

Democratic transition and consolidation in Africa

Transition in Zambia: The Hybridisation of the Third Republic

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Preface

Since the *Third Wave of Democratisation* broke along African shores, many books and articles have been written about the particular transition processes. Nevertheless, ten years down the line there is still a lack of comparative research on a sound methodological basis and a deficit in elaborate case studies. The Konrad-Adenauer-Stiftung (KAS) – a German political foundation – in 2002 started a series of assessments on democratisation processes in sub-Saharan Africa. On the basis of a common set of questions, the state and problems of democratic transition were analysed in order to enable a cross-country comparison. A first set of studies started in 2002 and covered Zimbabwe, Kenya, Nigeria and Burkina Faso. In 2003 the number of case studies was extended to Malawi, Mozambique and Zambia. Decisive for the selection of the case studies became their defunct character of the democratisation process. In all seven countries the democratic transition process was either never successfully accomplished or was, after a very promising beginning, sooner or later reversed. To some degree the countries' democratisation processes can even be labelled an "extended process of transition".¹

The comparative approach of the study aims to highlight differences in the democratisation processes as well as to identify commonalities and roots for the problems encountered. Besides, the qualitative analysis attempts to provide an academic foundation for the development of adequate policies in support of democracy in Africa in general and for KAS in particular.

The seven case studies were conducted by teams of German and African scholars; the latter originating from the country under review. As a qualitative measurement of democracy, the studies are based on personal observations, approximately 200 interviews and secondary sources that also encompassed empirical data gained from various surveys.

Drawing on the paradigms of democracy by Robert A Dahl and Larry Diamond, the analyses focus on political competition and participation, civil and political rights, political and civil pluralism, the rule of law, and checks and balances. Additionally, the studies address aspects of political culture and the behaviour of key actors. In order to avoid the shortcomings of a mere

assessment of the status quo which would fall short of identifying underlying causes for obstacles in the democratic consolidation, the analyses emphasise the process character and take into account developments within the transition process and historical legacies that still might have an impact.

In the case of the present Zambia study, the research team comprised Dr Gero Erdmann and Dr Neo Simutanyi, both scholars widely acknowledged for their in-depth analysis of Zambian politics. On behalf of KAS we would like to thank Dr Erdmann and Dr Simutanyi for their dedication and excellent cooperation during the project period.

The present analysis comes at a time when Zambia is moving to another crucial stage of its democratisation process. In the early 1990s Zambia set an example when it brought down an authoritarian single-party state in a peaceful manner and adopted a new constitution upholding human rights and a democratic government. Although President Chiluba started to introduce political and constitutional reforms, over time the new regime slowly revealed authoritarian attitudes characterised by misuse of power. Since President Mwanawasa came to power in December 2001, the style of politics has changed and parliamentary and constitutional reform as well as issues of local government have returned to the political agenda. Openness and transparency are features of the new political culture and it provides hope that Zambia's process of democratisation will gain new momentum, dispersing its current character of a hybrid regime.

As a transition democracy, Zambia still faces the challenge of 'weakening opposition' in the wake of increasing co-optation of strong opposition leaders into the cabinet. On the other hand, the judiciary will prove its independence as it grapples with high profile court cases on corruption, and the 2001 alleged 'illegitimate' general election litigation against the incumbent president.

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NOTE

- 1 G Erdmann, Neopatrimoniale Herrschaft – oder: Warum es in Afrika so viele Hybridregime gibt, in: P Bendel/ A Croissant/ F Rüb (eds.), *Zwischen Demokratie und Diktatur. Zur Konzeption und Empirie demokratischer Grauzonen*. Opladen 2002, pp. 323-342.

Chapter 1

INTRODUCTION

1.1 METHODOLOGICAL APPROACH AND RESEARCH PROGRAMME

As indicated above the study uses a comparative approach based on a common set of questions and terms of reference which provide the framework for this analysis. The assessment of the regime in power or the transition process is based on qualitative criteria. The analysis is framed by six broad themes: political and civil rights; rule of law; participation/elections; political competition; checks and balances; and political culture. In order to avoid analytical flaws due to a fixation on one particular point in time, the study tries to take changes over time into account; changes in both directions, that is, towards democracy and towards authoritarian rule.

For that purpose a number of interviews were conducted in Zambia with stakeholders in the process of democratisation and with independent observers. We also relied on the relevant literature on the transition process in Zambia as well as on the knowledge we acquired during our own (partly joint) research and on the experience which one of us gathered through participating in the process, at least for some time.²

At the same time quantitative measurements are employed, such as the Afrobarometer study which inquired about peoples' attitudes towards democracy or any other political regime. In addition, our own opinion poll in Zambia, which was conducted in 1998 and 2000 will be considered, thus providing insights about changes over time.

Like the other studies, the research team comprised a German and a local counterpart, in this case a Zambian who co-authored the final report. This approach is an attempt to gain a more balanced view of the problems facing each country.

1.2 CONCEPTUAL REMARK

The current general academic discussion on processes of democratisation focuses mainly on ‘hybrid regimes’ (Diamond 2002; Erdmann 2002a; Rüb 2002) or, partly alternatively, ‘defective’ (Merkel 1999a), ‘illiberal’ (Zakaria 1997) or ‘delegative’ democracies (O’Donnell 1994). The implication is that a democratic transition has taken place, but the regime that emerged soon, or after a short while, could not be regarded as a liberal democracy. It is best described as oscillating between democracy and dictatorship; as an authoritarian regression without a complete reversal of the transition into an authoritarian regime. Most of the democratic institutions such as competitive elections, multipartyism and parliament remain in place, however, their functions are occasionally, but not systematically, hampered.

We prefer to use the term ‘hybrid regimes’ because the regimes under discussion cannot be considered to be democracies in a meaningful sense as is implied in the concept of ‘defect democracies’. Fundamental shortcomings of the ‘defective democracy’ concept have been pointed out by Rüb (2002) and Krennerich (2002). This is why the subtitle ‘Hybridisation of the Third Republic’ is used.

NOTE

- 2 For this see the bibliography.

Chapter 2

THE STARTING POINT AT 1990: CHARACTERISTICS OF THE PREVIOUS REGIME AND DEMOCRATIC DEFICITS

2.1 CHARACTERISTICS OF POLITICAL RULE DURING THE NON-DEMOCRATIC REGIME

After independence the short lived First Republic (1964–1972) started off as a democratic system characterised by a dominant party system in which the United National Independent Party (UNIP) was the major political force (*see Table 1*).³ Different from a few other African countries, the introduction of the *de jure* one-party state in 1973 – the Second Republic – was not based on a *de facto* one-party system, but played out against a well entrenched opposition. Opposition parties were banned in 1968. The short-lived United Party (UP) became a regional faction within the major opposition party, the African National Congress (ANC), and again in 1971 in the United Progressive Party (UPP), which was a late off-shoot of UNIP, based on Bemba-speakers and supported in the Copperbelt. The perception of an electoral threat by ANC and UPP collaboration – which would have created a major ethnic-regional coalition (Southern, Western, Copperbelt and Northern) – provided the final reason for

Table 1: Parliamentary election results, distribution of seats 1964, 1968*

	<i>Founding year</i>	1964	1968
United National Independence Party (UNIP)	1959	55	53 (28)
African National Congress (ANC)	(1948) 1951	10*	23
National Progressive Party (NPP)	1963	(10)	-
Independents			1
No. of parties		2 (3)	2

* Reserved seats for Europeans; 23,981 registered voters compared to 876,212 on the common (African) roll.

Source: Nuscheler 1978.

the declaration of a one-party state. This reasoning, however, was weakly based. The ANC–UPP alliance did not achieve substantial electoral gains in by-elections, and it was apparently no major problem to co-opt the ANC into the government following the Choma Declaration in early 1972.

The one-party state under Kenneth Kaunda, the Second Republic (1973–1991), was proclaimed as a ‘one-party participatory democracy’. Regular parliamentary and presidential elections were held, but on a limited competitive basis; the electorate had the choice between a number of candidates who were nominated through internal primaries and approved by the UNIP Central Committee.

The regime is classified as a ‘one-party competitive system’ (Bratton/Walle 1997: 80f) which could be described as a ‘mild’ dictatorship. It experienced a persistence of opposition (*see below* 2.2), but was at the same time supported by a substantial amount of the electorate, at least during the 1970s and early 1980s.

Although the regime is called a one-party state, the presidency, not the party, was the predominant institution. In addition to the vast constitutional powers which the president enjoyed under the multiparty system, during the 1970s, the era of the one-party state, the presidency became increasingly the locus of power in the state (Gertzel 1984: 102). The powers of presidency were extraordinarily vast since the country was under a state of emergency from 1964 up to the end of Kaunda’s regime in 1991. Attempts to limit presidential powers – for example, during the UNIP internal debate about the one-party state in the early 1970s – were fended off by State House.

With the concentration of decision making in the upper echelons of the executive, the administrative capacity of the state bureaucracy declined, as described by Cherry Gertzel (1984: 104):

“Presidential dominance inhibited collective and ministerial responsibility and effective inter-departmental coordination, which was further reduced by frequent movement of senior personnel. ... Bureaucratic inefficiency, not least because of the failure of communication, and the withdrawal of important policy areas from public scrutiny were the consequences. The emphasis on political control equally inhibited bureaucratic performance at a time when morale was already sapped by the economic recession, and a growing tendency emerged for officials to wait for instructions from above, as Kaunda himself acknowledged in 1977.”

One consequence of the decline of bureaucratic controls was an increased incidence of corruption. Another result was a growing number of frustrated and demoralised civil servants who were contributing to the downward spiral of bureaucratic inefficiency and cynicism (Tordoff/Molteno 1974; Gertzel 1984).

During the pluralist First Republic, Kaunda had created a complex system of political patronage to keep the disparate elements of the 'maximum coalition' (Donge 1995: 195) of ethnic and social groups together, on which his dominant party rested. To satisfy the demands of the different groups, party and government positions had to be distributed not, however, according to merit but on particularistic demands. Politicians campaigned openly for factional support among the electorate (Molteno 1974: 95). Consequently, ministries and public bodies were filled up with members of particular factions of the ruling party, UNIP, while civil service officials were by-passed, contributing to their frustration. The bickering between the various factions and renewed balancing between them contributed to a permanent insecurity on the side of the administration. Personal interference of politicians into the business of administration, combined with a strong sensibility for social and political hierarchy made governance and administration arbitrary. Collusion became frequent, even below the upper echelons of power. As noted by Morris Szeftel (2000: 210):

“those with political connections could carve out a niche as middlemen between government and business. ... bribes and favours offered a host of rewards for ‘gatekeeping’ services. In turn, this encouraged the development of a *dirigiste* regime in which it became necessary to obtain permits for many things: import and export licenses, foreign exchange permits, veterinary and agricultural permits, trade licenses, and so on.”

Political as well as public office was not only used to reward followers and clients but also for personal enrichment. This mixture became the rule of the game, which was presided over and orchestrated by the main patron, President Kaunda himself. However, when patronage failed to keep the coalition together – as in the case of the Simon Kapwepwe faction which became the UPP – Kaunda resorted to repression, banning the UPP in 1971 and incarcerating political opponents.

The vast powers of the presidency and related factional struggles together with the fear of fragmentation (and very personal concerns about wealth), resulted in

the emergence of a system of neopatrimonialism during the First Republic. This undermined the rule of law and an effective administration, which is essential for development. As Szeftel argues, the one-party state was then the consequent centralisation of patronage, and the emerging “patronage state ... expanded the public sector in order to share out jobs and pay off supporters” (ibid., 214). The result was an authoritarian neopatrimonialism containing a few pluralist elements which remained affordable as long as the coat of patronage was wide enough to appease the major dissenting groups of the elite.⁴

2.2 POLITICAL OPPOSITION UNDER AUTHORITARIAN RULE

Since the articulation of dissent and opposition through political parties was no longer possible, different views and growing dissent were voiced by various groups and organisations representing the remnants of civil society. The government never managed to bring the Christian churches, trade unions and various other civil society organisations (CSOs), such as the Law Association or the Economic Association of Zambia (EAZ), under complete control. In spite of having little autonomy, the CSOs were able to challenge the regime on particular issues, for example, the churches on educational issues related to the compulsory introduction of ‘scientific socialism’ or on abortion (Lungu 1986). This became particularly true for the 1980s when, due to the permanent economic and financial crisis, the capacity for patronage and co-optation diminished. These organisations were able to voice opposition against the regime. Students were another group which frequently articulated discontent with the regime.

Since colonial times, the major force of civil society in Zambia remained the trade union movement comprising 80% of the total formal work force. The mineworkers of the Copperbelt, as the economic backbone of the country, were a well organised force on their own. In the face of a depressed economy they almost naturally clashed with the government – which was in direct control of the mining industry – over wages and prices directed by the government. It was the trade union leadership that started the open debate about multiparty democracy, which led in the end to the downfall of the one-party state (*see below 2.5*).

2.3 VIOLATION OF HUMAN RIGHTS

Since the Freedom House Index has been on record (1973), a continuous

Table 2: Political rights and civil liberties in Zambia, 1973–1991

Year		Year	
1973–74	5,5,PF	1982–83	5,6,PF
1974–75	5,4,PF	1983–84	5,6,PF
1975–76	5,5,PF	1984–85	5,5,PF
1976–77	5,5,PF	1985–86	5,5,PF
1977–78	5,5,PF	1986–87	5,5,PF
1978–79	5,5,PF	1987–88	5,5,PF
1979–80	5,5,PF	1988–89	6,5,PF
1980–81	5,6,PF	1989–90	6,5,PF
1981–82	5,6,PF	1990–91	6,5,PF

1. Figure: political rights, 2. Figure: civil liberties; PF = partly free

Source: Freedom House (various issues).

violation of human rights has been observed in Zambia. Until the democratic transition in 1991, Zambia was permanently classified as ‘partly free’. During one-party rule in the 1970s the country was rated 5 (1 = most free; 7 = least free), while during the 1980s the situation deteriorated and the rating went up to 6, particularly because of violations of political rights (*Table 2*).

The Second Republic saw a systematic violation of human rights. The predominance of the one-party state meant that citizens were not allowed freedom of association, let alone assembly. Political dissenters were often targeted for prosecution and frequently detained for long periods without trial. Outspoken critics of the policies of the one-party state were also considered to be opponents of Kenneth Kaunda. The right to demonstrate was criminalised, unless in support of the one-party state. Associational life was circumscribed, as no other independent association was allowed to operate unless under the auspices of the ruling party-state. Trade unions and professional associations were officially affiliated to UNIP. Perhaps the greatest violation of human rights under the one-party state was the tight control over political activity and expression. It can be argued that the over-centralisation of power in the presidency, intolerance to criticism and absence of associational life may have combined to give impetus to demands for a democratic opening.

It should be noted however, that human rights abuses in Zambia could not be compared to the large-scale abuses seen in other countries such as South Africa or Chile. The Human Rights Commission (HRC) set up in 1993

investigated violations of the past regime, but the new Chiluba government soon lost interest when it became apparent that some cabinet members might have been involved while serving in Kaunda's government.

2.4 PARTICIPATION OF SOCIETY IN THE POLITICAL PROCESS

During the First Republic people were able to participate in competitive elections in 1964 and 1969, when they had a choice between two competing parties. After the change to an authoritarian one-party system (1973) there was, however, a strongly limited electoral choice during regular parliamentary elections, which were conducted on a personal competitive basis within the framework of the one-party state. Parliamentary elections were held in 1973, 1978, 1983 and 1988, and ministers sometimes lost their seats.

While the first test for one-party rule was characterised "less by mass participation among the electorate than by élite participation among the candidates" (Baylies/Szeftel 1984: 52f.) as indicated by a dramatic decline in participation in 1973 (*Table 3*), the following elections showed an increase in electoral participation. At the same time, the president expanded central control over the nomination and the political process in general (Baylies/Szeftel 1984:

Table 3: Participation in parliamentary, presidential elections and referenda, 1964–1988

<i>Year</i>	<i>Type of election</i>	<i>Population, million</i>	<i>Voters, % of registered voters</i>	<i>Voters, % of population</i>
1964	Parl	3.60	94.8	23.1
1968	Pres	4.01	87.1	34.5
1968	Parl	4.01	82.5	24.0
1969	Ref	4.06	69.6	27.2
1973	Pres ^a	4.42	39.4	15.6
1978	Pres	5.36	66.7	24.6
1978	Parl	5.36	67.6	23.8
1983	Pres	6.24	65.5	25.0
1983	Parl	6.24	66.1	25.2
1988	Pres ^a	7.56	58.8	20.2

Parl = Parliamentary, Pres = Presidential, Ref = Referendum

^a *Data for the parliamentary elections is missing*

Source: Krennerich 1999.

53). The president and his ruling party regained some credibility during the following years and participation increased again, but never reached the level of the competitive system of the First Republic. By 1988 participation fell below 60% of registered voters and down to 20% of the population (*Table 3*), indicating that for a substantial proportion of the electorate, voting had become meaningless. The decline in voters' participation also reflected growing dissatisfaction with the social and economic performance of the one-party system.⁵

In general, the authoritarian system that emerged during the 1970s allowed little room for participation. An authoritarian culture and attitude towards governance was reinforced. Even the introduction of works councils proved to be a failure; they were ineffective and failed to provide the envisaged instrument for "meaningful participation" of workers (Fincham/Zulu 1979) which, even in Zambia up to the mid 1970s, constituted only a minority of the total labour force.⁶ Other forms of public participation such as in CSOs were also seriously limited.

2.5 THE OPENING OF THE AUTHORITARIAN SYSTEM⁷

As in most other African countries since the mid 1970s, Zambia was characterised by social and economic decline. In fact, Zambia "suffered one of the greatest and most rapid economic decline[s]" in sub-Saharan Africa (Rakner/Walle/Mulaisho 2001: 551). By the early 1980s the country was effectively bankrupt. Various attempts to come to an agreement over a structural adjustment programme (SAP) with the international finance institutions failed during the 1980s because the government believed it was not in a position to implement the economic conditions required by the International Monetary Fund (IMF). In fact the socio-economic decline combined with the first attempt to implement a SAP (1985-87) caused serious legitimacy problems for the ruling party. In December 1986, when the government's cut of maize subsidies caused the so-called IMF-riots, the only solution for the government was to suspend the structural adjustment policy. This meant no further credit and support by the international finance institutions, and no alternative source of finance was available. The effect was that the social and economic decline continued. With the economic decline the patronage capacity of the regime diminished as well; it became more difficult to appease and contain dissidence.

