has gradually been transformed into a permanent form of revenue for the ruling elite. On the other hand, the donors must realize that now they become 'part of the problem' and should also begin to search for innovative ways of minimising their role in development processes, including winding up their support to certain sectors of the economy that the Zambian government has potential to finance. This will go a long way to help the state in Zambia to focus beyond donor aid in terms of mobilising resources for development.

5.1.4 Foreign investment

Since 1991 after the Movement for Multi-Party Democracy (MMD) came to power there was a policy shift from a predominantly state controlled economy to a free market economy. This was in line with the neoclassical approach advocated by the World Bank and the International Monetary Fund (IMF), also referred to as the Washington Consensus.[16] The approach was reflected in the conditions that were given by the two financial institutions for rendering assistance to the country, the main thrust of which was liberalization of the economy and removal of barriers to foreign trade. The government also adopted the policy of attracting foreign direct investment (FDI) to the country. The thinking was that foreign investment would be vital especially for resuscitating the copper mines, which were privatized in the year 2000. Foreign investment was also expected to contribute to job creation, thereby helping to reduce poverty in the country. Above all it was expected to contribute to economic growth. According to a study commissioned by Consumer Unit and Trust Society (CUTS) International, 'The thrust of the national macroeconomic framework was the pursuit of economic growth and poverty reduction through free markets. The key goals were achieving growth in foreign investment, export promotion, rehabilitation of infrastructure and, attaining fiscal and monetary policy targets.'[17] Reducing poverty and improving people's standard of living is in line with the promotion of economic and social rights. Foreign direct investment into Zambia rose from US$122 million in the year 2000 to $1.3 billion in 2007 and then went down to $936.9 million in 2008.[18] The main sources of FDI include the EU, Asia and Africa. Within Africa, South Africa and Zimbabwe are among the important sources. Significant foreign investment has been channelled into the mining sector which has seen new copper mines opened in North-Western Province.

[16]According to Dani Rodrik, The original Washington Consensus had the following components: Fiscal discipline, Reorientation of public expenditures, Tax reform, Financial liberalization, Unified and competitive exchange rates, Trade liberalization, Openness to DFI, Privatization, Deregulation, Secure property rights
In addition to the above, the Augmented Washinton Consensus included the following:
Legal/political reform, Regulatory institutions, Anti-corruption, Labour market flexibility, WTO agreements, Financial codes and standards, "Prudent" capital-account opening, Non-intermediate exchange rate regimes, Social safety nets, Poverty reduction
See Rodrik, Dani, The Global Governance of Trade as if Development Really Mattered, New York, United Nations Development Programme (UNDP), 2001, p. 11
[17]CUTS Centre for Competition, Investment & Economic Regulation, Investment Policy in Zambia – Performance and Perceptions, Jaipur, CUTS, 2003, p. 18
[18]Zambia Development Agency, Economic Impact of Direct Investment on the Zambian Economy

According to Zambia Development Agency (ZDA) data, for the period from the year 2000-9, the sector with the highest number of pledged jobs from FDI was agriculture with 29,147 jobs, followed by manufacturing with 27,436 pledged jobs and mining came third with 14,897 pledged jobs. Formal sector employment data for 2007 show that the highest number of formal jobs was in personal and community services with 173,064 persons employed, followed by trade, bars, restaurants, and hotels with 76,809 jobs, agriculture, fisheries and cooperatives had 62,123 jobs, business and financial services had 54,833 jobs and mining and quarrying provided 53,156 jobs.[19] It is acknowledged that the top three job providing sectors for 2007 have relatively low pay. Mining, which contributes significantly to the Zambian economy, is not the top employer because it is a capital intensive sector. According to Ndulo Manenga et al, the services sector has been not only the main contributor to formal employment in Zambia, but also to gross domestic product. In 2008 70% of formal sector employees were in the services sector.[20]

Zambia has been able to attract significant foreign direct investment, especially in copper mining. Although this has contributed to economic growth and job creation, the jobs created have been concentrated in low wage sectors. This means that the impact on improving living conditions consistent with economic rights is below expectation.