The trade union leadership of the *Zambian Congress of Trade Unions* (ZCTU), frustrated by the government over its refusal to engage in collective bargaining, was the first in demanding institutional change in order to make the government more responsive to people's demands. In late December 1989 ZCTU Chairman Frederick Chiluba came forward with the challenge to return to multiparty democracy.

The timing of the challenge was surprising, since there was no significant political uneasiness during 1989. However, the repercussion of changes in Eastern Europe clearly affected Zambia as well. In addition, during March 1990 the Fifth National Convention of UNIP became a debate about the return to multipartyism by representatives of the trade unions (especially the mineworkers' union), the private business sector and former cabinet ministers. The argument was simple, clear and fundamental: the inefficient political system was responsible for the dramatic economic decline. Kaunda ignored the hard-liners inside the faction-ridden UNIP who were against any change, and by mid April, he finally gave in to widespread demands for a referendum regarding the reintroduction of multiparty democracy. What might have contributed to the decision was the fact that one-party rule was faltering in some other African countries, as well as the fact that neighbouring Zaire's government had announced its intention to return to multiparty politics as well.

Before the date of the referendum was made public, violent riots (27 people killed) broke out in the always more restless Copperbelt towns, and then in Lusaka as well. The riots were sparked by a drastic increase in the price of breakfast maize meal, and were soon coupled with calls for multiparty democracy. The widespread riots indicated the fragility of the regime, which became even more apparent when an attempted, but dilettante solo coup d'état (end of July) was greeted with jubilation in the streets of Lusaka. The loyal soldiers reacted slowly, apparently to demonstrate the weakness of the regime.

Against this background, the government changed its tactics from repression to regaining the initiative and controlling the process by liberalising the regime: a date for the referendum was set for October 1990, the ban on forming political organisations was lifted, an amnesty for political prisoners was declared, and the Commission for the Referendum was given a free hand to prepare for the event. However, the postponement of the referendum from October 1990 to August 1991 provoked mass demonstrations by the newly formed *Movement for Multiparty Democracy* (MMD). The MMD comprised all opposition groupings such as trade unions, business people, professionals,

intellectuals, students, and former political dissidents of all shades, many of whom had been close to the inner circles of power. At the same time, the Haimbe Committee Report recommending far-reaching reforms of the structure of the political regime towards a pluralist system was approved by parliament, causing Kaunda to change his politics. By the end of September he accepted multipartyism, repealed the referendum and announced early general elections for October 1991.

In order to prepare for a multiparty democratic regime, a Constitutional Commission was formed in October in which, however, the MMD, the ZCTU, the churches and the Law Association of Zambia (LAZ) did not participate; the latter two did allow members to participate in their individual capacities. While the Commission was hearing public opinion on the future constitution, parliament, comprising UNIP MPs only, unanimously amended the constitution to allow for the formation of political parties in December 1990.

During the first quarter of 1991 demands for the resignation of Kaunda and for an interim government became more frequent; even inside UNIP there were calls for the resignation of Kaunda.⁸ The situation became more tense when the government closed the University of Zambia because of an alleged conspiracy against the government by lecturers and students. The closure of the university in Lusaka was clearly an overreaction, but demonstrated the high degree of uncertainty and vulnerability on the side of the government.

The process finally reached a stalemate when the MMD did not accept a number of proposals contained in the new constitution submitted by the Constitutional Commission in June. The problem was twofold. First, the Commission lacked legitimacy as none of the opposition groups participated formally in the Commission, which was clearly UNIP dominated. The second problem was that when the proposed new constitution was made public it was tabled in parliament without allowing for public debate. Presented with a *fait accompli*, the MMD and most of the other smaller parties refused to attend a UNIP-organised conference to discuss the new constitution.

While both parties blocked each other, civil society groups endeavoured to find a compromise. In mid July, University of Zambia students organised an all-party conference under the chairmanship of the Deputy Chief Justice Mathew Ngulube, to find common ground on the contentious issues in the new constitution. Leaders of the three main churches invited the leaders of both parties, Kaunda and Chiluba, to conciliatory talks at the Anglican Cathedral of the Holy Cross in Lusaka to be held a few days later. The agreement finally

reached included the establishment of a liaison committee comprising the secretary generals of all parties, chaired by the MMD, and a joint review of the government's controversial proposal of a new constitution. After 68 alterations to the proposed constitution, which were agreed upon within a few days, a new constitution was tabled in parliament and approved in early August.

The all-parties conference together with the meeting of the two leaders became the crucial turning point. They turned out to be a kind of 'round table' or mini-'national conference'. The negotiated compromise between the two camps paved the way for the free and fair elections held in October 1991, and allowed for the final step in the completion of an almost totally peaceful transition from an authoritarian to a democratic system of rule.

A number of factors contributed to this comparatively quick and peaceful transition, including the:

- relative 'open' character of the authoritarian regime and the 'competitive' one-party system, which never managed to control all dissidence;
- political unity of the opposition movement;⁹
- relative strength of the opposition movement, which included a crucial and well organised political force, the trade union movement, and in particular the mineworkers who could have brought the country's economy to a halt;¹⁰
- independence of two state institutions: the courts which ruled in crucial cases against the government, and an electoral commission which was able to provide for fairly free and fair elections; and¹¹
- leadership of Kaunda who evidently believed in peace and in some sort of legitimate government.

It was noteworthy that Kaunda agreed to shorten his term of office by three years, as the next scheduled elections were only due in 1993. It could be argued further that Kaunda believed that refusal to open up the democratic space had the potential for violent demands. Given the liberation of Southern Africa – a process in which he played a crucial role – Kaunda seems to have been persuaded to follow the path of peace.

It is, however, not clear whether the acceptance of the political transition in Zambia was a miscalculation. Kaunda may have expected to continue in power because he had made so many concessions. Many observers believe that Kaunda did not only lose power because he mismanaged the political transition, but also

because he suffered the misfortune of having overstayed in office. People simply wanted change.

2.6 BEGINNING OF THE DEMOCRATIC PHASE AND THE REVERSAL OF THE PROCESS

There was no *break-down* of the democratic regime. No major event can be singled out which caused or signified the change of the democratic regime. The reversal of the democratisation process was rather a chain of events which culminated in the amendment of the constitution that determinably and partly circumscribed free competition. This is characteristic of the creeping reversal from a democratic to a hybrid regime.

An autocratic style became clear when Chiluba single-handedly declared Zambia a Christian Nation without consulting his cabinet or his party in December 1991. In early 1992 students – six months earlier companions in the fight against the authoritarian regime – held demonstrations that were crushed by police forces. Student demonstrations continued throughout the year and the police even shot at demonstrators. At the same time a number of ministers were apparently involved in corruption scandals without being dismissed, indicating no difference in the style of governance to that of the predecessor regime.

When it became obvious that none of the political reforms promised in the MMD election manifesto would be implemented, the Caucus for National Unity (CNU) as a faction within the MMD was formed. It demanded a stronger commitment to democratic reform and the proper conduct of governance. The CNU was also a reaction by non-Bemba-speakers in the MMD who felt that the party had been hijacked by a clique of Bemba-speakers. It is worth noting that CNU membership was split between Lozi-speakers and Bemba-speakers, who clearly had different grievances. The Bemba faction, led by Patrick Katyoka, found nothing wrong with Chiluba's government being dominated by Bemba-speakers mainly from the Luapula and Northern provinces, while the Macwan'gi faction wanted a sharing of the national cake. In a surprise turn of events, Chiluba thwarted the efforts by the Macwan'gi faction to register, leading in early 1992 to the first fall-out from the MMD. There was no attempt to reconcile with this group, which was asked to leave the party. The president's argument was as old as it was classic: democratic disputes would impede economic development. A first group left the party to form their own opposition party, which initially did not have much success.

While the government was forced to establish a committee of inquiry into

some of the alleged corruption cases involving cabinet members, it later refused to make public the committee's report – which implicated some ministers of being involved in dubious tendering practices.

One minister was dismissed following the publication of the Public Accounts Committee report in early 1992. However, local and international observers considered the Chiluba government too tolerant of ministers involved in corruption or drug dealing. It went against what the MMD had committed itself to at its founding convention in February/March 1991. The lukewarm government reaction to the report and its failure to fight corruption within government caused two annoyed ministers to voluntarily resign in July 1992. During a cabinet reshuffle in April 1993 the few remaining politicians who were known to be reform-minded were dismissed from cabinet or were later on so frustrated that they too left the government.

The individuals dismissed in the cabinet reshuffle were considered to be too critical of Chiluba's style of political management. Two of them had contested and lost the party presidency and may have given Chiluba much discomfort. But importantly, most of those dismissed had vast experience in government and may have irritated Chiluba with their advice. It is important to state that the dismissal of certain individuals and resignations from the Chiluba government of reform-minded elements was the beginning of a process by Chiluba to create a personality cult. He fired or frustrated all those ministers who had the potential to challenge him for the presidency or who persistently reminded him of his inadequacies. The MMD accelerated the pace at which people left the party by adopting a number of strategies which included suspensions and expulsions from the party. Some MPs who left or were forced to leave the MMD – a few of whom were once founding members of the party – formed the National Party (NP).

By-elections held in November 1993 showed, however, that this opposition group had limited support. Only the most prominent politicians, four out of six, managed to get re-elected on the ticket of the new party. This increased the number of opposition parties in parliament to two, but did not pose a real challenge to the MMD majority.¹²

In February 1993 a strategy paper called 'Zero Option Plan' – which was allegedly designed in UNIP circles to destabilise the country (UNIP leaders blamed it on the secret service) – was made public by the government-owned newspaper. Chiluba used this incident to announce a two-month state of emergency. This was the instrument used by his predecessor to rule the country

for 17 years, and it was one of the presidential powers that Chiluba opposed the most before he came to power. A state of emergency suspended almost all fundamental political and civil rights, and made possible the arbitrary detention of opposition UNIP politicians. The necessary majority in parliament approved the state of emergency but many MMD MPs had serious reservations, believing it to be unjustified. Apart from this exceptional situation, public assemblies of opposition parties, particularly of UNIP, were frequently banned.

In early 1996 UNIP was again accused of being responsible for a spate of bombings in the capital, Lusaka. These activities were linked to a shadowy organisation, the Black Mamba. A number of senior UNIP politicians, including UNIP Vice President Inyambo Yeta, a senior chief of the Lozi ethnic group, were detained. There were also cases of alleged extra-judicial killings of UNIP politicians. One UNIP MP died while detained for questioning regarding the Black Mamba, while another is believed to have died in a suspicious road traffic accident. Central to Chiluba's treatment of UNIP was a demand that Kaunda renounce party politics and retire. The MMD government refused to pay Kaunda his retirement benefits or to accommodate him until he had quit party politics (he only did so in January 2000).

Regarding the independence of the media, the government refused to abandon its control of the Zambia National Broadcasting Corporation (ZNBC) and the two major daily newspapers, for which the UNIP government was strongly criticised when the MMD was in opposition. Moreover, the intimidation of the private printing media, especially *The Post*, by the frequent but short detention of journalists, culminated in December 1994 in a comprehensive police search of *The Post's* offices. This caused an official protest by European ambassadors. Furthermore, *The Post* and its editors were constantly in court to answer charges of criminal libel for reporting on the president's indiscretions. In 1996 press freedom was dealt a serious blow when parliament ordered the imprisonment of two *Post* editors and a columnist for criticising parliamentary decisions. The paper had one of its issues banned, while the Supreme Court sentenced one *Post* editor to three months' imprisonment for suggesting that judges may have been bribed by Chiluba to pass a judgment in his favour in the presidential election petition.

The most crucial turn of the government relates to the constitutional review process. It was obvious that the constitution of 1991 was a compromise which the MMD in opposition had to agree to while UNIP was still in power. That constitution lasted more than two years after Chiluba came to power, until he

appointed the Mwanakatwe Constitutional Review Commission in November 1993. The Commission released its report in June 1995, to which the government reacted with its own Government Paper No. 1 of 1995. This paper rejected most of the Commission's recommendations – 70% according to Mpaisha (1996: 71). Before the release of the report the government had already indicated that it would not follow the recommendation that a draft constitution be adopted by a constituent assembly, followed by a referendum. A decision by parliament only in which the MMD held 80% of the mandates was deemed sufficient. The Chiluba-government rejected almost all recommendations which would have made governance – but also some other institutions of state, such as the judiciary and the electoral commission – more independent from the presidency and more accountable to parliament. It also refused to:

- change the Public Order Act which since colonial times had provided the government with a useful instrument to prohibit public assemblies;
- a new catalogue of the Bills of Right (Chapter III) of the constitution (*see below 3.1*) (which would have required a referendum);
- restrain the powers of the president in relation to the state of emergency, although the Commission pointed out that there were too many derogation clauses to the guaranteed basic human rights;
- alter the proposed amendment that circumscribed free electoral competition by changing the qualification criteria for presidential nominees, in what later became known as the 'Kaunda clause' (*see below 3.3*).

The amended constitution of 1996 left the presidential system with its vast powers basically unchanged, apart from the special clauses about presidential candidates. The barring of Kaunda from competing in the elections and UNIP's subsequent boycott, together with general election conduct, meant that the 1996 elections were on almost all accounts neither free nor fair.

Despite the renewed and solid MMD majority in parliament, human rights violations and crackdowns on dissidents and opposition elements in civil society and political parties increased in 1997. The desire to deal with political opponents who had campaigned against the 1996 Constitution and a failed attempted coup d'état in October 1997 led to one of the biggest crackdowns on the opposition ever mounted by the Chiluba government. Prominent opposition politicians – including Kenneth Kaunda and Dean Mung'omba, who was the losing and main presidential candidate in the 1996 elections – were detained

without trial. Two other opposition politicians were forced into exile for fear of being detained in connection with the attempted coup. Following national and international protests, Kaunda was released after six months of house arrest, having served a week at Mukobeko Maximum Security Prison.¹³ It was after the failed coup attempt that Chiluba began thinking of extending his term of office. He indiscriminately abused public funds through the Presidential Discretionary Fund – or what came to be known as the ‘Slush Fund’ – criminalised any debate on presidential succession and rid the government and the MMD of any potential rivals.

Looking back it is difficult to imagine how Kaunda and UNIP could have posed a real threat to the dominance of the MMD. The MMD had won virtually every parliamentary by-election since 1991 and boasted nation-wide support, especially from professional associations and trade unions. There was no credible alternative to the MMD, both in terms of policies and leadership. There seems, however, to have been a lingering fear that given the poor state of the economy, rising unemployment (partly a result of massive retrenchments due to privatisation and economic liberalisation), high poverty levels and a breakdown of social services, Kaunda could have posed a real threat to Chiluba’s power base. But as discussed later in this paper, there is no direct relationship between the severity of economic conditions and popular attitudes towards the government.

It can therefore be argued that it was rather the authoritarian reversal – particularly the manner in which the MMD handled constitutional reforms and the exclusion of Kaunda from electoral competition – that instigated the strongest mobilisation of civil society and political parties against the government since the transition, and which has filled the ranks of the opposition.

NOTES

- 3 For a definition of the pre- or dominant party system according to Sartori (1976), see below.
- 4 Neopatrimonialism is a mix of two types of domination. Elements of patrimonial and legal-rational bureaucratic domination penetrate each other. A distinction between the private and the public sphere formally exists, but in social and political practice it is often not observed. Thus, two role systems co-exist: the patrimonial of personal relations and the bureaucratic of impersonal legal-rational relations. The patrimonial system

penetrates the legal-rational system and affects its logic and output, but does not take exclusive control over the legal-rational logic. Ideally people have a certain degree of choice as to which logic they want to employ to achieve their goals and to realise their interests best, Erdmann 2002a: 329f; forthcoming Erdmann/Engel 2003.

- 5 No-votes in the presidential elections do not clearly indicate support for or dissatisfaction with the regime: no-votes in 1973: 11.2%; 1978: 19.3%; 1983: 4.6%; 1988: 4.5%. The decline in no-votes should not be misinterpreted as increasing consent with the regime, but rather as an insight into the futility of this kind of voting; in 1991 the ruling party received the support of only one-quarter of the voters.
- 6 The works council system was a strategy by the UNIP government to co-opt the labour movement. Its failure was partly as a result of trade union opposition as well as the economic crisis which dealt a serious blow to the social contract between labour and state, established just after independence. It will be recalled that the relationship between the trade union movement and the UNIP government was fairly good during the first years of independence (1964–1970); the enactment of the Industrial Relations Act 1971 was staunchly supported by the trade unions. However, the regimentation of the one-party state and the desire by UNIP to control strikes, wages and prices, coupled with the declining economy, may have led to the failure of the works councils; see Bates 1971; Mihyo 1995; Gertzel, 1984.
- 7 This analysis is based on the accounts of the *German Africa Yearbook*, see Baumhoegger 1990; 1991; 1992.
- 8 Calls for the resignation were so strong that one member of the UNIP Central Committee and prominent businessman, Enock Kavindele, offered to challenge Kaunda for the party presidency and thus the party presidential nomination. Kavindele was later to withdraw from the challenge citing intimidation and fear for his life.
- 9 The relative strength of the opposition movement could be explained by the fact that in the terminal period of the one-party state, many prominent UNIP politicians, including MPs, defected to the opposition. Some members of UNIP's Central Committee, having failed to convince Kaunda to retire from active politics, decided to retire themselves. Further, almost all social forces were united in demanding a change of political leadership, hoping that such change may bring with it economic prosperity.
- 10 The strength of the mineworkers is sometimes overstated. In the case of the 1990/91 period, the cohesiveness of the labour movement in its demand for a multiparty state was a more potent threat than the singular fear of the potential threat posed by mineworkers' withdrawal of their labour. It is important to note that during the 1990/91 period, the labour movement did not use its position to threaten to paralyse the country if Kaunda did not agree to the introduction of a multiparty system.
- 11 This is not to say that the Electoral Commission has been completely independent. There were many complaints against the ECZ from opposition parties in the run-up to the 1991 poll; there were even claims that there were various irregularities in the voters' register. The presence of numerous international observers, especially the influential Carter Centre led by former US President Jimmy Carter, might have influenced the authorities to minimise rigging. It will be recalled that when conceding defeat, Kaunda claimed that the elections had been rigged by the Carter Centre.
- 12 The party was itself dogged by leadership problems in the early years. Between 1993 and 1996 the NP failed to attract a nation-wide following. By the 1996 elections it was

reduced to a regional party, capturing four of its five parliamentary seats from the North-Western Province. In the aftermath of the 1996 elections and following the death of its leader, the party atrophied and eventually 'died', while retaining MPs. The NP later forged an alliance with the newly formed United Party for National Development (UPND) in early 1999. This explains why NP MPs and candidates contested the 2001 elections on the UPND ticket in their North-Western Province stronghold.

- 13 According to our informants the arrest of Kaunda was meant to avenge Chiluba's own imprisonment in July 1981 on treason charges. Kaunda's public pronouncements that there would be bloodshed in the country if contentious issues were not addressed was another reason that may have persuaded authorities to link him to the coup attempt. However, it is unlikely that Kaunda was involved, given the poor organisation of the said coup attempt.

Chapter 3

ASSESSMENT OF POLITICAL REGIME (DEMOCRACY)

3.1 HUMAN RIGHTS AND MINORITY RIGHTS

All basic human rights such as the freedom of life, association, thought, consciousness, religion, assembly and so on are guaranteed in the constitution, even before the democratic transition in 1991. However, apart from a couple of years, the human rights record of the country (political rights and civil liberties) improved only fractionally as compared to the authoritarian one-party period.

As indicated by the Freedom House figures, the substantial improvement related only to 1991–93 (shortly after the transition), when the country was rated 2 and 3 respectively. The situation worsened with ratings at 3 and 4 in 1996, and during the following years it became almost as bad as before 1991, with ratings at 4 and 5. The situation improved somewhat during the last year after the third election (*Table 4*). The deterioration of the human rights

Table 4: Political rights and civil liberties in Zambia, 1991–2003

Year		Year	
1991–92	2,3,F	1997–98	5,4,PF
1992–93	2,3,F	1998–99	5,4,PF
1993–94	3,4,PF	1999–00	5,4,PF
1994–95	3,4,PF	2000–01	5,4,PF
1995–96	3,4,PF	2001–02	5,4,PF
1996–97	5,4,PF	2002–03	4,4,PF

1. Figure: political rights, 2. Figure: civil liberties; PF = partly free; F = free
1 = most free; 7 = least free

Source: Freedom House (various issues).

situation in the early 1990s was mainly due to the state of emergency, with various other factors contributing later on.

Regarding political rights, the background to the negative rating is the frequent imprisonment of opposition politicians, journalists as well as civil society and human rights activists, particularly in the face of a perceived political crisis (1993) or attempted coups by a few military officers (1997) during the Chiluba era. Such human rights violations have been regularly mentioned in the human rights reports of various international and national organisations.¹⁴ Freedom of assembly, freedom of the press and freedom of organisation have also been frequently violated by the government, although not in a systematic manner.¹⁵ Political rights and civil freedoms of ordinary Zambians were violated as well, in particular if they came into contact with official security forces or when detained or imprisoned: The US Department of State Human Rights Report for 2000 states that “police continued to commit numerous, and at times serious, human rights abuses”. Occasional problems are also observed regarding the rights of the Asian minority, which are in place but are not always observed in practice.¹⁶

According to the government’s Mwanakatwe Constitutional Review Commission “there are too many derogation clauses to the guaranteed rights and freedoms” in the Zambian Constitution of 1991, which were not altered in the amendments of 1996 and are still effective. These, as with many other derogations in the constitution, particularly under a state of emergency (Article 25, 30 of the Constitution, Emergency Power Act, Cap. 108; Preservation of Public Security Act, Cap. 112), clearly violate the International Covenant of Civil and Political Rights (ICCPR) to which Zambia acceded in 1984, as well as the African Charter of Human and Peoples’ Rights, and, according to Amnesty International (1998), facilitate the violation of human rights.

The establishment of the Permanent Human Rights Commission (PHRC) in 1997 was a positive but very late move by the government towards a more serious consideration of human rights. However, the Commission lacks sufficient powers for a more effective protection of human rights, as can be seen from the continued human rights violations during the following years. In fact, the PHRC came about as a result of donor pressure and within the context of Zambia’s Good Governance Programme. Though headed by a Supreme Court judge, the PHRC is poorly funded and cannot prosecute those who violate human rights. For example, the Banda Commission of Enquiry on the Torture of Coup Suspects uncovered evidence relating to those involved in the torture;

however, instead of punishment some of the torturers were promoted to senior positions in the security services. The PHRC was simply powerless to initiate any prosecution of those involved.

The Public Order Act, originally designed to control political involvement of Africans during colonial times, was not revoked when the new government came to power in 1991, but was continuously used as a way of regulating political activity. The Act requires that the police be informed seven days in advance of a public assembly. It has applied mainly to opposition parties (especially during by-election campaigns and other kinds of rallies) but has also been used against CSOs, which in a number of cases were not allowed to assemble.¹⁷

This Act was routinely abused by the Chiluba government and is now being abused by the Mwanawasa government in preventing opposition parties and CSOs from holding public meetings, especially those at which critical views against the government are expressed.¹⁸ There have been many cases where police permits have been granted to opposition parties only to be withdrawn at the instigation of government ministers. The MMD government, however, has no problem when its supporters do not follow laid-down procedures before holding a procession or assembly. It is apparent that a culture of intolerance has continued. A senior police officer informed us that policemen have been finding it difficult to uphold professionalism, and those who have tried to do so have been the victims of transfers or even early retirement.

Despite Chiluba's promise during the 1991 election campaign, the new government did little to liberate the media from the legacy of its authoritarian predecessor. The ZNBC and the two newspapers, the *Zambia Daily Mail* and *The Times of Zambia*, together with the Zambia Information Services and the Zambia News Agency, remain under state ownership and continue to act as the mouthpieces of government.¹⁹ State-controlled media have apparently shown less independence under the multiparty system than they did under the one-party state. There is, however, an independent press – *The Monitor*, *The Post*, *Today*, etc. – which is very critical of the government. *The Post*, for example, has been prosecuted several times and its editors harassed by the government because of its critical reports. *Radio Phoenix* was taken off the air in late 2001, allegedly due to the non-renewal of its operating licence. The main reason, however, was its airing of a critical but popular live programme, 'Let the People Talk'. It was only pressure from donors to withhold donor funds and the timing of the elections that forced the government to allow *Radio Phoenix* to continue to operate. Reporters and journalists have been frequently arrested for libel and

defamation, for reporting on classified information and for violating the State Security laws. This systematic targeting of the small and independent press has led to many newspapers closing down due to the huge legal fees and compensation demanded or awarded by the courts. Two such papers are *The People* and *The Confidential*. A small independent paper, *The Seer*, recently claimed that it had information regarding impropriety by Zambia's First Lady. *The Seer* was threatened with litigation if it published the story and the paper has not been published since. *The Monitor* is also facing closure following a relentless assault from government, which has accused the paper of supporting the opposition United Party for National Development (UPND). *The Monitor* has been starved of government advertisements and has lost most of its goodwill due to negative attacks from government ministers.

3.2 RULE OF LAW

As mentioned above, there are some restrictions to the rule of law enshrined into the constitution insofar as some laws do not conform to ICCPR regulations. Apart from that, the independence of the judiciary as an essential element for the rule of law is provided for by the constitution. The chief justice and all other members of the Supreme Court are, subject to ratification by the National Assembly, appointed by the president. The Supreme Court has appellate jurisdiction for all legal and constitutional disputes. The High Court holds regular sessions in all provincial capitals, hears criminal and civil cases and appeals from local courts. Magistrates' courts have original jurisdiction in some criminal and civil cases, while customary (local) courts deal with civil and petty criminal cases in rural areas.

The independence of the judiciary is, in principle, respected by the government. There have been some crucial cases in which the courts ruled against government. However, the courts tend not to be free of sensitivities to signals and pressure which emerge out of the realm of the president.²⁰ The established practice has been that the courts have ruled against the government in less sensitive cases. The notable rulings against the government include the ruling that corporal punishment was a violation of the constitution as it was a degrading form of punishment, and that the Public Order Act was an affront to people's enjoyment of the freedoms of assembly and association. Most of the court rulings have been observed by the government; however, there have been cases where the government has ignored court rulings, such as the ruling to

award workers a wage increase in 1999. Regulations governing the Public Order Act have been routinely ignored by government despite a court ruling on the matter.²¹ Recently, President Mwanawasa has been commenting on matters before the courts in the on-going presidential petition, either suggesting that he will not be found guilty or in an attempt to intimidate the judges not to pass an unfavourable judgment.

In general the central institutions of the legal system – the courts, prosecutors and police – are unable to operate in a reliable way which would ensure that fundamental individual rights and the individual security of all citizens are protected, that contractual obligations are enforced, and that property rights are secure and transferable. Reliable operation of the legal system is hampered by serious human and material constraints. This applies particularly to the lower levels of the system where deficiencies include a shortage of staff (the majority of professional magistrates are not in place), inadequate salaries, and a dilapidated infrastructure. The effect is a high degree of inefficiency. People suffer because of excessive court backlogs, limited access to justice, lengthy periods of pre-trial detention, harsh prison conditions, police brutality and excessive use of force, including killings at the hands of security forces, as well as arbitrary arrests. All this amounts to substantial, but not systematic, human rights abuses. Owing to the poor conditions of service, corruption in the police is endemic; and even the lower levels of the judiciary are notorious for corruption, while at higher levels the problem seems to be less significant.²²

The police force is susceptible to political intervention by, and is forced to act in a politicised manner on behalf of members of the ruling party and the government. This is true particularly during the time of election campaigns. There are numerous cases where police have been forced by ruling party politicians to act in favour of their private dealings and businesses.²³

Apart from administrative shortcomings, the judicial system in Zambia has a basic institutional weakness – that is, the colonial heritage of the mix of two legal systems: British common law on the one hand, and customary law which varies widely throughout the country, on the other.²⁴ With independence, constitutional and statutory laws have been added, making the legal system even more complicated and full of contradictions. Since a collection of all court decisions, statutes and statutory instruments is hard to come by, and the quality and consistency of the laws vary greatly, the judicial process has become more complicated and inefficiency has increased.

In the face of this situation it is surprising that, according to Afrobarometer, Zambians trust the courts more than any other institution of the state: 57% have trust 'somewhat' or 'a lot' in the courts, followed by the army with 54%, the Electoral Commission with 45% and only then the president and the police with 38% each (Afrobarometer 2002: 31). This result shows the high value Zambians attach to the principle of an independent judiciary and the rule of law.

3.3 PARTICIPATION

The principles of universal, equal, direct and secret suffrage have been in operation since 1963, with a minimum voting age of 18 years applying since 1967. Since re-democratisation the plurality system has been maintained for parliamentary elections in 150 single-member constituencies. The candidate with the highest number of valid votes cast (simple majority) is elected.

For the 1991 presidential elections, an absolute majority system was used. If no presidential candidate received more than 50% of the valid votes cast, a second round would have had to take place. In 1996, this majority system was abolished and replaced with a plurality system. The motive was obvious: afraid of the opposition, the president and the ruling party wanted to secure victory in the presidential elections by all political and legal means.

In the context of the 1996 elections, new legal restrictions on electoral participation were enshrined into the constitution. According to Article 34(3)(b), both parents of a presidential candidate have to be Zambians by birth or descent, and the candidate has to be 'domiciled' in Zambia for at least 20 years. At the same time (traditional) chiefs were also *de facto* barred from contesting either the presidency or a parliamentary seat. Before lodging their nomination, traditional chiefs have to abdicate their chieftaincy, as stipulated in articles 65(3) and (4). These provisions were not only aimed at Kaunda as the presidential candidate of UNIP ('Kaunda clause'), but also at a number of other politicians and potential candidates within UNIP and even within the ranks of the ruling MMD.²⁵

The constitutional amendment was only one indicator of the unequal level of competition between the opposition and the party in government. With the move to multipartism, political competition was free on paper, though never in practice. Even the first competitive elections of the Third Republic were played on an uneven field. In that case, however, the results did not favour the

privileged ruling UNIP party. The first elections were basically a competition between a movement-turned-party and an old state party with all the necessary experience and state resources at hand to make it difficult for the contender. But all that was employed in vain. The formation and registration of new parties was not hindered. They were left free to organise,²⁶ however, their access to the public was circumscribed by the government's control of large parts of the media, especially the radio, as well as by the government's use of administrative blocks to their free evolution (for example, the Public Order Act).

When, before the second elections in 1996, the old state party and its former president, Kenneth Kaunda, were perceived as a major threat, free competition became circumscribed by a parliamentary manipulation of the constitution in order to preclude Kaunda's challenge. Apart from this rather extreme restriction on competition, political opposition either by political parties or by CSOs had always found it difficult to articulate alternative views in public because of the state's control of the electronic media and of most of the newspapers. The MMD government had learned from its predecessor how to use (most often clearly illegally) state resources (motor vehicles, helicopters, money, police, administrators, etc.) to its own advantage in the run-up to elections. So the uneven field of competition was maintained throughout to the advantage of the party in power.

Adding to this were the possibilities provided by the Public Order Act which, as mentioned, requires all political parties (as well as other organisations) to apply for a permit granted by the police for a public rally a week in advance. This provision was regularly and discriminately used against opposition parties, while the ruling party in many cases did not need to adhere to the rules. Not only were opposition parties disadvantaged as a result, but the electorate did not have an equal chance to listen to alternative views.

Apart from the ritually voiced criticism by losing opposition politicians, most local election monitoring groups such as the Foundation for Democratic Process (FODEP), the Zambia Independent Monitoring Team (ZIMT) and the Commission for a Clean Campaign (CCC) regarded the 1996 elections as seriously flawed. This was partly because of irregularities in the campaign and voting procedures, but mainly because of deficiencies in voter registration and the constitutional amendments. The same fundamental flaws occurred in the context of the 2001 elections. None of the international and national observer groups could approve the elections. All national monitoring groups qualified the elections as "neither 'free' nor 'fair'" (Ecumenical Observer Team, Christian

Table 5: Participation in parliamentary and presidential elections, 1988–2001

Year	Type of election	Population, million	No. of voters	% of registered voters	% of population
1988	Pres ^a	7.56	1,529,000 ^b	58.8	20.2
1991	Pres	8.76	1,325,155	45.4	15.1
1991	Parl	8.76	1,320,397	45.3	15.1
1996	Pres	9.46	1,325,053	58.4	14.0
1996	Parl	9.46	1,331,047	58.7	14.1
2001	Pres	10.3	1,766,356	67.8	16.9*
2001	Parl	10.3	1,785,485	68,6	17.0*

Parl = Parliamentary, Pres = Presidential, Ref = Referendum

^a *Data for the parliamentary elections is missing*

^b *Approximation*

* *Own calculation*

Source: Krennerich 1999; Electoral Commission of Zambia 2002a, b.

Council of Zambia), questioned the “legitimacy and credibility” (FODEP) of the exercise and finally the legitimacy of the new government (Baumhoegger 1997: 404; Erdmann 2002b: 440). It seems obvious that at least the results of the presidential elections were manipulated. A ruling on the petition by three presidential candidates challenging the results of the presidential elections at Supreme Court level is still pending, together with more than 30 petitions against the parliamentary results.

Clearly, the Electoral Commission of Zambia (ECZ) did not make adequate plans and preparations to enable it to conduct the elections in an appropriate manner that would have satisfied elementary democratic standards. The ECZ mismanaged the registration process for the 1996 elections, and without learning from this failure it mishandled the 2001 registration process, with the result that several hundred thousand potential voters were supposedly unable to register for that election.²⁷ During preparations for the 2001 elections the government did not release the necessary fund to the Commission in time – whether this was done purposely or because of so-called ‘technical problems’, is an open question. It can be interpreted as a way of creating inefficiency followed by ‘confusion’, which enables interference by the party and officials in power.

Interestingly, and perhaps contrary to widespread expectations and experience elsewhere (for example, in neighbouring Malawi) with

democratisation, the degree of electoral participation did not increase, but declined from about 59% to 45% of registered voters (1988 to 1991) or from 20.2% to 15.1% of the population. Only in the first one-party elections of 1973 was there a lower turn-out of the electorate.

The low voter turn-out in the 1991 elections can be seen as a result of a combination of factors: the poor handling of the registration exercise by the Electoral Commission; lack of confidence on the part of the electorate on whether system change was possible; and uncertainty as to whether a new political party would effect significant social, economic and political changes. The low turn-out could also have been due to poor electioneering by both the government and opposition parties (mainly the MMD).

The second elections after re-democratisation experienced a further decline of participation, partly due to the boycott of UNIP and some minor parties. The major reason for the decline was that the government apparently failed to provide a proper registration process. The decline was estimated from about 39% to 30% of the potential electorate (Baylies/Szeftel 1997: 119). However, during the following elections of 2001 the highest voter turn-out was counted for the Third Republic, but was still lower than during the multiparty First and the one-party Second republics.

Apart from participating in presidential, parliamentary and local government elections, there are no other constitutional means of direct political participation for citizens. Only in the case of an amendment to Part III of the constitution – which covers the protection of fundamental rights and freedoms of the individual – is a national referendum required by the constitution (Article 79 (3), (4)).

3.4 POLITICAL COMPETITION

3.4.1 POLITICAL PARTIES

Against expectations and predictions, the transition from one- to multiparty rule did not result in a highly fragmented party system. Quite the contrary; in Zambia, a predominant (or non-authoritarian dominant) party system emerged. In most African states,²⁸ the winning party reigns with an absolute majority (Erdmann 1999c; Burnell 2001; Bogaards 2002).²⁹ Widespread fears that a multiparty system might create an ineffective government are untrue – at least as far as the parliamentary majority was concerned. ‘Bad governance’ owing to, for example, corruption or to other kinds of deficiencies is a different matter.