5.1.5 Foreign trade

As pointed out earlier, promotion of exports was another component of Zambia's economic policy. Expansion of foreign trade was seen to be important to enable the country to earn the foreign currency necessary to finance imports. For a number of years the country had been experiencing balance of payments problems and consequently had become dependent on donor funding to finance imports. However, in the first and second quarters of 2011 positive trade balances were recorded. These were, respectively, K2,991,959 and K22,482,357.[21] The current account deficit stood at 15% of GDP in 2000. This changed to a surplus of 1.1% of GDP in 2006 and then to a deficit of 9% of GDP in 2008.[22] Zambia recorded significant growth in foreign trade from the year 2000 to 2010. The value of exports rose from US $869,485,416 in 2000 to US $7,200,267,056 in 2010, while the value of imports rose from US $871,386,492 to US $5,320,961,454 over the same period.[23]

Membership of the Southern Africa Development Community (SADC) and the Common Market for Eastern and Southern Africa (COMESA) was also seen to be potentially useful in helping the country expand its trade. COMESA launched a free trade area (FTA) in November 2000. Zambia has duty free trade with at least eight other COMESA members and extends Most Favoured Nation (MFN) treatment to the others.[24]

[19]Zambia Development Agency, Economic Impact of Direct Investment on the Zambian Economy
[20]Zambia, Central Statistical Office (CSO), Quarterly Employment and Earnings Report, 2008
[21]Ndulo, Manenga, et al, "Global Financial Crisis Discussion Series, Paper 10: Zambia," London, ODI, May 2009, p.2
[22]CSO, International Trade Statistics, 2011. in Monthly Bulletin, August 2011
[23]Ndulo, Manenga et al, p. 3
[24]Ibid.

Zambia signed the SADC Protocol on Trade in 1996. SADC also aimed at establishing an FTA.[25] Zambia is also a member of the World Trade Organisation (WTO) which is a UN institution responsible for overseeing multi-lateral trading rules.

To the extent that Zambia is able to have foreign trade surpluses, dependence on donor funding to finance imports may be reduced and with this, there may be less exposure to the conditions attached with foreign aid. This may result in some room for manouevre in designing development policies and may increase popular participation in the decision making process and make political leaders more accountable to their people.

5.1.6 Economic liberalisation and democracy

As pointed out above, the objectives of liberalisation in Zambia included achieving economic growth and poverty reduction through the free market. Between 2000 and 2008, Zambia's gross domestic product grew at an average rate of 5% per annum. This was still below the 7% growth rate required to achieve Millennium Development Goals by the year 2015.[26] Among other things, this makes it difficult for the government to bring about social and economic conditions consistent with the enjoyment of social and economic rights. However, interaction with the International Financial Institutions and Western bilateral donors yields both positive and negative influences on Zambia's democracy. On the positive side, insistence on 'good governance', including respect for human rights, transparency and accountability in governance, and fighting corruption are positive influences on development of democracy in the country. However, the same cannot be said about the economic conditions for aid, especially liberalization of the domestic economy and foreign trade. These conditions constrain the aid receiving countries' flexibility in choosing policies and alienates the people from participating in the policy making process which is reduced to negotiation between elites in aid receiving countries and bureaucrats of multilateral donors. In Zambia, the agreements arising from such negotiations are not even subject to ratification by parliament. Participants in FGDs were generally of the view that Zambian Government officials negotiate with donors from a position of weakness, leading to the country ending up with unfavourable agreements.

The country's poverty reduction strategy paper is a case in point. The country has now achieved positive economic growth and the economy has been liberalized. Yet levels of poverty are still high.[27] As pointed out earlier in this report, household respondents generally reported that they are not well catered for with respect to food, clean water and shelter and that it is not easy to find a job. Zambia's Poverty Reduction Strategy Paper can be said to have been drafted through a participatory process. However, the macroeconomic framework underlying it, which was a carryover from the structural adjustment programmes of the past, was not a subject of alteration or rejection through that process.

[25]Mudenda, Dale, "Zambia's Trade Situation: Implications for Debt and Poverty Reduction, " Report Prepared for the Jesuit Centre for Theological Reflection, Lusaka
[26]Ibid.
[27]Ndulo, Manenga, et al,

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Chapter 6

Summary and recommendations

6.1 Objectives and approach of the study

The main objective of the State of Democracy in Zambia (SoD) Assessment project was to establish has far the country has gone in establishing democracy. Specific objectives were:

- To establish the extent to which democracy has been established in Zambia;
- To identify areas of democratic deficit and progress;
- To make recommendations for political reform to enhance democracy.

To achieve the above objectives, the following methodology was employed:
Desk research;

- Key informant interviews, targeting officials and councillors in local authorities, central government officials, and officials of civil society organizations in rural and urban districts in five provinces of Zambia namely, Lusaka, Southern, Copperbelt, Luapula, and North Western Provinces
- Focus Group Discussions (FGDs); and
- Interviews of ordinary citizens, targeting heads of households

6.2 Assessment framework

International IDEA's (thematic) Framework, with modification, was used as a tool for the Assessment. Hence the Assessment was based on the four "pillars" (main themes) and respective thirteen "sub-pillars" (sub-themes) in the framework, as shown in Table A.1 in Annex A.