The MMD was a broad movement composed of very different social groups and interests – such as trade unionists, intellectuals, professional groups and some church leaders and businessmen. As the groups were united only by the idea of getting rid of the one-party regime and Kenneth Kaunda, it came as no surprise when the first cracks appeared within the party soon after it had taken over government. The movement-turned-party had very little time to build up a proper party organisation and to sort out internal political and ideological differences between its various groups and factions. Small split-offs from the dominant ruling party soon emerged as some politicians disagreed with the way Chiluba ran the government – partly on personal and partly on political issues. They founded their own political parties such as the NP in 1993, the Zambia Democratic Congress (ZDC) in 1995 and the Agenda for Zambia (AZ) in 1996. However, these parties had no major impact on the party system. Although the NP won five by-elections in 1993 and 1994, it did not pose a real threat to the MMD and was soon riddled with internal factional strife as well (Baumhoegger 1994: 388; 1995: 396). The second elections in 1996 reconfirmed the trend towards a predominant party system. The MMD even increased its majority against a weak and fragmented opposition (*see Table 6*). The boycott by UNIP and some other small parties had no major effect.³⁰

The formation of the UPND in 1998 was an exception to party formation during the first term of Chiluba's presidency. Over a number of by-elections the UPND soon developed into the strongest opposition party, first becoming the strongest opposition party in parliament and later the strongest contender to the MMD in the 2001 elections. The second wave of party formation in the run-up to the 2001 elections centred on the controversy regarding Chiluba's attempt to extend his second term of office into a third term, which would have required a change of the constitution. Most of the new parties – the ZDC, the Forum for Democracy Development (FDD), the Patriotic Front (PF) and the Heritage Party (HP) – were off-shoots of the MMD, based on various personalised factions which differed from the mainstream- or the Chiluba-faction of the MMD, only because they refused to accept the envisaged constitutional change on the presidential terms.

While the fragmentation of the party system during the 1990s had no decisive impact on the character of the party system as a whole – despite increasing numbers of new parties, which perhaps even supported the trend to the predominance of the MMD – the fragmentation during Chiluba's second presidency, and in particular in 2000 and 2001, produced a different party system.

Table 6: Parliamentary election results, distribution of seats 1991, 1996, 2001*

	<i>Founding year</i>	<i>1991</i>	<i>1996</i>	<i>2001</i>
Movement for Multi-party Democracy (MMD)	1991	125	131	69
United National Independence Party (UNIP)	1959	25	boycott	13
United Party for National Development (UPND)	1998			49
National Party (NP)	1993		5	
Zambia Democratic Congress (ZDC)	1995		2	
Agenda for Zambia (AG)	1996		2	
Zambia Republican Party (ZRP)	2000			1
Patriotic Front (PF)	2001			1
Forum for Democratic Development (FDD)	2001			12
Heritage Party (HP)	2001			4
Independents			10	1
No. of parties		2	4 (5)**	7

* without by-elections

** in 0 five because of the boycott of UNIP which would have won a substantial number of seats.

Source: *Afrika-Jahrbuch* (various issues); Registrar of Societies 2003.

The 2001 elections marked, in Sartori's terms, the change from a predominant party system to a 'moderate pluralism' of seven parties (or 'multipartism' for the then fluid 'African labyrinth') (Sartori 1976: 173f., 260)³¹ – however, with an 'in-built' tendency towards a predominant system (see Table 6). By mid 2003 the ruling MMD had regained its absolute majority in parliament, albeit a slender one.

The second result of the 2001 election was that, for the first time since independence, the ruling party and the president had no parliamentary majority. However, the opportunity to introduce party coalition politics as a new element of governance into Zambian politics was missed; the president deliberately eschewed any formal attempt to create a coalition government. Instead, he co-opted various opposition MPs by offering them cabinet posts (junior ministers and ministers). This policy of co-optation of prominent individual members of the opposition provided the basis for the MMD's new parliamentary majority.

It is important to point out that President Mwanawasa began his presidency on a very weak footing. He had come to power with a narrow electoral base (29%) and faced a legitimacy crisis having been selected by the MMD in a controversial nomination process. The electoral support he received was perhaps

the lowest of any president in Africa since political transitions began in the early 1990s. Mwanawasa therefore had to quickly build a political base and increase his legitimacy both within the MMD and the nation at large.³² Opening the second session of the present National Assembly in January 2003, President Mwanawasa indicated that he would be appointing opposition MPs to ministerial and deputy ministerial positions. Opposition parties represented in parliament overwhelmingly supported this move. However, Mwanawasa precluded coalition talks or formal negotiations with the parties. Instead, he went on to appoint opposition MPs willy-nilly, without the consent of their parties.

It can be argued that while the president may be partly to blame for appointing opposition MPs into his government and precipitating by-elections, the opposition is also to blame. Clearly, the opposition parties did not seize the opportunity to be proactive when Mwanawasa indicated his willingness to form a government of national unity or consensus. They waited for him and then reacted when they discovered that he had no plans to form a government of national unity, but rather to work with individual opposition leaders to bolster his legitimacy and numbers. One would have expected the opposition to make concrete proposals on the criteria for an alliance, positions to be shared and a minimum inter-party programme.

President Mwanawasa's preoccupation with appointing opposition MPs to his government was meant to provoke expulsions which would later lead to by-elections. Mwanawasa declared publicly that the MMD would adopt as parliamentary candidates those MPs expelled from their parties on account of having accepted ministerial positions and would ensure that they won. Only UNIP, which has a cooperation agreement with the MMD, and the Zambia Republican Party (ZRP) have accepted the appointments and not taken any sanctions against their MPs.³³

A reason why this policy of cross-party co-optation could have been successful is the very weak institutionalisation of political parties in Zambia. Most observers and even many participants, such as independent-minded party cadres, agree that there are hardly any ideological, programmatic or policy differences between the seven parties in parliament. Only UNIP keeps its socialist programme; but nobody really knows what this means in political terms. As indicated above, four of the new parties in parliament – the ZDC, FDD, PF and HP – were actually 'one-issue parties'. They differed from the MMD only because of the 'third term' issue – and, of course, on leadership. When the third term issue, as the central reason for the parties' formation, was

resolved it was easy for Mwanawasa to lure leading politicians from these parties into his government, simply because there were no other political or ideological differences. Some MPs kept their party affiliations on which they were elected in order to avoid by-elections, which would have been necessary after crossing the floor in parliament. As a result, some opposition parties had members of the cabinet in their ranks (3 FDD, 2 HP, 2 UNIP) without being a party, formally part of the government.

It is difficult to find major political differences between the MMD and the strongest opposition party, the UPND. According to public perception, the UPND might have a stronger focus on agriculture and, perhaps, on education. Regarding the latter, the UPND claims that the MMD has copied or even stolen the education issue, which was put forward by almost all parties during the 2001 election campaign. While the UPND was wrongly accused of being a 'tribal' Tonga party, this cleavage is not yet the basis for some kind of polarisation within the party system that might make it difficult or impossible for inter-party collaboration or for the building of a coalition government. The social basis of the UPND, as with the MMD, is a coalition of various ethnic groups only with a different composition and regional stronghold. Even the MMD's accusation of UPND tribalism did not deter Mwanawasa from entering into talks with UPND leader Anderson Masoka, regarding his participation in the new cabinet soon after the elections – this, however, would be only on a personal level without a formal party agreement. And finally, even the transition cleavage between the MMD as the pro-democracy movement and UNIP as the old authoritarian regime party (that preoccupied Chiluba's policy during the 1990s), did not hinder a rapprochement between Mwanawasa and former president and UNIP leader Kenneth Kaunda, who again became a public figure and is celebrated as the father of independence. In May 2003 Mwanawasa and UNIP even agreed on an alliance which secured additional parliamentary support for the president and contained the promise of a more substantial share in the government for some time to come. According to State House and UNIP sources, the final aim of the agreement is to ensure that the president is not dislodged from power in the event of an election (*The Monitor*, 6 May 03).

Altogether, as has been pointed out by Peter Burnell (2001: 246), the pattern of the predominant party system of the 1990s – the interaction of predominance and fragmentation as well as the ethnic-regional pattern – was a continuation of the party system that emerged during the First Republic.

A final indication of the institutional weakness of parties in this context is that all members of parliament (MPs) who switched parties or who were kicked out of their parties (UPND) because they joined the government, won their by-elections on an MMD ticket. The implication is obvious: it is the individual that matters – at least for the most recent party formations – together with the support of government, while party affiliation tends to become irrelevant.³⁴ Our 1998 and 2000 surveys show that more than 60% of Zambians (1998: 62.4%; 2000: 64.8%) do not feel affiliated to any political party (Erdmann/Simutanyi 1999; 2000). Moreover, when people were asked why they voted for an MP, only about 29% in 1998 and about 44% in 2000 said it was because of his/her party affiliation.³⁵ This indicates that the majority of people can vote for a candidate without the influence of party affiliation. There are, however, areas where voting in the last election was based more on party affiliation than on individual candidates. These are usually the regional strongholds of a party which are often linked to the identification of a party with particular ethnic groups. And party affiliation seems to be stronger in rural than in urban constituencies.

The institutionalised weakness of political parties is reflected in the weak organisational structure of all parties. This applies not only to opposition parties but to the ruling party MMD, as well as to the old ruling party UNIP. For the MMD the situation might have been different during Chiluba's presidency while the party gained more governmental support, but since Mwanawasa came to power he has made it a clear policy to keep party and state business strictly separate. Observations at head-quarters as well as in some district and regional offices of the MMD and other parties, reveal that the ruling party is not substantially better off than the other major parties, facing similar fundamental financial constraints on its operations. Despite this policy, the MMD has continued to benefit from government resources during by-elections.³⁶

In fact, none of the parties has an effective, functional countrywide administration or bureaucratic structure. The finding of a recent study on the state of political parties in Zambia shows (NDI/FODEP 2003: 13) that the term 'countrywide structure' when applied to UNIP, the MMD, the UPND and the FDD is an exaggeration – at least if a 'structure' is meant to refer to more than a few individuals without an office and without the means to conduct party business on a regular basis as stipulated in the constitution, and unable to communicate with their local members or their headquarters.³⁷ In many instances party organisations exist only on paper, not to speak of proper

members.³⁸ This applies not only to smaller parties founded during the past couple of years, but to the bigger parties below the national level as well. Even operations at most headquarters – including the MMD – are hampered by lack of funds, in some cases resulting in a prolonged shortage of essential office equipment which makes it impossible to run party affairs on a regular basis.

This characterisation of the state of political parties applies to the time between elections only. In most regions, as soon as elections are expected, either general or by-elections, and depending on the perceived chances of being elected, the major parties come to life: money and personnel, professional campaigners together with national figures and their cadres, pour in from headquarters, which usually orchestrate the campaigns. It is no exaggeration to state the following general observation: between elections, political parties as organisations are in most cases dormant.³⁹ And, the local party organisation (district and below) is hardly involved in local politics, which apparently does not matter to the local party. The parties come to life only if a local MP (or any other politician of national standing) comes to visit his/her constituency using his/her own money and bringing some party officials into the action as well. This, however, is not for the benefit of the party as an organisation, but only to benefit the constituency of that particular MP. Party ‘organisation’ is highly personalised depending on the personal patronage of a particular politician. This personalised, informal form of organisation operates at the national level as well as at district or constituency level and below.

This strong personalism together with weak party organisation indicates a lack of internal democracy within the political parties. Power is usually concentrated in the hands of the party president who is also, in many cases, in control of the party’s finances. In fact, a number of the smaller parties have not held elections for the national leadership, despite being operational for a couple of years. Although this does not apply to the MMD, UNIP and UPND, even in these parties, election procedures as laid down in the constitution are not always observed. At the local level, district and below, lack of funds is often responsible for ‘irregular’ election procedures. However, even where higher or the national level of the party is involved or politically concerned, election procedures are often manipulated, as was observed by a recent study: “It is not uncommon for party delegates to be arbitrarily changed, nominations to be tampered with or for leaders to be handpicked or imposed by the national leadership” (NDI/FODEP 2003: 18).

Similar problems occur during the selection process of parliamentary

candidates. In most political parties there are no primary elections. The MMD, HP and FDD have no provisions for primary elections in their party constitutions. For those parties that do conduct primaries to select their parliamentary candidates, such as UNIP and the UPND, “procedures are either not followed or the national leadership vetoes the results or may impose their preferred candidates” (ibid.).

One could argue that the parties did not have much time to organise a proper party bureaucracy. This could apply to more recently formed parties such as the FDD, HP or PF, however, not to the MMD or the UPND. The latter had enough time to organise an appropriate party administration. Apart from the MMD’s reliance on government resources during Chiluba’s time, most of the parties did not invest much into an effective bureaucratic administrative structure, although there are some differences between the parties, however in terms of degree only. For example, the UPND made some effort to organise a more effective administration. Party leaders rely on personal patronage without bureaucratic control by the party. For that purpose they use their own personal funds or donations by so-called ‘well-wishers’ – rich political and personal friends and supporters – who in most cases grant the donations personally to them and not to the party as a formal institution. Investment in an effective bureaucratic organisation would undermine the highly personalised style of politics. In that respect party politics is more patrimonial than neopatrimonial, since there is hardly any structure that could be termed ‘bureaucratic’, not to say ‘legal-rational bureaucratic’.

Closely connected with the lack of organisational investments is, as indicated, the question of funding and membership of parties. None of the parties has a proper register of members, and none of the parties can rely on regular contributions by their members. As a most recent study found, “membership fees are so low that their overall contribution to party finance is negligible” (NDI/FODEP 2003: 20). All parties regularly sold membership cards, but because of the lack of an effective organisation they were unable to trace these contributions, the renewals or even the membership cards in a proper register. In this context it is indicative that “most parties do not keep books of accounts nor do they have established accounting departments” (ibid.). This has led to the misuse of party funds by officials.

According to their information, the total number of membership cards sold by all parties together would mean that half the Zambian population are members of a political party. It seems that a significant number of people

bought membership cards to several parties, making party membership meaningless. Therefore only a small percentage regards membership as some kind of personal commitment to a party. Without a regular inflow of financial resources, either by the state or by members, and without a committed membership due to lack of political and ideological orientation, the organisation of a permanently operational political party organisation is almost impossible.

Another weakness of political parties is their strong tendency towards factionalism, which affects all parties, large and small. Even the old state party, UNIP, although in opposition, fell into fierce factional strife for a couple of years and became politically paralysed, in particular after Kenneth Kaunda resigned from active politics.⁴⁰ In most cases this factionalism is based on personalism and ethnicity, and only rarely on different political or ideological orientations. The latter played a role during the first years of the Chiluba government when the CNU was formed, with MMD members opposing the authoritarian high-handedness of Chiluba's style of government and demanding more democratisation of the party and of society. However, there is an argument that leading figures of the Caucus came from Western Province, formerly Barotseland, and at least part of the faction seems to have been ethnic, voicing the old Lozi resentment because of economic negligence by the government, and consequently, only a short time later, discussions about the autonomy of Bulozhi restarted (Sichone/Simutanyi 1996: 189).

Nevertheless some of the MMD off-shoots which were founded during the early 1990s can be seen as former factions based on some clear political differences as regards democracy, the conduct of government business (corruption), and even economic policies (that is, the degree and speed of privatisation). But Chiluba's persistent policy to marginalise these groups within the MMD or even to push them out has finally led to the present situation in which most middle-class intellectuals who were once carriers of democratic and social ideals and hopeful contenders for MMD leadership, are widely alienated from party politics.

After leaving the MMD and joining or founding other parties, in many cases again these people who also might have had the capacity to organise an effective administration within the party were soon frustrated with the new parties as well. The factions of the late 1990s which gave birth to parties in the context of the third term issue were built on personal ambitions, which appeared to be thwarted when Chiluba pursued the third term.

As indicated above, ethnicity has also been a major cause for factionalism within the parties and thus for the structuring of the party system as well. What was known during Kaunda's Second Republic as 'tribal balancing' had emerged during the First Republic, and the ethnic composition and regional constellation of the opposition and ruling party of the First Republic continued, albeit slightly modified in the Third Republic.⁴¹ Major opposition parties of the First Republic – the ANC and the UP – had their electoral and organisational strength among the ethnic groups of the Western, North-Western and Southern provinces, just like some of the smaller opposition parties of the 1990s and the UPND. At the same time, the ruling parties of the First and Third republics, either UNIP or the MMD, had their organisational and electoral strength among Bemba-speaking groups in the Copperbelt, the Northern and Luapula provinces. Only UNIP's oppositional stronghold in Eastern Province during the 1990s did not fit into the pattern of the First Republic, but there have been clear signs of a rapprochement since 2002 to return to the ethnic coalitions of the 1960s and 1970s.

It should be noted, however, that none of the parties is an ethnic party in the sense that it is based on one ethnic group and propagating the welfare of only that particular group. All the major parties are based on ethnic coalitions and are therefore termed ethnic congress parties. The defining difference between the ethnic and the ethnic congress party is that the former is based largely on a single ethnic, regional or national group only, while the latter is a multi-ethnic coalition of more or less distinct ethnic or regional groups.⁴²

The implication for Zambia, as discussed in the context of the structure of the party system, is that ethnicity is not politically mobilised in a way that could be considered as a destabilising or even as a centrifugal force – and is even still far from being the major force for the fragmentation of the party system into ethnic parties, such as in the case of Kenya. Nevertheless, some politicians do try to exploit ethnic identities for political mobilisation. Occasionally, the undercurrents of ethnic feelings become only too obvious. For example, when President Mwanawasa dismissed and later prosecuted ministers who served in Chiluba's government there were complaints from Bemba-speaking members of the MMD charging that the Bemba had been targeted for victimisation *because* Mwanawasa was not Bemba. It was even worse in March 2003 when Mwanawasa unveiled a 'plot' to unseat him from power by a group of Bemba politicians within the MMD. He referred to them as "stinking and dirty", a statement which he came to regret as it was used by PF President Michael Sata

in his campaign against the MMD on the Copperbelt and in the Bemba-speaking Luapula and Northern provinces.⁴³

Factionalism within the parties and their persistent tendency towards fragmentation gives the party system a high degree of instability despite the predominance of one party which, more recently, has become threatened by splits itself.