6.3 Key findings

6.3.1 Citizenship, law and rights

6.3.1.1 Nationhood and citizenship

Existence of public consensus on common citizenship without discrimination. There is general consensus that citizens in Zambia enjoy all the rights just like other people and that the government protects the rights of minority and vulnerable social group. However this consensus is not very strong. Poor people, the disabled and orphans are among the notable relatively disadvantaged members of society, according to data analysed.

6.3.1.2 Rule of law and access to justice

Consistent subjection of society and state to law

Rule of law is not strong in Zambia. Only 52% of household respondents indicated either that the courts of law were very independent (17.3%) or that they are moderately independent (34.7%). The main bone of contention in this regard, based on views of Focus Group participants and key informants, is that in cases considered to be critical, there is a tendency by the Executive to interfere with the judicial process. Above all, the majority of household respondents (60%) reported that alleged criminals are not treated fairly by the courts of law in Zambia. Public officials are subject to the rule of law when performing their functions only to a minor extent. This was the prevailing view that emerged from the study participants.

Access to justice. Although more than 50% of household heads interviewed indicated that they had been able to receive justice when dealing with courts of law, and the police (55% for courts, and 59.7% for the police), a significant number of respondents and FGDs participants indicated that it was not easy to access justice in Zambia. Barriers to accessing justice cited included poverty, ignorance, corruption and social status.

6.3.1.3 Civil and political rights

Guarantee of civil and political rights equally for all

The prevailing view is that at least in the Constitution, there is protection of the freedoms of movement, assembly, and expression. Among the Civil Society Organizations (CSOs), according to literature review data, there was concern about state regulation of NGOs and media. Furthermore, failure to enact the Freedom of Information law was considered to be an obstacle to freedom of expression. However, there was a general sentiment that security of person was assured in Zambia.

6.3.1.4 Economic and social rights

Guarantee of social and economic rights equally for all.

There is no strong protection of economic and social rights in Zambia. In the existing Constitution, such rights are referred to in the Preamble which is not justiceable. However, Zambia has signed the International Covenant on Economic, Social and Cultural Rights. Against the background of the Millennium Development Goals, the situation on the ground is not encouraging. The prevailing view of the citizens interviewed was that people in Zambia were not well catered for in terms of the basic needs – food, shelter, and clean water. The majority of household respondents reported that the health of the population was only protected "moderately" in "all spheres and stages of life", and a significant number (44 %) also reported that people did not have adequate access to education services and facilities. Likewise, the prevailing view was that it was not easy to access work without discrimination.

6.3.2 Representative and accountable government

6.3.2.1 Free and fair elections

Whether or not elections give people control over government and policies or not
According to those interviewed, elections in Zambia gave people control over government but not over policies. The majority of respondents were of the view that it was important to vote and that it was relatively easy to register to vote. However, one of the main concerns mentioned about elections was corruption and the increasing trend of inter-party violence. In stakeholder interviews and Focus Group meetings, it was also mentioned that the Electoral Commission of Zambia was not very independent because the Executive plays a role in appointing members of the commission.

6.3.2.2 The democratic role of political parties

Whether or not the party System assists the working of democracy
The prevailing view from Focus Group meetings and stakeholder interviews was that the party system did not help the working of democracy. Ordinary party members did not influence policies and the choice of candidates for election within the parties and for national elections. Competition for positions within the parties was also reported not to be free and fair.

6.3.2.3 Effective and responsive government

Effectiveness of government in serving the people and its responsiveness to their concerns
Government generally was not considered to be effective and responsive in attending to the needs of the people. Parliamentarians as well as councilors were not effective representatives of the people. Public services provided were reported to be of poor quality as well as difficult to access.

6.3.2.4 Integrity in public life

Whether integrity in the conduct of public life is assured or not
Lack of integrity and corruption continued to be serious problems in the governance system of Zambia. The anti-corruption institutions generally lacked capacity to perform their tasks effectively.

6.3.3 Civil society and popular participation

6.3.3.1 The media in a democratic society

Whether or not the media operate in such a way that democratic values are sustained

Private media were independent and critical of the government while public media were controlled by the government which threatened to impose regulatory processes on the media, while the private media preferred self regulation. The above notwithstanding, the media in Zambia largely operated in such a way that they contributed positively to Zambia's democracy.

6.3.3.2 Political participation

Existence of full citizen participation in public life

While there was a vibrant conglomeration of CSOs, many ordinary people remained marginalized. There was generally low participation. Much still remained to be done to improve the level of participation of women, persons with disabilities and youths in Governance.

6.3.3.4 Decentralization

Whether or not decisions are taken at the level of government most appropriate for citizens

Democratically elected councils to which central government had devolved powers did not have sufficient resources to carry out their functions. Their autonomy was constrained to some extent by excessive powers of the Cabinet Minister responsible for local government. There was in place an institutional setup for participation of the local communities in policy formulation and implementation. However, these institutions were not effective. According to the majority (66.7%) of household respondents interviewed, Councilors and Members of Parliament did not influence matters of importance to the lives of people in local communities. Furthermore, local authorities' cooperation with local communities in formulating and implementing policies was not extensive and effective.

6.3.4 External influence on the country's democracy

Whether or not the impact of external influences is broadly supportive of the country's democracy

Generally, external actors, especially donors, exercised a lot of influence on the country's democracy through insistence on 'good governance' as a condition of aid. However, this kind of influence raised questions about ownership of the democratization process and the development agenda as well as issues of sovereignty. The prevailing view from Focus Group participants and stakeholders interviewed was that the Zambian government negotiated from a position of weakness with the country's donors and therefore ended up with unfavourable terms.

6.4 Recommendations

6.4.1 Citizenship, law and rights

6.4.1.1 Nationhood and Citizenship

Existence of public consensus on common citizenship without discrimination
There is need to institute measures to improve the protection of vulnerable groups including poor people, orphans and the disabled citizens. This would require increasing funding for governmental and non-governmental grant-aided institutions and programmes that are established to assist vulnerable members of society.

6.4.1.2 Rule of law and access to justice

Consistent subjection of society and state to law
There is need to put in place measures to strengthen rule of law. The Judicial and Police Public Complaints Authorities should be reviewed and strengthened to make them more effective than they are now. Qualifications for entry into the Zambia Police Service should be reviewed, the period of training for Police Officers should be extended and training in law and human rights, which are already party of the curriculum, should be improved.

6.4.1.3 Access to justice

Government has established the Legal Aid Board to assist vulnerable members of society, including the poor to access justice. The capacity of the Board falls far short of the demand for its services. This is where intervention is required. Equally important, is scaling up civic education among the people to improve awareness of rights and avenues available for redress if they are infringed. The efforts of the Board are supplemented by activities of Non-Governmental Organisations which will also need assistance to be scaled up.

6.4.1.4 Civil and political rights

Guarantee of Civil and Political Rights equally for all
Enact the freedom of information law;
Government should resolve the issues of regulation of the media and NGOs through dialogue with the stakeholders. The law on 'loitering' should be repealed as it unduly restricts the freedom of movement and has been open to abuse by law enforcement officers.

6.4.1.5 Economic and social rights

Guarantee of Social and Economic Rights equally for all.
Findings on the Social and Economic conditions of people point to the need to invest more

resources in the social sectors and to pursue pro-poor policies and programmes with greater vigour than before, especially in view of the challenges posed by the MDGs. Particular attention should be given to the provision of clean water, shelter, and food.

6.4.2 Representative and accountable government

6.4.2.1 Free and fair elections

Whether or not elections give people control over government and policies
Members of the Electoral Commission of Zambia should be appointed by an independent body;
The President of the Republic should play no role in making the appointments;
The Chairperson of the Electoral Commission of Zambia should be the Returning Officer for Presidential elections.

6.4.2.2 The democratic role of political parties

Whether or not the party System assists the working of democracy
In view of the important role that political parties play in the governance of the country, a law should be enacted under which political parties would register, instead of registering under the Societies Act, which is the case now. The new law should include a Code of Conduct for political parties.

Political parties must make a deliberate policy to strengthen women's political participation within their parties. Quotas should b established to provide for candidacy for national elections and local government.

6.4.2.3 Effective and responsive government

Effectiveness of government in serving the people and its responsiveness to their concerns
Government should considerably scale up expenditure on public services in order to satisfy demand and institute measures, including reviewing the cost-sharing policy, to improve access to public services.

6.4.2.4 Integrity in public life

Whether integrity in the conduct of public life is assured or not
The fight against corruption must continue unabated. The situation demands enhancement of the capacity of the Anti-Corruption Commission to perform its core function through increased funding and staff training, for example. Increasing public anti-corruption awareness is equally important.

6.4.3 Civil society and popular participation

6.4.3.1 The media in a democratic society

Whether or not the media operate in such a way that democratic values are sustained

The issue of regulation of the media should be settled through dialogue between stakeholders and government. Government should enact the Freedom of Information law without undue delay.

6.4.3.2 Political participation

Existence of full citizen participation in public life

Civil society organizations have historically been the main promoters of civic education and there is need for them to step up this activity in order to enhance political participation by the people. Government should implement the AU and SADC Protocols on women's participation.