To trace the source of factionalism in the parties it is important to understand the social basis of these parties. The long period of one-party rule (17 years) may have been responsible for centralised and personalised politics. Most of the present leaders were socialised into that kind of politics. This is a politics where the leader is hero-worshipped and revered and criticism is not tolerated. Further, as already pointed out, political parties tend to be centred on personalities and not on programmes. This means that a party leader's contributions or donations to the party make's him a majority investor, virtually owning the party in the same way that a shareholder owns a firm. Since the party is closely associated with its leader, party members do not only feel marginalised but lack real ownership of the party. Factionalism is therefore a function of elite struggle for influence and leadership within the party. Factions may be based on closeness to the party leader and president, the need for ethnic identification and the desire to gain political positions to further political power and economic influence. Unlike in other countries, Zambia's factional struggles have not been properly handled in almost all political parties. Differences over policy and political strategy are almost always not tolerated. Hence, dissenters suffer victimisation and find themselves facing suspensions or even expulsions. No real policy debates take place or are encouraged, and as a result differences tend to be personalised. This failure to handle factional struggles and differences has led to fragmentation. As individuals fail to influence the policy direction of their parties they go on to found their own parties. In many cases they are forced to do so as all avenues for their involvement within the parties are closed. Most of the newer parties came about because of the victimisation of their leaders by the MMD. However, most of these leaders have an exaggerated perception of their political stature and popular support, which makes them unwilling to join existing political formations.

The lack of institutionalisation therefore makes most of the parties highly volatile, and there are no signs that they will be stabilised. If an institutionalised party system is thought to be necessary for democratic stability and later for consolidation, the current system is not conducive to further democratisation,

let alone consolidation. On closer examination, the fact that the parties are almost dormant between elections, the lack of internal democracy and the lack of civil education means that there are no indications that the parties contribute to the creation of a democratic culture which reaches beyond the simple electoral competition of a few, not very democratic organisations. In this way they tend to reinforce political apathy and political disengagement (especially of the intellectual middle-class) on the one hand, and the continuation of a neopatrimonial culture on the other.

3.4.2 DEVELOPMENT AND ROLE OF CIVIL SOCIETY

As indicated above, Zambian CSOs have been comparatively more influential than in many other African states. The one-party state was never in a position to exert complete control over CSOs. Moreover these organisations played a major role in the Zambian transition. The “renaissance of civil society” (O’Donnell/Schmitter 1986) during the liberalisation of an authoritarian regime is a common occurrence, as is the decline of civil society mobilisation thereafter. After the establishment of the democratic framework and the first elections which gave rise to political parties, the visible importance of CSOs declined, while political parties took over.

After the transition, there were contradicting developments within civil society. While the political visibility of CSOs declined, hundreds of new organisations were formed. The decline in visibility can be explained by three factors: first, with democratisation the CSOs had achieved their main aim of mobilisation, and because it was ‘their’ government in power, they could enjoy some tolerance for a while. This affected in particular the organisational backbone of the democratisation movement – the trade unions. Second, although this tolerance of government policy may have soon waned, the major force of the CSOs became weakened. Trade unions not only experienced a dramatic loss in membership – due to actual redundancies and the threat thereof – but they were paralysed by internal political conflicts, which ended up in a split of the trade union movement in 1994. Third, is their dependence on donor funds. Most new CSOs are either established or heavily funded by donors. Their behaviour is thus more or less directed by donors and they are not expected to do things that will affect their relationship with donors, especially accessing donor funds.

At the same time hundreds of new CSOs were founded that dealt with

political, economic, social and religious interests. By 1995 more than 1,000 non-governmental organisations (NGOs) were registered with the Registrar of Societies. In addition, there were countless informal CSOs in rural areas. Despite their strength in numbers, most of these new organisations had serious shortcomings, which still persist to this day. These include:

- lack of members;
- weak roots in society;
- weak organisation;
- weak organisational capacities;
- dependence on donor funding; and
- lack of lobbying skills.

Although these deficiencies hampered a more active political involvement of these organisations, and while the influence of the traditional economic interest groups diminished, some new actors, namely advocacy NGOs, emerged. These NGOs took a more focused interest in human rights, civic education and the conduct of elections, and included such organisations as FODEP, Afronet, the NGO-Coordinating Committee (NGO-CC), the Catholic Commission for Justice, Development and Peace (CCJDP), the Jesuit Centre for Theological Reflection (JCTR) and the Civil Society for Poverty Reduction (CSPR). Especially the latter two articulated concerns regarding the deteriorating social conditions in the country and the increasing levels of poverty.

Apart from these CSOs, two older organisations need to be mentioned, namely the LAZ and the churches, and among the latter the Catholic Church. The LAZ played a critical role before, during and after the transition, and continues to speak out against human rights violations. Among the churches, the Catholic Church is probably the most outspoken, at least some elements within it.

Although it is a hierarchical organisation, the Catholic Church reaches out to rural communities and has members throughout the country. In some parts of Zambia, for example in Northern Province, it seems as if it is “better organised and has a more pervasive presence than the government” (Duncan/Macmillan/ Simutanyi 2003: 39). The Catholic Church is by no means homogeneous in the political attitudes of its members; some are more conservative, some more liberal. However, the Zambia Episcopal Conference and its sub-organisations, such as the CCJDP, have become the most prominent

champions of social issues (e.g. SAP-Monitor) and of human rights, and it has taken up a crucial networking function as well (Erdmann 1999b: 182f).

At the same time service delivery NGOs, particularly in the health sector, played an increasingly important role in filling the gap in basic service delivery left by a government that lacked resources and with spending constraints caused by structural adjustment policies. The donor community was also responsible for the growth of the NGO-service delivery sector, which often preferred to bypass governmental institutions because of corruption and inefficiency. Most of these NGOs avoided direct involvement in politics.

Many of the above-named advocacy organisations, such as the LAZ, are defenders of democratic principles and of constitutionalism. This became apparent in particular, when the government refused to implement the Mwanakatwe Commission recommendations, instead rushing through with its own constitutional amendments that did not alter the vast presidential powers and limited political competition with the 'Kaunda clause'. In general, however, CSOs have remained reactive rather than proactive.

As regards NGO-government relations, despite the MMD's origin in the CSO community, the Chiluba government was from the start sensitive and intolerant towards any kind of criticism from civil society. The illiberal attitude of the government escalated into open harassment of NGOs, including the arbitrary arrests of leaders, arbitrary tax auditing and fines. The almost irrational hostile behaviour of the government towards outspoken NGOs contributed to the weakness of civil society. Under these circumstances, it is easy to see why CSOs did not have the opportunity or power to influence or moderate the undemocratic or unsocial government policies.⁴⁴

The involvement of NGOs in the creation of the Poverty Reduction Strategy Paper (PRSP) provides an example of their rather reactive development orientation and of their internal weaknesses. International finance institutions required the government to involve CSOs in the PRSP process – it was not the NGO community which enforced its own participation. Furthermore, foreign donors provided the financial means to the NGOs to enable them to play a critical as well as a more effective and meaningful role in the process. CSOs participated in the 2002 Consultative Group (CG) meetings held in Lusaka and Livingstone through an umbrella body – the Civil Society for Poverty Reduction (CSPR), which was formed in early 2002 to coordinate activities of development-oriented and advocacy groups in the formulation and implementation of the PRSP. While the CSPR has produced a number of

position papers, and with the help of donors managed to be included in the government economic policy formulation process, it has still not been able to exert enough influence on economic policy (CSPR 2002; JCTR/Oxfam 2001; Duncan/Macmillan/Simutanyi 2003; Walle 1998).

Nevertheless, since the turn of the century some changes seem to have taken place. Based on the experience and confidence gained over the past decade, the major NGOs appear to have become more proactive in their attitudes and politics. Their first show of force was the concerted action against Chiluba's third term bid. NGOs formed the Oasis Forum which, together with opposition parties and supported by donors, effectively organised the Anti-Third Term Campaign. Although the role of international diplomatic pressure should not be underestimated, the success of the campaign is seen by many Zambians and foreign observers as a 'watershed' for Zambian politics, as well as for the crucial role and development of civil society.

The Oasis Forum was again instrumental in the campaign for the change of constitution. However, while the government seemed to be responsive to the general demand for a constitutional review, that campaign has been less focused than the Anti-Third Term Campaign (admittedly more difficult to focus) and less successful, too. Clearly, the campaign seems to lack a rallying point that can galvanise the whole country into backing their demands for a constituent assembly.⁴⁵ As regards the basic issues of the campaign, the latest reports suggest that the government was able to avert the most central, and for some time only, demand for more participative constitution-making by a constituent assembly involving not only parliament, but all sectors of society.

It should be noted that despite serious opposition to the constitutional review sittings by CSOs and opposition political parties, the response from the public has been overwhelming. Many people have come forward to give both written and oral submissions. In fact, most of the witnesses for oral submissions have had to be sent away for lack of time. Noteworthy, however, is the opposition parties' lack of a clear position on this important political issue. Most opposition parties do not even have a position on it, while others have gone along with the Oasis Forum position.

Despite the aforementioned shortcomings and the many cynical or contemptuous remarks on 'civil society' by local politicians on both sides (and by some foreign observers as well) regarding foreign funded, non-membership and capital-based NGOs, these organisations did, and continue, to play a crucial and somewhat effective role in the political development of the country. To

some degree, and in the face of the weakness of political parties, they seem to be the only serious issue-orientated political opposition in the country.

Apart from these NGOs there is an increase, albeit slow, of partly informal self-help organisations in rural (and urban) areas. This is due to the retreat of the state and the possibility of autonomous organisation conditioned by the democratic freedom of association. These organisations have no immediate political impact, but may have a longer-term impact on the development of civil society and its increasing role in the political system.

The increasing number of community-based organisations (CBOs) continues to supplement government provision of social services. This is especially true in the areas of education and health, where church-based or faith-based organisations have played an important role over the years. To the extent that these organisations keep out of politics, they have received government backing.

There are, however, some 'darker' sides to civil society. The mushrooming of new religious organisations, especially of the evangelical or 'born-again' persuasion, has introduced a new dimension to the so-called state-CSO. These church organisations, with strong US backing, have been bent on vilifying the established churches, such as Catholics and Anglican, so as to receive political recognition and favours from the state. They were behind persuading Chiluba to declare Zambia a Christian nation in December 1991 and vehemently supported Chiluba's third term campaign. Of course, they benefited from this overt support for the government through generous donations from Chiluba's slush fund.

3.5 SEPARATION OF POWERS: CHECKS AND BALANCES

3.5.1 *THE NATIONAL ARENA*⁴⁶

The constitution stipulates a hybrid form of government; a mixture of presidentialism with elements of the Westminster tradition of parliamentary democracy. The current system is, however, closer to the presidential model with delegated powers, and even "close to the top end of the range of presidential powers" (Burnell 2003: 48). As in other presidential systems the distribution of power between the legislative (parliament) and the executive (the presidency), is unbalanced in favour of the latter. As the 1995 CRC clearly spelled out: the president is in a position to "exercise a dominant influence on the legislature"; and "no sufficient countervailing safeguards [are] in place to

check the executive branch and thus balance the powers” (GRZ 1995: 15, 17). One, if only formal, indication of the weakness of parliament in the Third Republic might be that the average number of bills passed did not exceed that of its predecessors in the First or Second republics.

The legislature and even single MPs have various means of controlling the government and initiating legislation. These include the private member bills, Standing Orders, parliamentary questions, the Committee of Supply, the Public Accounts Committee, the Estimates Committee, the Committee on Government Assurances, the Committee on Delegated Legislation, 11 (before 1999, seven) departmental orientated ‘watch-dog’ committees, as well as the ad-hoc select committees which can consider the ratification of presidential nominations to official appointments such as the attorney-general, Supreme Court judges or the governor of the Bank of Zambia.

The problem with all the committees and the provisions for individual MPs to get a hold on the government is that – despite MPs’ lack of special expertise due to shifting membership in committees as well as the lack of support staff – it provides “answerability” without “enforceability”, which is essential for an “effective instrument of accountability” (Burnell 2002: 307). The vast MMD majority until 2001 and the ability of government to control and monopolise the legislative timetable made parliament even weaker, although MMD MPs were by no means under the strict control of the party whip or leadership. Since the MMD lost its majority in the 2001 elections and experienced more serious internal factionalism, there are clear indications that the government has to be more responsive to parliament.⁴⁷ However, through the powerful position of the Assembly Speaker the ruling party and the government is still largely able to control Assembly procedures.⁴⁸

A similar context applies to those institutions that are supposed to be instruments of horizontal accountability, such as the Anti-Corruption Commission (ACC), the Office of the Auditor-General, the Commission for Investigations, the Drug Enforcement Commission (DEC), the ECZ and the HRC. These institutions have been proven largely ineffectual, although the courts have sometimes made rulings against the government. Again, there seems to be some improvement since 2001, which, however, seems to be well calculated and directed by the Mwanawasa government – at least in the case of the ACC, when the latter was allowed to investigate corruption cases of the Chiluba government (*see 4.1.3 below*). The reason why these institutions are unable to make an impact is because, although legally autonomous, they have

very few powers (apart from one exception; the ACC cannot initiate prosecution on its own), and are financially dependent on the government. They are chronically underfunded and despite being presidential appointees, all commission heads do have secure conditions of service. These institutions are therefore highly sensitive to signals coming from the Office of the President, which prompted the MMD's first Minister for Legal Affairs Rodger Chongwe to refer to them as "agencies of illusion" (1999: 104).

The Republican Constitution provides for impeachment proceedings against the president for violations of the constitution (Article 37). This provision is difficult to implement and needs a one-third majority in parliament to debate a motion alleging the president has committed "any violation of the Constitution or any gross misconduct", while a two-thirds majority is then necessary to start an investigation by a tribunal appointed by the chief justice. If this tribunal finds that "the particulars of any allegation specified in the motion have been substantiated", the National Assembly might by a motion of not less than two-thirds resolve that the president has been guilty. Only then shall the president cease to hold office. All attempts to impeach the president have failed in the past.⁴⁹

Legally the civil service is non-partisan, but in practice the administration has often been politicised. This is not only a heritage of the old one-party system and a legacy of neopatrimonial rule, but has also been employed deliberately by the new administration. One case in point is Chiluba's introduction of the post of district administrators (DAs), which are political appointees to direct politics at the district level under his control. The partisan application of the Public Order Act by the police in favour of the ruling party in the run-up to elections is another example. Generally, what has come to be known as 'rampant' or 'endemic' corruption in the cabinet and other state bodies is only possible with a willing civil service. In an authoritarian political and administrative culture where superiors are not supposed to be challenged and 'hints' by superiors are taken as 'orders', and in which legal-rational procedures are not regularly adhered to, but irregular (not to say illegal) actions or non-actions are taken as 'normal', the civil service cannot be non-partisan, but is an instrument of the ruling party. Peter Burnell's analysis of the endemic "financial indiscipline" clearly shows that the political and administrative framework for this "enjoys active connivance from senior government figures and is an entrenched feature of the politico-administrative culture" (Burnell 2001b: 49) – in other words: it is deliberately nurtured by the political elite for personal and political gain.

3.5.2 THE LOCAL ARENA

At present, local government is not only dysfunctional in its set up but is in many respects derelict. According to a report, the local government system “is widely acknowledged to [have] severe difficulties” (Crook/Manor 2001: 15). The Zambian Government admits this and has used this fact as the rationale for a reform of the established local government system in its policy paper on the National Decentralisation Policy (GRZ 2003: 13f.).

The major reason for this can be found in the dual structure of (a) elected local governments as corporate bodies, and (b) deconcentrated sector ministries reporting to parent ministries of the central government in Lusaka through provincial officials, for which the provincial permanent secretary (PPS) is responsible.⁵⁰ The ministry officials and the PPS have far more power than local government elected councillors. At the same time the local government structure has been neglected by the central government:

- The 1991 Local Government Act (and its amendments of 1992, 1993 and 1995) has been flawed by various omissions and ambiguities.
- A number of other acts were put in place without regarding their impact on local government, which included changing its functions, powers and revenues in an uncoordinated way (Crook/Manor 2001: 28f.).
- The allocation of functions between the line ministries, agencies and local government is in many cases unspecified.
- Central government grants to all local authorities have declined from 34% (1987) to 3.4% (1997); district councils currently receive an inadequate one to three per cent of their funds (grants-in-aid) from central government, while the city and municipal councils have received nothing since 1992. However, some councils receive up to 14%, which appears to be a patronage leverage by the government to specific areas (*ibid.*, 17).
- Even these meagre government funds often come late, with some district council personnel having to go without payment for up to two years.
- Local governments have been deprived of many former powers to mobilise resources in the form of, for example, motor vehicle licensing, beer surtax, rent from council housing (because of government enforced sales of council-owned houses), exemptions from property rates, and limits on the amount of local personal levy tax; real revenues have thus declined (*ibid.*, 29).
- While new tasks have been imposed on the local councils, no measures were taken to cover for the additional costs.

- Funds initially intended for local bodies, such as the Constituency Development Fund and Youth Project Fund, have been placed under the control of MPs (later, the DA) – to enable patronage – or others at higher levels.

The total political disregard of local government became apparent in 2000 when Chiluba installed DAs as political appointees responsible only to himself and hand selected them as his ‘political watch dogs’ in the districts. While most of the district councils have hardly been in a position to perform their duties, the DAs have been financially well-equipped for purely patronage politics on behalf of the president. Mwanawasa briefly reconsidered the position of the DAs, but did not abolish them. He only demanded that current officials either abstain from party politics or quit their jobs and continue in politics. It was also proposed that submissions would be invited ‘within six months’ to review the necessity and efficacy of the position of DA within the current local government system. It would appear that little or nothing has been done in that direction, as DAs have continued going about their business as before.

The consequence is not surprising: councils have built up “crushing burdens of debt or arrears” (ibid, 19) and now face severe financial crises. In addition, the weak administrative capacity has been aggravated further by the exodus of personnel who had not been paid for a long time.

Personal and political interference from above, as well as omissions and ambiguities in the 1991 amended Local Government Act and further amendments, contributed to the difficulties and confusion which already existed. The final result has been an eroded autonomy of the local bodies, which was already precarious. Many observers agree that the majority of rural councils cannot perform their functions and provide service delivery in any meaningful way.

In many respects this state of local governance was partly the result of sheer incompetence and disregard for local government, and partly a deliberate policy to weaken local autonomy while strengthening central control; not for development but for maintaining political power.

Confronted with the dilapidated state of a local authority administration that was hardly able to implement policies or deliver services, many donors switched to ‘self-help’ programmes, employing NGOs or other governmental structures. The result, however, was that each donor was building up parallel structures in its own particular fashion. Despite good intentions of securing

basic service delivery to people in need, this action only served to increase district council difficulties and contributed to the de-legitimation of local government and, possibly, of the institutions of the state in general.