6.4.3.3. Decentralisation

Government should implement the decentralisation policy without delay. Measures should be taken to increase funding to local authorities to improve service delivery and responsiveness to the needs of the local people. To improve integrity in councils, a Code of Conduct, similar to that in place for Members of Parliament and Cabinet Ministers, should be enacted to regulate the conduct of councilors and senior council staff. The power of the Minister to dissolve councils or suspend all councilors should be withdrawn. Instead, the executive should seek to dissolve councils through resolutions of the National Assembly.

6.4.3.4 Democracy beyond the state

Parliament should be strengthened to provide effective oversight on public debt contracting.

Annexes

Annex A.
Description of methodology

A1.2 Assessment Framework

International IDEA's (thematic) framework, with modification, was used as a tool for the assessment. Hence the assessment was based on the four "pillars" (main themes) and respective thirteen "sub-pillars" (sub-themes) in the framework, as shown in the Table below:

Table A.1

Pillar	Sub-pillar	Main basis of assessment
Citizenship, Law and Rights	Nationhood and Citizenship	Existence of Public Consensus on common citizenship without discrimination
	Rule of Law and Access to Justice	Consistent subjection of society and state to law
	Civil and Political Rights	Guarantee of civil and political rights equally for all
	Economic and social rights	Guarantee of social and economic rights equally for all.
Representative and accountable government	Free and fair elections	Whether or not elections give people control over government and policies or not
	The democratic role of political parties	Whether or not the party System assists the working of democracy
	Effective and responsive government	Effectiveness of government in serving the people and its responsiveness to their concerns
	The democratic effectiveness of parliament	Whether or not parliament contributes effectively to the democratic process
	Integrity in public life	Whether integrity in the conduct of public life is assured or not
Civil society and popular participation	The media in a democratic society	Whether or not the media operate in such a way that democratic values are sustained
	Political participation	Whether or not there is full citizen participation in public life
	Decentralisation	Whether or not decisions are taken at the level of government most appropriate for citizens
Democracy beyond the state	External influences on the country's democracy	Supportiveness of external influence on the country's democracy

A1.3 Assessment procedure

The research team collected and analyzed data so as to answer the key research (overarching) questions in International IDEA's Framework. The basis for assessment for each sub-pillar indicated in the table above was derived from the main assessment question. For each sub-pillar researchers answered the key question using data from literature review (desk research), household interviews, key informant interviews, and focus group discussions.

A1.4 Types of data and methods of collection

Secondary data was collected through literature review (desk research). Primary data was collected as follows:

(a) Key informant interviews, using an interview guide;

(b) Household survey, using a questionnaire administered by research assistants, targeting heads of households; and

(c) Focus group discussions in the provincial headquarters (urban) and one rural district per province in five selected provinces, namely, North-Western, Copperbelt, Luapula, Lusaka, and Southern Provinces.

A1.5 Sample structure and selection procedures

The over all actual sample size was 535. This comprised of 95 key informants, 300 Household heads, and 140 focus group participants.

Key Informants

The key informants to be interviewed were purposively selected as follows:

National Level Governmental Organizations	
Ministry of Justice, Governance Secretariat	1
Ministry of Local Government, Decentralization Secretariat	1
Permanent Human Rights Commission	1
National Level Civil Society Representatives	3
Provincial Level Governmental Organizations	
Offices of Provincial Local Government Officers	5
(one officer per provincial office)	5
Provincial Permanent Secretaries Offices (PS or Deputy)	5
District Level Governmental Organizations	
Two local authorities per province (one urban, one rural)	30
(targeting two councillors, and one official per council)	
District level Central Government officials	
(3 officials x 2 districts x 5 provinces)	30

Table A.2: Over all actual sample distribution

Province	District	Households	Key informants	FGDs participants
Southern	Livingstone	33	6	16
	Monze	32	6	12
Lusaka	Lusaka	38	14	10
	Kafue	34	6	18
Luapula	Samfya	22	12	14
	Mansa	22	14	12
Copperbelt	Masaiti	42	12	16
	Ndola	43	13	12
North-Western	Mwinilunga	18	6	15
	Solwezi	16	6	15
TOTAL		**300**	**95**	**140**

Focus Group Participants

Focus group participants were purposively selected as follows:

Provincial HQ Based Civil Society Organisations Focus Group Participants (8 per provincial HQ)	40
Provincial HQ Based Central Govt. Officials (7 participants per provincial HQ)	35
Rural District HQ Based Civil Society Organisations Focus Group Participants (6 from one rural district per province)	30
Rural District Council (2 councillors and 1 official per district per province)	15
Rural District Based officials of selected Ministries (6 per rural district per province)	30

Household Sample

The household sample was distributed among the five provinces based on the proportion of each province's projected population to the total projected populations for all the five provinces. The sample for each province was purposively distributed between the two districts covered by the study. In each selected interview area within a district, households were selected alternatively by gender to achieve gender balance until the required number was reached.

Table A.3: Distribution of household sample by province

Province	Projected population*		Household sample	
	No.	**%**	**No.**	**%**
Southern	1,592,864	22	65	21.7
Lusaka	1,733,830	24.2	72	24
Luapula	1,030,572	14.4	44	14.7
Copperbelt	2,034,012	28.4	85	28.3
North-Western	781,800	11	34	11.3
	7,173,078	**100**	**300**	**100**

Table A.4:Distribution of household sample by type of area

Province	District	Rural	Urban	Sub - Total
Southern	Livingstone		33	33
	Monze	32		32
Lusaka	Lusaka		38	38
	Kafue	34		34
Luapula	Samfya	22		22
	Mansa		22	22
Copperbelt	Masaiti	42		42
	Ndola		43	43
North-Western	Mwinilunga	18		18
	Solwezi		16	16
TOTAL		**148**	**152**	**300**

Out of the 300 heads of households interviewed, 148 were from rural districts and 152 were from urban districts. The distribution by gender was 157 males and 143 females.

A1.5 Data Analysis

Statistical data was processed and analysed using the Statistical Package for Social Sciences (SPSS). Qualitative data was analysed manually. Tables and charts were also produced using Microsoft Excel software.

Annex B.

Membership of the National Constitutional Conference

Part II 4 (1) of the NCC Act provided that the following shall be members of the NCC:
All members of the National Assembly (The National Assembly of Zambia consists of 150 elected members, not more than eight nominated members and the speaker). Others were, representatives of all registered political parties; representatives of Church Mother bodies registered under the Societies Act; representatives of professional bodies for lawyers, economists, engineers, local government practitioners, accountants, doctors, nurses; representatives of traditional healers; some traditional leaders to represent the House of Chiefs; representatives from both the private and public media organisations; representatives of various Non Governmental Organisations (NGOs); representatives of the Anti-Corruption Commission (ACC), the Electoral Commission, the Drug Enforcement Commission (DEC), and the Human Rights Commission; representatives to represent the Zambia Congress of Trade Unions (ZCTU) and other trade unions; representatives of public and private universities registered under the University Act; student union representatives from public and private universities and colleges registered under the Education, Vocational and Entrepreneurship Training Act, 1998; representatives from the Judicial Service Commission, the Public Service Commission, the Police and Prison Service Commission and the Teaching Service Commission; representatives from Zambia Army, Zambia Air Force, Zambia Police Force, Zambia Prisons Service and Zambia Security Intelligence Service. representatives from the judiciary, the department of the clerk of the National Assembly, associations of different abled persons registered with the Zambia Agency for Persons with Disabilities under the persons with Disabilities Act; one prominent persons from each of Zambia's nine provinces who has distinguished himself in any business, field or profession; one senior citizen from each of Zambia's nine provinces; 10 senior citizens; two representatives of youth organisations registered under the National Youth Development Council Act; representatives of the Islamic Association and Hindu Association; Representatives of the Zambia National Farmers Union and the Peasant and Small Scale Farmers Association; one freedom fighter from each of Zambia's nine provinces and; one councillor from councils established under the Local Government Act.

22. How would you describe the character of Zambian political parties?
Predominantly (a) ethnic (b) religious (c) pluralistic (d) I do not know

C Effective and responsive government

23. Has your councillor or MP been able to influence matters of importance to lives of people in your community?
(a) Yes (b) No (c) I don't know
24. How well do the councillors perform their duties in their areas in Zambia?
a) Very well (b) Well (c) Poorly (d) Very poorly (e) I do not know
25. How accessible are public services in Zambia to those who need them?
(a) Easy to access (c) Difficult to access (d) Not accessible (e) I do not Know
26. What is the quality of public services in Zambia like?
(a) Very good (b) Good (c) Poor (d) Very poor
27. How confident are you that the people can influence government in Zambia to solve the main problems facing your community?
(a) Very confident (b) Moderately confident (c) Not confident

D The democratic effectiveness of parliament

28. How effective are members of parliament in representing their constituencies?
(a) Very effective (b) Moderately effective c) Not effective (d) I do not know
29. How often are you consulted by your MP or the parliamentary office in your constituency concerning their work?
(a) Very often (b) Sometimes (c) Not at all (d) I do not know
30. Are you aware of any forum that the MP or parliamentary office has put in place for people to debate issues that affect them in the constituency?
(a) Yes (b) No (c) I do not know