The low degree of participation in local government elections – although, worldwide, this is usually much lower than in general elections – is an indication of how little these institutions in their present state are appreciated by the people. Only 22% of registered voters participated in the 1998 local government elections – or about 12% of eligible voters. The low degree of participation in these elections can be explained partly by disinterested opposition parties, which often do not bother to nominate candidates. Another indication is taken from Afrobarometer. Among the various government institutions, citizens showed the least level of trust in local government, at only 20% (Simutanyi 2002: 4).

The necessity for local government reform has apparently been acknowledged by the new government, but some of our interviewees raised doubts about government's commitment in this regard.

The present local governance arena does not balance central government domination in any way and is unable to provide additional ground for political participation and development. This is by no means conducive to the participation of citizens and civil society. Quite the contrary, as two observers stated, it undermines their contributions to the political process and impedes any meaningful participation – that is, it prevents democratic development, let alone consolidation. Beyond that it breeds popular alienation and cynicism, even among rank and file activists of the ruling party. It will be very difficult to rebuild any trust in the local government institution.

3.6 POLITICAL CULTURE: UNDERSTANDING OF DEMOCRACY, SUPPORT OF DEMOCRACY AND VALUES

It is difficult to assess the legacy of pre-colonial societies on Zambia's current political culture. First, there is no common tradition of a 'Zambian' way of ruling. Political rule in pre-colonial societies differed widely from so-called 'kingdoms' to chiefdoms and even to chiefless societies. Second, we have very little exact knowledge of how these various forms of political rule were exercised in praxis. What we usually learned was how these societies should function (constitutionally), but due to the lack of sources and historical research, we did not learn how political rule operated in practice. Idealised

perceptions or descriptions of a given society were often misrepresented as the political and social reality.⁵¹ Usually the views on pre-colonial societies are an ex-post vision of the past, which often tell us more about the current demands and problems than about the past. This is why we are disinclined to speculate on a traditional political culture of which we know very little. We cannot say how much survived up until today in order to explain anything which might be considered as elements of democratic traditions rooted in pre-colonial societies. What can be taken for granted is that these societies were patriarchal (matrilineal descendent rules do not make a society matriarchal) and gerontocratic – that is, in the end, authoritarian based on unequal status, like any other rural society; an inclination towards consensus-seeking is not to be equated with ‘democracy’.⁵²

What we can say quite firmly is that Zambia’s more recent past of colonial and one-party rule – interrupted only by the short spell of multipartyism of the 1960s, which probably had no major effect – was not conducive to a democratic political culture. On the contrary, the authoritarian, neopatrimonial rule created an authoritarian political culture with a high degree of hierarchical order. However, as argued elsewhere, the negative experience of authoritarianism might have been responsible for an appreciation of democratic principles, which provides the basis for the possible creation of a more genuine democratic culture – this is, when democratic attitudes and behaviour follow the same path.

Apart from these general observations, the Afrobarometer opinion poll conducted in 1999 in which 1,198 Zambians were interviewed, provides some clear evidence of widespread support for democracy among Zambian citizens. A larger majority of respondents, about 74%, said that democracy is always preferable to any other regime type. Even when democracy is ‘not working’, democratic governance is still supported by a slim majority of 54%. Zambians had a positive image of democracy, with 72% attaching positive connotations to it. Recognition of ‘democracy’ was very high as well, with almost eight out of ten respondents (77%) able to supply some definition of the concept (openly phrased question!). Democracy was understood in terms of civil liberties and personal freedoms by about 64% of those interviewed; participation in decision making (‘government by the people’) was the second most frequently mentioned response (Simutanyi 2002: 3). Interestingly, the 64% with a ‘liberal’ understanding of democracy was the highest score next to Namibia within the 12 Afrobarometer countries; the mean is at 40% (Afrobarometer 2003: 7).

Table 7: Support for democracy in Zambia, 1998 and 2000, per cent

	1998 n=1102	2000 n=1097
Democracy with competing parties is preferable to any other form of government	71.4	73.0
<i>Authoritarian government is sometimes better</i>	19.3	16.2
Democracy allows the solution of all social, economic and political problems	47.6	45.0
<i>Democracy does not solve all these problems</i>	47.0	47.0

'don't know' and 'no answer' have been ignored; % relates to valid values

Source: Erdmann/Simutanyi 1998; 2000; Erdmann 2001a: 42.

At the same time most Zambians disapproved of non-democratic alternatives: 89% rejected dictatorial, presidential rule; 94% rejected military rule; and 80% rejected the idea of one-party rule. The same percentage of respondents disapproved of a kind of traditional rule at national level, and 76% rejected a return to Kaunda's one-party regime (Simutanyi 2002: 3).

To get a clearer understanding of the figures one should recall the voting of 1991 when more than 72% of registered voters opted for one of the opposition parties. This implied a vote for democratic change and a multiparty system, with only 23.8% wanting UNIP to stay in power. This data gives clear evidence that a commitment to democracy has persisted for most Zambians.

Our own survey of about 1,100 Zambians even showed that the positive attitude towards democracy seems to be of a longer-term nature. Between 1998 and 2000 there was hardly any change. Pro-democratic opinion prevailed over time, and even increased slightly. Moreover, in an attempt to test the 'substance' or 'depth' of the democratic attitude we constructed a simple, additive democratic attitudes index based on a number of items which referred to fundamental principles of democracy.⁵³ According to the index almost 40% of the respondents in 1998 showed attitudes that could be classified as democratic (high and very high), while two years later almost half of the respondents fell into this category. These results, together with the Afrobarometer results, seem to indicate that *at least* half of Zambia's citizens have sound and solid democratic attitudes, which one can expect would last for some time and survive serious social, economic and political challenges. On the other hand, quite a number of Zambians seem to have rather shallow

Table 8: Democratic attitudes index in Zambia, 1998 and 2000, per cent

<i>Democratic attitudes index</i>		1998 <i>n</i> =884	2000 <i>n</i> =857
Very low	(0-1)	0.5	0.3
Low	(2-4)	18.0	11.2
Medium	(5-7)	42.7	38.7
High	(8-10)	32.4	38.8
Very high	(11-12)	6.5	11.0

For the index only those respondents were considered who answered all the index questions.

Source: Erdmann/Simutanyi 1998; 2000; Erdmann 2001a: 43.

democratic convictions. However, only a fraction of those can be regarded as 'radical' non-democrats – between 10% and 20%.

The view that a majority of Zambians maintain a generally pro-democratic attitude is also supported by the willingness of the Afrobarometer respondents to oppose any anti-democratic actions by the government. This compares favourably with other countries in Southern Africa. In fact, Zambians showed the highest level of opposition against such possible government actions: 77% would oppose a shut down of news media that are critical of the government; 73% would oppose the dismissal of judges who hand down rulings against the government; and 76% would oppose suspending parliament (Afrobarometer 2003: 15).⁵⁴ Although there were considerable problems with the elections in 1996, 71% of the respondents felt that the government was elected through acceptable procedures – a figure which coincides almost exactly with the proportion of the electorate that voted for Chiluba (72.6%) as president.

This, however, does not imply that Zambians approve of the way that government and all state institutions operate, although some of the responses are ambivalent, at best. Despite broad approval of the way Chiluba was elected, only 57% felt that the government exercised power in an acceptable manner. Moreover, Zambians showed little trust in the president (37%) and in parliament (23%). At the same time, almost two-thirds of the respondents (64%) approved of the way President Chiluba (1999) had performed his job. Trust in the army (58%), the courts of law (64%), and even in the government-controlled broadcasting corporation (58%) was much higher (*ibid.*, 4).

While democratic principles are obviously appreciated by many people, political behaviour that is commensurate to these esteemed values is not as

frequent. Authoritarian tendencies are reported not only among the elite, but in grass roots organisations as well.

For the political elite and the public at large, there appears to be no general disagreement in principle about the nature of the political regime (multiparty democracy) and on issues of national identity, citizenship and borders. The question of the future of 'Barotseland' was raised again in the early 1990s – not as a question of separation, but as a demand for regional autonomy. There is, however, no major political force pushing the demand, and the issue does not pose a serious challenge to the political establishment, at least not in the near future. Aka Lewanika – a leading politician from Western Province, a former president of AZ, the son of the former Litunga and first chairman of the ANC – rejoined the MMD. He was appointed first as MMD Chairman for Information and Publicity and later asked to head the National Economic Advisory Council in 2003. Lewanika originally advocated secession of Barotseland.

Finally, it should be noted that patronage as an expectation and as an instrument to exert personal influence and power, is a strong element of the political culture.

NOTES

- 14 See various issues of *Human Rights Watch*, *Africa Watch*, Afronet, Amnesty International and Human Rights Report of the US Department of State.
- 15 To the extent that the government has used the Public Order Act to prevent legitimate and peaceful demonstrations and public assembly, banned opposition rallies during election campaigns, detained journalists for exposing indiscretions by government ministers and the illegal deportation of civil society or opposition politicians critical of the regime, we could say that human rights violations are rather systematic. Unnecessary delays in dispensing justice through the criminal justice system is another example. For instance, two former officials in Chiluba's government have been languishing in jail for the past 13 months on unbailable motor vehicle theft offences. The case has been dragging on and will probably not be decided before the end of the year. As a result of being in prison for such a long time these men have contracted diseases and one is currently in hospital suffering from depression.
- 16 In 2001, in the heat of the third term campaign, Dipak Patel – a leading opponent of Chiluba's third term and a former minister of Asian origin – was targeted for racial abuse and even threatened with deportation. Some senior MMD officials accused Patel of being a Canadian citizen, while others threatened to deport him to India. There were many public statements to the effect that Zambians of Asian descent should not abuse Zambian hospitality by meddling in national politics as they risked being deported to their

countries of origin. While Patel took the matter to court he did not receive adequate relief, as senior politicians gave tacit support to acts of racial victimisation. Paradoxically, Patel is now serving as a cabinet minister under the same party (MMD) which was responsible for his harassment in 2001. Another case is the 2001 deportation of prominent Asian businessman, Rajid Ticklay. Ticklay was deported to the United Kingdom following what observers believe were critical comments made by him against Chiluba's third term bid. Ticklay, an established resident who had lived in Zambia since he was five-years-old, was at age 58 suddenly declared a foreigner. Following President Levy Mwanawasa ascension to power, Ticklay's deportation was revoked and he has since returned to Zambia. There are, however, a number of unreported cases of racial victimisation suffered by members of Zambia's racial minorities.

- 17 The Supreme Court ruled in 1996 that the Act was in conflict with the constitution; people are therefore not required to obtain permits. But the government insists on the application of the Act by giving a different interpretation that the police should be notified a week before, and the police cannot grant the permission.
- 18 In early 2003, women demonstrating against the police force for not arresting individuals involved in sexual harassment, were brutalised by the police.
- 19 Afronet's 2001 Human Rights Report noted that for the time before the 2001 elections: "A Coalition 2001 media monitoring report from 2 to 26 December revealed that ZNBC devoted 92% of its coverage to the MMD while the remaining 8% was shared by the FDD, UPND, UNIP, HP, ZRP, NLD and NCC. In addition, Radio 2 and 4 devoted almost 100% of positive news coverage to the MMD" (Afronet 2001: <[afronet.org.za/Human%20 Rights%20 Report/media.htm](http://afronet.org.za/Human%20Rights%20Report/media.htm)> (15.08.2003).
- 20 For example, in the election petition challenging the qualification of Frederick Chiluba to contest the 1996 elections and electoral irregularities that marred that poll, the Supreme Court found that Chiluba's parentage was unclear and probably originated in a foreign country. Fearing to nullify the election results, the Supreme Court conceded that while Chiluba may have been born of a foreign father, this was before independence, which means that his father could have obtained Zambian citizenship at independence. By this ruling even Kaunda was deemed qualified to have contested the 1996 presidential elections.
- 21 In 1998 the Supreme Court ruled that Zambians do not need a police permit to hold a procession, demonstration or a public meeting as that is a constitutional right for which they do not need to seek permission. However, the government issued guidelines that required applicants to give the police seven days notice before the holding of a procession, demonstration or a public meeting. In effect the Supreme Court ruling was not followed. As the situation is today, the police may reject applications by opposition parties or CSOs without any good reason.
- 22 The recent case of the Chief Justice of the Supreme Court who resigned in 2002 soon after allegations of corruption were made in the press (July 2002), shows that the top level of the judiciary is not totally immune to bribes by the government. At least some sort of fundamental professional ethos prevailed when the judge immediately resigned his post.
- 23 Interview with chief police officers.
- 24 Lawyers are barred from participating. Presiding judges, who are usually prominent local citizens, have great power to invoke customary law, render judgments regarding

- marriages, divorces, inheritances and other civil proceedings as well as to rule on minor criminal matters. Judgments are often not in accordance with the Penal Code and tend to discriminate against women in matters of inheritance.
- 25 It is important to note that the chieftaincy clause may have been aimed at UNIP Vice President Senior Chief Inyambo, who was to be running mate to Kenneth Kaunda in the 1996 presidential elections. Despite the clause being roundly condemned by CSOs and chiefs, it was retained in the constitution.
- 26 It should be noted here that a number of political parties were unable to fulfil the constitutional requirement of providing annual returns to the Registrar of Societies. Consequently, a number of them have been de-registered. From as many as 42 registered political parties in 1998, there are now only 25 parties on the register.
- 27 According to our interviews, the donor community provided substantial funds to the ECZ (over US\$10 million) for the elections. There are, however, reports that more than US\$6.8 million of these funds were misapplied, if not misappropriated, by senior officers in the ECZ (Auditor-General's Report 2001).
- 28 Sartori (1976) used the term 'predominant party system' for established democracies, and the term 'dominant non-authoritarian' for the fluid situation in young polities, such as the situation in Zambia in 1968–72. It seems appropriate to term the situation in Zambia 'predominant' because the MMD succeeded twice with an absolute majority, which created some sort of 'systemness'.
- 29 According to the Registrar of Societies, by mid 2003, 25 parties – down from 42 in 1998 (34 in Dec. 1999; <www.statehouse.gov.zm/backup/parties.htm>, 08.02.00) – were registered, of which only seven are considered to be relevant – that is, parties which have a governmental relevance or a competitive relevance in the oppositional arena (Sartori 1976: 122f). To speak of a highly fragmented party system does not make much sense, since only a handful of these 25 parties are of any political relevance. Nobody would say that Germany has a highly fragmented party system, where 64 parties are registered.
- 30 A study carried out following the 1996 elections revealed that the UNIP boycott did not have widespread appeal – apart from in the Eastern Province. The reasons for not voting in other areas were not because of the election boycott by UNIP but were due to other factors (Bratton/Alderfer/Simutanyi 1997).
- 31 Sartori's criteria for a 'moderate pluralism' – (i) a relatively small ideological distance among its relevant parties; (ii) a bipolar coalitional configuration; and (iii) centripetal competition – do not properly apply here. Particularly (ii) does not apply. Seven relevant parties in parliament might suggest a situation of 'extreme pluralism' because of the high fragmentation (more than five parties). However, the situation between the parties is not polarised, insofar as we cannot categorise it as 'polarised pluralism'. But the situation is certainly one of segmentation which suggests a 'moderate pluralism' in Sartori's (1976:125f) two-dimensional mapping. As regards Sartori's African typology, with the same consideration the system cannot be classified as 'atomised' but as 'multipartism' (ibid., 260); the category 'atomised' is reserved for cases of 10 or more parties (ibid., 125).
- 32 Given the lower numbers of MPs, Mwanawasa was faced with a dilemma: he could appoint all his MPs as ministers (meaning that even individuals who served in Chiluba's government would be retained) or he could appoint MPs from outside parliament and even outside his own party, the MMD. Mwanawasa used his prerogative to nominate

eight MPs to bolster the number of MMD MPs in parliament. Clearly, the opposition had some better qualified individuals than the ruling party. A number of our informants told us that “the calibre and quality of opposition MPs is far higher than that of the MMD”. Even President Mwanawasa himself recently confessed that he was forced to appoint a finance minister from outside the MMD because his own MPs were less qualified.

- 33 There has been one by-election on account of an opposition MP being expelled by his party, the UPND, for accepting a ministerial position. The FDD has also expelled its three members who are holding cabinet posts, but the matter is still to be determined by the party’s National Convention. The HP recently wrote to the National Assembly Speaker requesting him to declare the two seats held by two HP MPs as vacant, as these MPs had also accepted ministerial appointments in Mwanawasa’s government without party approval.
- 34 During the 1990s when MPs left the MMD and switched to the NP, at least five regained their seats as NP candidates. Here again the individual is what mattered. However, this was the case only in traditional opposition regions, such as in Western and Southern provinces. In MMD strongholds the party was able to regain the seats, as was the case for UNIP in Eastern Province, its traditional stronghold; UNIP MPs who left the party lost on the MMD ticket in most cases. This is an indication that the MMD and UNIP are clearly more institutionalised than the smaller and younger parties; at the same time the social and political environment also matters. Political party strongholds pose a major obstacle to party jumpers.
- 35 It has to be noted that in 1998 there was a much higher percentage of ‘no answer’.
- 36 The MMD vehicles that are alleged to have been bought from public funds have not been surrendered to government and most of the in-built advantages of incumbency have continued. However, the large-scale abuse of public funds, such as the Constituency Development Fund (CDF), Heavily Indebted Poor Country (HIPC) funds and the ‘slush fund’, has been curtailed.
- 37 It should be clear that these parties do have a physical presence; local leaders of particular parties can be identified and some form of political associational life takes place, but not in any regular way.
- 38 These observations are based on detailed research conducted at the headquarters of all the major parties in Lusaka and in two districts of Western Province, as well as on focus group interviews conducted in Lusaka and in two other districts of Central Province. It is also supported by occasional evidence from a number of other districts and provinces collected by one of the authors over time.
- 39 This is again based on our own research in Western Province, but confirmed by other studies as well; see NDI/FODEP 2003: 22. All informants explained that since the last elections in December 2001, and apart from a few by-elections, hardly any public activities (rallies, public meetings) have been conducted.
- 40 Our interviews revealed that one of the main problems of UNIP has been what is termed as the ‘Kaunda factor’, that is, UNIP’s failure to function without the leadership of Kaunda. We were told that two factions emerged in UNIP following Kaunda’s first retirement from active politics in 1992. One faction wanted new leadership and a new approach to party organisation and another faction wanted Kaunda to continue playing a role in UNIP affairs. As it turned out, the latter faction was more powerful. Hence,

Kaunda continued to play a significant role in UNIP affairs even when he was not in leadership. In 1995, Kaunda decided to return to active party politics and possibly revive UNIP's fortunes by contesting the 1996 elections. However, a constitutional amendment prevented him from contesting – but he was instrumental in persuading his party to boycott the elections; an action he admits was the greatest error of his whole political career. Currently, UNIP is a shadow of its former self. The Kaunda faction in UNIP reigns high. Kaunda's son, Tilyenji, is party president and has surrounded himself with loyalists. All those opposed to a greater role by Kaunda, or a 'Kaunda dynasty' as some UNIP members referred to it, have either been purged from the party or have decided to be inactive. A number of members of the Central Committee have been sidelined and the party leader (who resides in Zimbabwe) has been known to make unilateral decisions without consulting the Central Committee. Many observers have argued the greatest challenge facing UNIP is to rid itself of the Kaunda name and to start afresh.