F Integrity in public life

31. How effective are the measures for preventing public office holders from involvement in corruption?
(a) Very effective (b) Moderately effective (c) Not effective (d) I do not know
32. How effective are the measures for preventing the public from involvement in corruption?
(a) Very effective (b) Moderately effective (c) Not effective (d) I do not know
33. How effective is the Anti-Corruption Commission in dealing with cases of alleged corruption by public officials?
(a) Very effective (b) Moderately effective (c) Not effective (d) I do not know

Part III: Civil society and popular participation

A The media in a democratic society

34. How independent are the media from the government in Zambia?
(a) Very independent (b) Moderately independent (c) Not independent (d) I do not know
35. How effective are the media in investigating government in Zambia?
(a) Very effective (b) Moderately effective (c) Not effective (d) I do not know
36. How free are the private citizens from intrusion and harassment by the media in Zambia?
(a) Very free (b) Moderately free (c) Not free

B Political participation

37. How extensive is the range of
(i) voluntary organizations?
(a) Very extensive (b) Extensive (c) Not extensive (d) I do not know
(iv) political affiliation?
(a) Very extensive (b) Extensive (c) Not extensive (d) I do not know

Annex C

Household questionnaire

Preliminary data
Date of interview.....
Name of research assistant.....

Interview location
Province (name)..... No.....
District (name)..... No.....
Residential area (name)..... No.....
Constituency..... No.....
Ward..... No.....

Respondent's Profile
(a) Sex Male.....Female.....
(b) Age.....years
(c) Marital status:
(i) Single (ii) Married (iii) Widowed (iv) divorcee
(d) Highest level of education attained:
(i) Lower primary (ii) Upper primary (iii) Secondary (iv) Tertiary/college
(v) University – Undergraduate (vi) University – Postgraduate
(vi) No formal education
(e) Occupation.....

Part I: Citizenship, law and rights

A Nationhood and citizenship
1. To what extent do you enjoy all the rights that other people in Zambia enjoy?
(a) To a large extent (skip to question 3) (b)To a minor extent (c)Not at all
2. What kind of cultural practice are you not free to engage in?
3. To what extent does the government protect the rights of minority and vulnerable social groups in Zambia?
(a) To a large extent (skip to question 5) (b) To a minor extent (c) Not at all (d) I do not know
4 Which minority or vulnerable group has suffered the largest neglect?
(a) Disabled (b) Women (c) Poor people (d). Other (specify)

B Rule of law and access to justice
5 To what extent have you been able to receive justice when dealing with:
(i) the Police?
(a) To a large extent (b) To a minor extent. (c) Not at all (d) I don't know
(e) Not applicable
(ii) courts of law?
(a) To a large extent (b) To a minor extent. (c) Not at all (d) I don't know
(e) Not applicable
6. To what extent are all public officials subject to the rule of law when performing their functions?
(a) To a large extent (b) To a minor extent. (c) Not at all (d) I don't know
7. How independent are the courts from outside interference?
(a) Very independent (b) Moderately independent (c) Not independent
(d) I don't know

8 How easy is it to access justice in Zambia?
(a) Very easy (b) Moderately easy (c) Not easy (d) I don't know

9. Are all alleged criminals treated fairly by the courts in Zambia?
(a) Yes (b) No (c) I don't know

C Civil and political rights

10. Do you feel safe from all forms of harm by other people?
(a) Yes (b) No

11. If No to 13, why do you feel insecure?.

12. How effective is the protection of
(i) The freedoms of movement?
(a) Very effective (b) Moderately effective (c) Not effective (d) I don't know
(i) The freedom of expression?
(a)Very effective (b) Moderately effective (c) Not effective (d) I don't know
(ii) The freedom of assembly?
(a)Very effective (b) Moderately effective (c) Not effective (d) I don't know

D Economic and social rights

13. How easy is it to access work in Zambia without discrimination?
(a)Very easy (b) easy (c) Not easy (d) I don't know

14. Do you think that people in Zambia are catered for adequately in terms of the following?
(i) Food
(a) Yes (b) No. (c) I do not know
(ii) Shelter
(a) Yes (b) No. (c) I do not know Yes/No
(iii) Clean water Yes/No
(a) Yes (b) No. (c) I do not know

15. To what extent is the health of the population in Zambia protected, in all spheres and stages of life?
(a)To a large extent (b) Moderately Protected (c) Not Protected at all

16. Do the people of Zambia have adequate access to education services and facilities?
(a)Yes (b) No (c) I do not know

17. How free are trade unions and other work-related associations to organise and represent their members' interests?
(a) Very free (b) Free (c) Not free (d) I do not know