- 41 See for the First Republic: Molteno 1974; Tordoff/Molteno 1974; Tordoff/Scott 1974.
 42 Erdmann 2002c; 2003d. There are, however, structural and political differences as well: *Goals*: Both parties are particularistic. The ethnic party defends or advances ethnic group interests, the ethnic congress defends and advances the interests of the participating ethnic groups, but tends to contain social conflict through the sharing of power and resources among these groups; *Electoral strategy*: The ethnic party mobilises with appeals to ethnic group benefits and threats, and through clientelism; the ethnic congress gains votes through clientelistic loyalties and exchanges among constituent groups, as well as through appeals to national integration; *Organisational structures and linkages*: The structure of the ethnic party varies from a weak organisation based on traditional community ties and loyalties to well-established mass personal organisations with ancillary social and cultural organisations; the structure of the ethnic congress is coalition or federate, based on ethnic or regional elites and local notables.
- 43 It would appear that Michael Sata's PF has capitalised on the MMD's misfortunes and Mwanawasa's tribal remarks to enjoy popular support in the Bemba-speaking areas. The PF came close to winning the Mwanabombwe by-election, capturing two council seats in by-elections on the Copperbelt and recently won a parliamentary seat in the Kantanshi by-election in the MMD heartland. There have also been a number of high-profile resignations of MMD officials to the PF in those provinces.
- 44 In interviews with various NGO leaders we were told that the government had targeted some of them for victimisation. At the time of writing this report, the government had ordered the Zambia Revenue Authority to set bailiffs on Afronet for tax evasion. Seven vehicles and other property were seized. The move is, however, believed to have been aimed at crippling this vocal NGO.
- 45 This is because it is not clear how the constituent assembly would be constituted (i.e. its composition), how long it will sit and what mandate it will have *vis-à-vis* the current parliament. The Oasis Forum has refused to sit on the government appointed 44-member Constitutional Review Commission (CRC) on account that it does not accept the appointment of the Commission under the Inquiries Act, which gives the president and government the prerogative to accept or reject the recommendations. The government recently agreed to amend the Inquiries Act to allow the Constitutional Review report to be simultaneously presented to the president and civil society. The Oasis Forum has still refused to participate on the CRC. It contends that the government lacks commitment

to the constitutional review process. For example, while the CRC is expected to recommend the move of adopting the constitution, which could be through the constituent assembly and a referendum, the president and government have expressed serious reservations about this mode of adopting the constitution. While addressing a recent election campaign meeting in Lukulu, President Mwanawasa said that adopting the constitution through a constituent assembly would cost the public treasury up to K70 billion, “the kind of money that the country did not have (*The Post*, 16.9.03). With this ambivalence over the mode of adopting the constitution, many observers feel that the CRC may simply be window-dressing and that little will come out of it, especially considering that there is already much information from previous constitutional review commissions (the Choma, Mvunga and Mwanakatwe commissions) on which constitutional reform proposals could have been based.

- 46 This section draws extensively on Peter Burnell’s (2003; 2002) exceptional work on the institution of parliament *vis-à-vis* the presidency. Africanists often ignore this because of its apparent political weakness and formal character, while non-political scientists among Africanists often believe that research on the relationships of power within one village or a small provincial town somewhere in Africa is much more important because this is supposed to be the “real Africa”.
- 47 Majority regained due to nominated MPs and a number of by-elections won.
- 48 The Speaker can direct the debate, curtail certain lines of debate or refuse the tabling of controversial private members’ bills and make rulings in favour of the government. The current Speaker, who has continued from the previous parliament, is known to have refused to recall parliament to debate an impeachment motion against former President Chiluba at the height of the third term debate, even after MPs fulfilled all legal requirements for parliament to be convened. Consequently, during 2001 parliament did not sit for eight months, thus failing to carry out its political mandate of legislation and oversight. But despite all this, the Speaker also demonstrated a degree of independence. For example, in June 2001 the Speaker ordered government to return K2 billion which had been illegally transferred from the National Assembly to cover expenses for the MMD convention. Government obliged and this led to three ministers being embroiled in the scandal. During the Mwanawasa presidency, the Speaker seems to have more self-confidence, as can be seen by his allowing an impeachment motion in August 2003, which the opposition lost for lack of preparedness and on insufficient grounds.
- 49 In 2001 an attempt was made by expelled MMD MPs to initiate an impeachment motion against former President Chiluba for serious violations of the constitution, however, the Speaker of Parliament refused the MPs’ request. In 2003 another attempt failed when the motion of opposition MPs was defeated in parliament. The opposition had initiated the motion because they thought the nomination of Nevers Mumba as vice president had been unconstitutional, since he was a presidential candidate during the last elections and therefore not entitled to become a vice president. It appears that both motions had weak rationales.
- 50 The local administration below the ward level, the constituency of a councillor, is omitted here; this is actually a third structure or level of administration performed by chiefs, so-called traditional councillors, senior headmen and village headmen.
- 51 For a critical discussion of the problems, see Erdmann 1999a.
- 52 See for this point Erdmann 1999a: 23-29. It should be kept in mind that the most

acephalous society in Africa, the Nuer, was a singular exception, not the rule. It was a society with a warrior ethic and an unsolved problem of restraining violent self-help.

- 53 For details of the construction see Erdmann 2001b: 27. The index questions are about parliamentary control of government, quality of leadership, freedom of press, party system, independence of courts, voter equality, most importantly political challenge (law and order, economy or political participation), and the solution of all economic and social problems through democracy.
- 54 The Afrobarometer average was at 53%, 48% and 53% respectively, Afrobarometer 2003: 15.

Chapter 4

EVALUATION OF THE DEMOCRATIC TRANSITION PROCESS

4.1 CONTEXT OF DEMOCRATIC CONSOLIDATION

Zambia's peaceful transition, which was among the first in Africa superseded only by Benin, was hailed as a "model for Africa" (Joseph 1992; Bratton 1992: 81). It has since become obvious that the model failed. In less than two years, the new democratically elected government resorted to authoritarian instruments of governance by declaring a state of emergency, which many participants and observers believed was an overreaction. Even before the state of emergency, the new government lost its dynamic momentum for political reform. Since then the mode of governance has shifted between observing principles of liberal democracy and violating the same principles, albeit not in a systematic way. How can the derailing of the 'model' transition be explained? Is it due to structurally adverse conditions of poverty, which make democracy difficult to maintain, or should we be looking for an explanation in the political realm?

Since Seymour M Lipset's seminal study (1959) on the relationship between economic development and democracy, the general wisdom is that economic and social decline – to put it cautiously – are not favourable to democratic development. Since then many authors have put this relationship into a clear causal linkage, meaning that without a certain level of economic development one cannot expect a democracy to survive. This proposition was, however, seriously challenged during the third wave of democratisation – not only because of a number of methodological shortcomings in the research concerned.⁵⁵ A general argument was that increasing demands on social and economic welfare could not be satisfied in a poor society, but would put too much pressure on democratic institutions and finally cause the collapse of the democratic system. Frustrated demands of the masses were identified as one

reason for the breakdown of democratic regimes, although early research on this topic pointed out the crucial role of the elite (Linz 1978). More recent research has instead emphasised that democracies are generally able to endure and survive an economic crisis much longer than an authoritarian regime (Prezeworsky/Alvarez/Cheibub/Limongi 1996).

Even in the case of Zambia, various scholars argued that poor social and economic conditions in general and the unfulfilled expectations about democratisation linked with economic liberalisation, would soon prove to be a threat to the democratic regime as the voters become disillusioned (Bratton/Liatto-Katundu 1993: 7; Burnell 1996: 688f; Bartlet 2001: 90). The implication is that the population in general would turn their backs on the democratic regime and would opt for a different, perhaps authoritarian regime, or they would, with silent approval, enable the elite or a faction of the elite to return to non-democratic rule.

Regarding the democratic transition in Africa in a wider context, Bratton and van de Walle (1997) in their statistical analysis found that “economic variables were *generally unrelated* to *specific* dynamics of political change” (1997: 271). This does not mean that the authoritarian regimes were not partly delegitimised by their failure to provide for economic and social development. To be sure, political protests that contributed to the downfall of the authoritarian regimes were fuelled by socio-economic hardship. Economic forces provided the conditions under which political transition became possible, but they did not “in and of themselves trigger or sustain regime transition or determine the directions the transitions took. Instead the ... trajectory of the regime transition depended on the constellation of domestic forces” (ibid., 272).

The fate of the *Zambian* transition is no exception to this *general* observation. Our thesis is in accordance with Bratton and van de Walle: that it is the heritage of the previous regime, its authoritarian political culture and its neopatrimonial institutions, which provide the decisive explanation for the protraction or even reversal of the transition.

4.1.1 ECONOMIC CONDITIONS

Economic and social developments during the 1990s proved not to be in favour of a democratic government. In fact, the economic environment was difficult on all fronts. The new government had to deal with the remnants of the old

Table 9: Macro-economic indicators, 1990–2002

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
A	0.0	-1.7	6.8	-8.7	-2.5	6.6	3.3	-1.9	2.2	3.6	4.9	2.9 ^a
B	92.6	197.4 ^b	188.1	53.6	34.2	46.3	24.4	24.5	26.8	26.0	21.4	26.3

A = real GDP growth (%); B = Inflation (%)

^a EIU forecast; ^b low income index, urban.

Source: World Bank 2002; 2003; EIU 1996; 1999; 2002; 2003.

regime, namely a state-controlled economy with more than a decade of decline. The government was therefore faced with a double challenge of reforming the political system as well as the economic framework and structure. In close collaboration with the international finance institutions, privatisation and liberalisation became the preoccupation of government for the next decade.

Unfavourable world market conditions for Zambia's major commodity, copper – which by the end of the decade culminated in the lowest price level since the 1930s – created unfavourable conditions for growth and economic development. This, together with the dilapidated state of the mining sector (due to the lack of effective investments for more than two decades), resulted in copper output at only a third of the highest level ever attained. Seven of the 12 years since democratisation (1991–2002) have seen some erratic growth in gross domestic product (GDP), while for the rest, GDP declined, particularly during the first years up to the second half of the decade when the balance was negative (*Table 9*). Over this period, Zambia had the lowest average annual growth rate in the Southern African Development Community (SADC) region at less than one per cent; Africa south of Sahara (excluding South Africa) attained a growth of 2.8% (World Bank 2003).

The overall increase of total GDP was not sufficient to balance the population growth: between 1990 and 2000 GDP per head shrank by 2.1%, a little less than during the previous decade.⁵⁶

Privatisation and liberalisation caused additional hardship, particularly for those in formal employment. Several thousand workers and employees were laid off during the 1990s, particularly in the Copperbelt region. The most demanding (politically) part of the Public Sector Reform Programme launched in 1993, to cut civil service personnel by 25% within three years, was never implemented. Only 15,000 classified daily employees with no job security were retrenched in 1992 (Rakner/Walle/Mulaisho 2001: 560). Instead, total formal

Table 10: Development of macro-economic and social indicators, 1990–2000 (2001)

	1990	2000 or 2001 (1998)	
GDP per head, ppp US\$ (2001)	744	780	↑
GDP per head, US\$ (2001)	420	320	
GNP/GDP growth rate per capita, 1980-90 u. 1990-2000	-2.9	-2.1	↓
Life expectation at birth, per 1,000 living birth	54.4	41.4	↓
Child mortality at birth, per 1,000 living birth	85	112	↓
Under-5 mortality rate	122	202	↓
Illiteracy rate (%)	27.2	21.9	↓
Public health expenditure, % of GNP	2.6	1.9	↓
Education expenditure % GNP, 1985-7 u. 1995-7	3.1	2.2	↓
% Gov. expenditure, 1985-7 u. 1995-7	9.8	7.1	↓
Net primary enrolment ratio, 1985-7 u. 1998	88	73	↓
Adult literacy rate, 1985/2000	63.3	78.1	↑
Youth literacy rate, 1985/2000	77.2	88.2	↑
Military expenditure % GDP	3.7	0.6	↓
Development aid, ODA, % GDP	14,6	27.3	↑
Depth service, % GDP	6.2	6.4	↑
HDI-Rang (1990/2001)	130	163	↓
HDI trends	0.461	0.386	↓

Source: UNDP 1993; 2002; 2003; World Bank 1999; 2003; MOFED 2001.

employment increased during the second half of the 1990s. Its share of the total workforce did, however, decline from 12% to 10% and 11%. Key social indicators of mass poverty clearly worsened over the time under observation, as illustrated in *Table 10* (see also 4.1.2).

Due to the austerity policy within the framework of the structural adjustment policy, expenditure for basic social services, such as education and health, were reduced. The result was that the availability of these services declined further, especially for the poor. The consequence was that crucial social indicators such as life expectancy, infant mortality and school enrolment deteriorated. Increased poverty and the dilapidated social service and security system during the 1990s is also indicated by Zambia's Human Development Index (HDI) ranking, which dropped from 130 to 163, while the absolute index value declined as well (*Table 10*). The social drama of Zambia is finally

indicated by the fact that it is the only country in the world whose 2001 index value is lower than its 1975 figure (UNDP 2002).

The government was hardly in a position to blame this downward development on the international finance institutions and international donors. Chiluba came to power with the clear intention of coming to an agreement with the IMF and the World Bank, which the predecessor regime had failed to do several times. Even the IMF and a number of donors soon became concerned about the speed of the Chiluba government's liberalisation and privatisation policy, which seemingly ignored the obvious social repercussions of this radical approach. The policy culminated partly into a process of de-industrialisation of the Copperbelt.

It should be kept in mind, however, that Zambians were used to that kind of hardship. In fact, the economic decline and deterioration of social conditions during the last decade of the Kaunda era were a cause for the downfall of that authoritarian regime. And as indicated by the results of the various opinion surveys, the worsening of the economic and social situation seems to have had no major effect on Zambian's attitudes towards democracy.

This cannot be attributed to ignorance. It is evident that people differentiate between the economy and the political realm, as indicated by judgments regarding the government's structural adjustment programme (SAP): 56% were dissatisfied or very dissatisfied with the effects of SAP on their lives, and 72% of respondents agreed somewhat or strongly with the statement that SAP hurt most people (Afrobarometer 2002: 29). A consequence of the deteriorating living conditions was the numerous strikes by public service employees and other workers. Since 1993 there have been major strikes by various civil service groups every year, some lasting for a couple of months. But none of the strikes turned political against the MMD government, although there were some plans in frustrated UNIP circles (Zero Option Plan of 1993) to politicise strikes in order to destabilise the government.

At the same time, the trade union movement (which was a major force in the downfall of the Kaunda regime) was weakened, as indicated above. Despite the liberalisation and privatisation policy of the Chiluba government, the ruling party maintained its stronghold in the Copperbelt – the area of the trade union movement and the worst affected by privatisation and liberalisation. Certainly without enthusiasm, Chiluba and the MMD were still viewed in the Copperbelt for a long time as being one of 'theirs'.

It is important to note that the high degree of political mobilisation achieved

during the transition and which took many Zambians to the streets, was not maintained despite protracted hardships for the majority of the population. The government in power therefore faced no direct threat. Even the drastic cuts in maize subsidies of 1992, as part of the agricultural ‘shock therapy’ reform, caused no major reaction, while a similar move only five years earlier in 1986, had triggered anti-IMF riots and almost an early downfall of the Kaunda regime, which only survived after reversing the subsidy cuts. Before and after the controversial elections of 1996, no major demonstrations took place. Only when the third term bid became an issue did CSOs opposing the constitutional amendment, together with opposition parties, succeed in mobilising the public to a substantial degree. This, however, was no anti-regime mobilisation as in 1991, but an increased participation in defence of the existing democratic order and in opposition to changing the constitutional rules arbitrarily to the will of power-hungry individuals or groups.

4.1.2 SOCIO-ECONOMIC STRUCTURES

The socio-economic structure of Zambia provided a similarly difficult background for democratisation. Zambia’s society is characterised by a high degree of inequality. The Gini Index is at 52.6, which puts Zambia among the countries with the highest degree of inequality.⁵⁷ The top 10% of the population enjoy 41% of all income or consumption, while the lowest 10% account for only 1.1% of income or consumption (World Bank 2003: 237). Overall poverty increased (1990–98), while extreme poverty declined marginally (RoZ 2002: 22). However, the process was uneven, this time in ‘favour’ of the rural areas. While poverty has increased rapidly in urban areas, in rural areas there has been some decline, although it is still worse in rural areas.

For several decades Zambian governments have favoured the urban and industrial centres of the country, particularly the Copperbelt, and have neglected rural areas which have abundant agricultural development potential. The health and education sectors were geared towards the elite and those in formal employment. This was partly changed under the Chiluba government. The reform of both sectors (primary health care and basic education) achieved a more even distribution of services, but overall the accessibility of these services declined due to user fees and reduced real income and public expenditure.

One reason why the Barotseland question remained a latent political issue can be attributed to the social and economic neglect of Western Province. However, apart from Barotseland there are no regional or ethnic imbalances which might have political repercussions to the extent of endangering the process of democratisation. Even the recurrent demands from Barotseland to review the question of regional autonomy gave no reason for a retreat to authoritarian reaction.