Part II: Representative and accountable government

A Free and fair elections

18. To what extent do registration procedures and requirements make it easy for citizens to register to vote?
(a) To a large extent (b) To a moderate extent (c) Not at all (d) I do not know

19. Do you think it is important for you to vote?
(a) Yes (b) No (c) I do not know

B The democratic role of political parties

20. Do you belong to a political party?
(a) Yes (b) No (c) I do not know

21. To what extent are members able to influence:
(i) Party policies?
(a) To a large extent (b) To a moderate extent (c) Not at all (d) I do not know
(ii) Party selection of candidates for general elections?
(a) To a large extent (b) To a moderate extent (c) Not at all (d) I do not know

38. How far is the level of women participation in public office at all levels?
(a) Very high (b) High (c) Low (d) I do not know

51. How independent is parliament from the executive?
52. Of the three branches of government (legislature, judiciary, executive), which one is the most dominant over others?
53. How free are members of parliament to express their opinions?
54. How often are you consulted by your MP or the parliamentary office in your constituency concerning their work?
55. How effectively does parliament exercise its powers?

E Civilian control of the military and police

56. How effective is civilian control over the police service?
57. How publicly accountable are the police and security services for their activities?
58. How free is the country from the activities of organized armed criminal gangs?

F Integrity in public life

59. How effective is the separation of public office from the personal business and family interests of office holders?
60. How effective are the arrangements for preventing public office holders from involvement in corruption?
61. How effective are the arrangements for preventing the public from involvement in corruption?
62. How effective are the arrangements for dealing with cases of alleged corruption by public officials?

Part III: Civil society and popular participation

A The media in a democratic society

63. How independent are the media from the government in Zambia?
64. How pluralistic is the ownership of the media in Zambia?
65. How free are the media from the influence of foreign governments and multinational corporations?
66. How free are the media from restrictive laws?
67. Which type of media censorship is the most common in Zambia?
    (a) Government censorship (b) Self-censorship (c) Institutional censorship (d) No censorship
68. How effectively are the Constitution provisions designed to protect freedom of the press and expression enforced in Zambia?
69. How effective are the media in investigating government?
70. How effective are the media in investigating big corporations?
71. How free are the private citizens from intrusion and harassment by the media?

(a) Very free (b) Moderately free (c) Not free

B Political participation

72. How extensive is the range of
    (i) voluntary associations?
    (ii) citizen groups?
    (iii) social movements?
    (iv) political affiliation?
73. How far is the level of women participation?
    (i) In political life
    (ii) In public office at all levels?
74. How far has the state gone in ensuring that the rights of women are upheld within the legal framework?
75. How extensive is citizen participation in voluntary associations, self-management organizations, and in other voluntary public activities?
76. How equal is access for all social groups to public office?

C Decentralisation

77. How independent are the local authorities from the central government?
78. To what extent have the local authorities the power and resources to effectively carry out their responsibilities?
79. How far are local authorities open, accountable and responsive to local communities?

Part IV: Democracy beyond the state

External influences of the country's democracy

80. How free is the country from external influences which undermine or compromise sovereignty?
81. How equitable is the degree of influence exercised by the Zambian government in bilateral, regional and international organizations to whose decisions its subject?
82. To what extent are the Zambian government's negotiating positions and commitments in bilateral, regional and international organizations subject to effective
    (i) Legislative oversight?
    (ii) Public debate?
83. To what extent has the Government of Zambia been able to represent and defend the interests of Zambia to the donor and international community effectively?

This report is a product of an assessment of the quality of democracy conducted on the basis of International IDEA's State of Democracy Assessment framework. The report was developed by the Foundation for Democratic Process (FODEP) and the University of Zambia (UNZA) with the support and partnership of International IDEA. International IDEA has not participated in the content development nor research leading to the report. Views expressed in this report do not necessarily represent the views of International IDEA, its Board or its Council members.

With support and partnership of International IDEA.

About FODEP

FODEP is a civic, non-governmental organization dedicated to the promotion and strengthening of democratic governance in Zambia through advocacy and civic education programmes on the electoral process, local governance and development, and human rights.

The organization was formed in 1992 as a successor to the Zambia Election Monitoring Coordinating Committee (ZEMCC), a consortium of civil society organizations which was in-turn formed in 1991 to monitor Zambia's first round of multi-party elections.

FODEP' envisions a democratic Zambia where government is accountable to its citizens and in which all citizens freely and willingly participate in the social, political and economic affairs of the country.

It's mission is to promote and strengthen democratic governance in Zambia through advocacy and civic education in election and electoral processes, local governance, development and Human Rights in democratic governance.