Concluding the discussion about the impact of socio-economic developments on the process of democratisation, it is safe to say that these developments were not conducive to democracy. At the same time, there were no indications of how the deterioration of the social welfare of the majority of people and their political behaviour affected the government in a way that made it resort to authoritarian politics. Quite the contrary, the attempt by the ruling party to manipulate constitutional rule (third term) to their advantage was sanctioned by a clear majority of voters in the 2001 elections.

4.1.3 CORRUPTION

Widespread corruption becomes possible only in the context of fundamental institutional weakness. Corruption indicates a structural shortcoming in the administrative system, which is obviously not in a position to secure the observance of legal-rational rules that are constitutive for the efficient operation of a modern bureaucracy.

A political and administrative system that does not follow universalistic and legal-rational rules, but is constituted by a systematic mixture of patrimonial and legal-rational bureaucratic rule and by a set of formal and informal rules, is described as neopatrimonial.⁵⁸ It can be argued that widespread corruption is an indicator of a neopatrimonial type of regime.

Corruption particularly at higher levels of government has become “endemic”, as one Zambian interviewee responded, and as is described by the Zambian human rights organisation, Afronet (2002). According to the Perception Index of Transparency International, corruption increased during the last years of Chiluba’s government (*Table 11, over page*). Whether this is true is difficult to tell, since many other cases of corruption have been uncovered from the previous years, particularly during the hey-days of privatisation.

According to the Afrobarometer results (2002: 33), 52% of Zambians

Table 11: Transparency International corruption perception index for Zambia, 1998–2002

	1998	1999	2000	2001	2002
Score	3.5	3.5	3.4	2.6	2.6
Rank	52	56	57	75	77

Source: Transparency International (various issues).

believed that corruption of public officials is fairly or very common, and 50% believed that of civil servants. Interestingly, 45% of respondents disagreed with the statement that corruption was a worse problem under the previous regime. These figures approximate the Afrobarometer average, which means that compared to other African countries corruption in Zambia is not much better or worse.⁵⁹ These figures do indicate, however, that corruption remained a major problem for the democratically elected government – an issue which was frequently raised in the independent press by opposition politicians as well as by CSOs, and, of course, by donors and Consultative Group meetings on Zambia from as early as 1992 (Raikner/Walle/Mulaisho 2001: 550, 576f).

The widespread misuse of public posts became apparent when Mwanawasa ordered a crack-down on corruption under his predecessor; but this was most likely only the tip of the iceberg. The appointment of a special anti-corruption task force alongside the already established Anti-corruption Commission (ACC) underlined the depth of the problem. It also showed that the latter was, until then, not very effective but depending on the good will and interest of government. Concerns were even raised as to whether the judicial system, given its well known inefficiencies, would be able to cope with the number of cases that would result from the anti-corruption campaign.⁶⁰ Chiluba himself was accused, as were a number of close aides and former ministers. Some were even detained for alleged corruption cases dating back to 1995 and which had been noted frequently by the independent press and by opposition politicians. The amount of embezzled money involved in the major cases comes to US\$400 million, but this appears to be a fraction of what was actually embezzled. A substantial number of cases related to the privatisation exercise, indicating increased rent-seeking; other cases related to the poverty alleviation funds disbursed under the IMF-World Bank's HIPC initiative of July 2000. To illustrate the character of the corruption, one case related to the mysterious disappearance of 67 fuel tankers with petroleum products worth US\$22.2

million (1999–2000), for which nobody was held responsible. Mwanawasa alleged that Chiluba was involved in that deal as well (EIU 2002:14f).

The fundamental question remains: How serious is Mwanawasa's anti-corruption policy? If successful, it could cut into the conditions of politics by closing the door for patrimonial politics and therefore, in the end, might change the general rules for power politics in Zambia.

There are some indications that Mwanawasa's anti-corruption stance is inconsequential. Transparency International Zambia (TIZ) in its latest report, states that "embezzlement of public funds has continued unabated under President Mwanawasa's administration". TIZ members pointed out that since the investigation into corruption started, not a single 'plunderer' has been convicted (*The Post*, 29 August 2003). Many suspect that the campaign is only being used as a cover for the purging of political opponents in the MMD's Chiluba faction – a move which has been used in other neopatrimonial regimes in Africa for a long time. The campaign may even be a personal vendetta rather than a coherent or well-thought out political strategy.⁶¹ Most of the suspects have been previously blamed for corruption, but others were obviously guilty of corruption, such as Chiluba's former Minister of Finance, Katele Kalumba, who became Minister of Foreign Affairs. He was implicated in most of the Chiluba corruption cases, and had enjoyed the protection of the president until he resigned and went into hiding for three months in early 2003, before being arrested by the police.⁶² Moreover, many cases of corruption and abuse of office that have surfaced since Mwanawasa assumed office have not been dealt with. This problem may have been compounded by allegations that Mwanawasa himself was a product of corruption, as the 2001 election is viewed by many independent observers as having been characterised by widespread electoral corruption.⁶³

At the same time, if corruption is endemic in the political establishment and the leadership of the MMD, as well as in some of the smaller parties whose members have held ministerial posts in the past, an anti-corruption campaign that is too serious could antagonise a substantial number of people. They may feel threatened and thus withdraw their political support for Mwanawasa. This, in the end, could prove to be counter-productive for the aim of fighting corruption. So some questions remain: To what extent can the contradictions within the campaign be explained by tactical behaviour, which might be politically necessary, and to what degree is the campaign merely an instrument in the usual power struggle within a neopatrimonial setting?

4.1.4 INTERNATIONAL/REGIONAL CONTEXT

As mentioned above, for a short time Zambia performed as a model of democratisation in Africa. The downfall of the Kaunda regime was a result of internal pressure. International finance institutions may have played a marginal role, refusing to contribute to the continuous overspending of the government just before the 1991 elections, when Kaunda raised subsidies on maize and housing, and increased salaries for civil servants. The internal forces, however, were inspired by events in Eastern Europe and Benin. After the successful transition, Zambia certainly stimulated the pro-democracy forces in some other African countries, giving the signal that a peaceful transition was possible. It contributed to democratisation in Malawi by being the host country for the first meeting of the major externalised opposition forces of Malawi, although these groups did not play a major role in the Malawian transition.

Later on when the nascent Zambian democracy was turned into a hybrid regime, the surrounding countries exerted no pressure on the government to reverse these moves. Angola, Mozambique and Zaire had their own internal civil war problems which tended to spill over into Zambia and to destabilise it at the fringes. Also, Malawi, Namibia and Zimbabwe, which had had some experience of democratic transition, were not very supportive of democracy. From the mid 1990s they themselves had turned to a more authoritarian style of government. In particular, the leaders of Namibia and Zimbabwe resented Chiluba's dealing with Kaunda. Only the South African leaders, Mandela and Mbeki, tried (cautiously) to exert some pressure on the Chiluba government, particularly when the third term issue surfaced. This issue was, of course, not challenged by the presidents of Namibia, Zimbabwe or Malawi (*for international donor intervention see 6 below*).

4.2 INSTITUTIONAL STRUCTURES: CONTINUITIES AND CHANGE

4.2.1 THE ROLE OF THE EXECUTIVE (PRESIDENCY, PARTY STATE RELATIONSHIP)

Despite the MMD's promise during the 1991 electoral campaign to change the constitution towards a parliamentary government based on the Westminster model, the presidential system remained essentially unchanged, apart from a few negligible amendments. Party pluralism was reintroduced, but the excessive constitutional powers of the executive were kept in place, although Chiluba had called it a "recipe for dictatorship" (Donge 1995: 209). Suggestions for constitutional reforms made by the constitutional commission in 1995 were

brusquely pushed aside. Moreover, Chiluba even kept Kaunda's security apparatus, the Zambia Security Intelligence Service (ZSIS).

This means that the formal institutional set up of the pluralist Third Republic was a continuation of the First Republic, with its in-built elements and tendency towards authoritarianism. At the same time the informal institutions and the informal rules of politics became a continuation of the First and Second republics, too: neopatrimonialism prevailed and hampered the process of democratisation.⁶⁴ Again, excessive patronage was used to keep a maximum coalition for the predominant party together against the fear of fragmentation. When patronage seemed to be ineffective, overt threats were used, and if that did not work, force was used against factional opponents within the party as well as against CSOs or opposition parties.

Particularly during his first presidency, Chiluba appears to have been extraordinarily, even irrationally, preoccupied with a perceived threat posed by his predecessor and his party. This can be seen when the state of emergency was declared in 1993 – which many MMD MPs thought to be an overreaction – and again before the 1996 elections when Chiluba tried to stop Kaunda's candidature by almost all means. In the latter case there were no indications that Kaunda and UNIP could have won the election – at least judged from the results, although the MMD majority would have been smaller. The general insecurity of the first years after the transition might have contributed to these overreactions. The high degree of sensitivity towards criticism and opposition, combined with autocratic reactions, prevailed into the second presidency despite an increased and comfortable majority in a toothless parliament. Only when Chiluba tried to extend his rule to a third term, did state patronage and the threat of force no longer work. Opposition from MMD leaders who opposed the move was probably less due to a question of principle, and more due to the fact that Chiluba's clinging to power would thwart their own personal ambitions.

Since President Mwanawasa came to power, the relationship between parliament and the presidency has changed – however, not in essence: 'parliamentarism', as one interviewee pointed out, seems to be gaining against the presidency. The point is that parliament has become more active in bringing in its own bills. An example are three media reform bills initiated by opposition MPs.⁶⁵ This is of course not due to the will of the president, but due to the fact that Mwanawasa has no stable majority in parliament, neither does he have a stable power base in his faction-ridden party. Mwanawasa's position may also be weakened by the fact that the case against the legitimacy of his election is still

pending and it is not known when a ruling will be made. At the same time, some opposition politicians have apparently become more confident in their role as opposition.

The point of increasing 'parliamentarism' should not be over-stretched. The constitution has not been changed, and the vast principle powers of the presidency are untouched. Thus it is more an informal rearrangement between parliament and president. There are also obvious counter-tendencies in operation. The strength of the parliamentary opposition was weakened when the president called in, without much trouble, a number of MPs from the opposition into the government by giving them cabinet posts. This applied particularly in early 2003, when eight MPs from opposition parties could not decline an offer to join government. As has been pointed out above (3.4.1), the ruling party won most of the by-elections and by mid 2003, has acquired an absolute majority of seats. The additional rapprochement with UNIP shows that Mwanawasa is trying to rebuild, although in a different set up, a new maximum coalition for a predominant party to strengthen his presidency. He clearly adheres to the logic of power, that without a cohesive support group, sharing of power would mean a loss of control. By creating the maximum coalition, expectations and pressure for political and financial rewards will increase again. Judging from past experience this will run into conflict with the declared anti-corruption policy of the 'new deal' government.

While it was obvious that the intimate relationship between the state and the party during the one-party era could not be sustained in the multiparty system, President Chiluba used state resources quite regularly to the advantage of his MMD, even paying for party conventions out of public resources. This became apparent again during the 2001 election campaign when the MMD and Mwanawasa were personally provided with all sorts of support, as testified by a number of former ministers in Chiluba's court case regarding corruption charges (EIU 2003: 14f; Erdmann 2003b). Since then, with Mwanawasa's anti-corruption policy and the weak support he is getting from his own party, it appears as if party and state are kept more carefully apart; albeit not completely, but probably much more than ever before.

4.2.2 THE SECURITY APPARATUS (POLICE, MILITARY)

The military has never played a major role in Zambian politics. While there have been a number of attempted military coups, none was successful. During

the democratic transition the military was kept in the barracks. In fact there was an agreement between the two main contenders to keep the military out of politics. The leadership of the military itself took a neutral position. The few coup attempts, particularly the one in 1997, were badly organised and run by marginal figures. The military even accepted that since the democratic transition, its budget allocations have been substantially reduced from 3.7% to 0.6% of GDP (1990–2000). This is more surprising since insecurity at Zambian borders could have provided strong arguments against decreased military expenditure – the civil wars in Angola and Congo have resulted in regular incursions into Zambian territory, mostly by rebel forces. There has been a real ‘democracy dividend’ as far as military spending is concerned.

The police continued to be responsible for a number of human rights violations, particularly in dealing with criminal suspects and detainees (extrajudicial killings, routine beatings, etc.). Some of the problems were clearly due to a lack of professionalism, including insufficient training and poor conditions of service. Human rights training of the police force has only recently begun. At the same time it is widely acknowledged that there is widespread corruption in the police. The new government also acknowledges the serious shortcomings of the police force, in terms of its poor observation of human rights and the rule of law.⁶⁶ The police force has been politicised and abused by government and the ruling party in the authorisation of public meetings held by CSOs and opposition parties. Some groups of police officers do, however, have a clear awareness about the non-partisan role of the police. They complain strongly about political interference and the political misuse of the police force.

Little information is available on the Zambia Security Intelligence Service (ZSIS), which operates under the Office of the President. While Chiluba was in office, the ZSIS was not only used to protect the state president, but was apparently involved in a number of corruption cases in which state money was used for financing the MMD’s 2001 election campaign. In the so-called ‘matrix of plunder’, the Chiluba government sent large sums of money abroad through a ZSIS bank account held in London, known as ZAMTROP (Auditor-General’s Report 2001; *The Post*, 18 June 2002).

4.2.3 BEHAVIOUR PATTERNS OF POLITICAL ACTORS

The most obvious continuation of the past has been the high-handed, autocratic behaviour within the presidency, as well as among most members of the

political elite. This is particularly the case when the government acts in response to a perceived threat, although there can be different reactions, as shown by the difference between Chiluba and Mwanawasa.

Nevertheless there is no known group which is explicitly against democracy. This, however, does not imply the existence of true democrats. Democratic attitudes and behaviour seem in many cases to be superficial; democracy is a useful instrument offering new chances to come to power. Open criticism and opposition is not appreciated and provokes authoritarian reactions within both government and opposition camps. There is not much of a democratic culture among the political elite. Public worship of the autocratic 'big man' is an essential part of politics in both camps. A fair number of ministers and close aides of Chiluba were ministers or leading politicians in the previous one-party state. They were men of the past. All of them were socialised in the atmosphere of, and on the repressive side of, an authoritarian regime. Many were used to using force quite freely, and had hardly any experience of a different, more tolerant political culture.

As part of the political socialisation of the elite into a neopatrimonial culture, personal political interference into bureaucratic affairs remained common. Disrespect of formal rule is also common elite behaviour – or as Mphaisha (1996: 78) put it, "a leadership syndrome of not respecting constitutionalism". Public office continued to be used for private gain, and for many politicians, politics seemed to be more of a career path to personal wealth than an interest in public affairs, let alone 'serving the people or the country'. As mentioned above, unscrupulous corruption and the plunder of meagre public resources in one of the poorest countries in the world, has remained endemic.

Corresponding to this kind of personalisation of politics is that political debate is hardly about issues or political strategies. Politics appears to be largely about power and its gains. Issues are taken up regularly only by CSOs.

The highly tense nature of the transition which dominated the inimical relationship between the old state party and the new ruling party, does seem to have been overcome since Mwanawasa came to power. The different political camps have started to talk to each other, and a sense of political accommodation has increased.

More generally, there is a tendency for power holders to seek a majority coalition of the main ethnic and regional groups. At the same time, political competition based on personalism had the consequence that, at least for the last elections, the opposition was infected by the Kenyan disease of fractionalism.

While ethnicity and the ethnically geared distribution of resources that long played a role in Zambian politics were linked to party formation, it was always in a coalitional way. Open ethnic political mobilisation as seen in Kenya has not been a dominant force in Zambia. However, more recent political competition brought the issue to the fore when one of the opposition parties was branded 'tribal' and when leaders of a small opposition party tried to mobilise openly on ethnic appeals. There is therefore some danger that political interaction may become dominated by an instrumentalisation of ethnicity.

4.2.4 SHORTCOMINGS OF THE POLITICAL OPPOSITION

Some of the shortcomings pointed out below regarding political opposition – taken as the opposition parties – apply also to the ruling party. A major problem is that there is no debate about issues. This means that opposition parties provide no political alternative to the party in government. If the opposition came into power, the only difference would be that new groups of people would expect to participate in the distribution of official resources and enjoy the fruits of patronage.

The opposition, even more than the faction-ridden ruling party, is tormented by factions and is fractionalised into several parties. This has weakened their position *vis-à-vis* the government. But despite the splitting into various parties, the opposition could have won the last presidential election if it had been able to agree on one candidate. However, strong personalism in all the parties made it impossible for opposition leaders to compromise on a single candidate. This lack of unity is a major source of weakness for the opposition, at least since the break-up of the MMD over the third term debate.

In addition to this political weakness, opposition parties lack a solid financial basis as well as a proper organisational structure that extends throughout the country (*see above 3.4.1*). Directly related to this is the lack of internal democratic practice. And finally, they rely on a few regional strongholds, although the major opposition party has tried to extend its electoral support into a wider area in order to achieve a majority coalition.

As a result of the lack of internal democracy, prevailing personalism and the lack of political focus, opposition parties have also lost the direct support of the politically active parts of the intellectual middle-class, which could have provided the organisational and intellectual capacity to build up a more effective calibre of political parties.

4.3 TRANSITION LEGACIES

The Zambian transition was comparatively short and, as has frequently been pointed out, was lauded as a model to be followed by others. A transition period is regarded as terminated when a new government based on a democratic constitution and on free and fair multiparty elections is installed, and when “the executive, legislative and judicial power generated by the new democracy does not have to share the power with other bodies *de jure*” (Linz/Stepan 1996: 3). This is institutionalisation of democracy, which is different from the process of consolidation (Merkel 1999b: 136f). The Zambian transition lasted only about one-and-a-half years; from February 1990 when two trade union leaders called for a referendum on the one-party state, to the successful conduct of multiparty elections at the end of October 1991. The election results were accepted by the major contenders, and the new government commanded a solid majority, which should have provided no obstacle to the implementation of further political reforms.

It was a peaceful transition driven by opposition forces ‘from below’, but at the same time the transition was ‘pacted’ between the old regime’s elite and pro-democracy opposition forces. Kaunda and Chiluba, mediated by students, church and LAZ leaders, finally compromised on the procedure for constitutional change and democratic elections.

The Zambian transition was to some degree almost ideal. On the one hand, it avoided the possible dangers of ‘forced transition from below’ based on a broad, and perhaps revolutionary, mass mobilisation which too easily ends in another authoritarian regime or in a ‘pseudo democracy’. On the other hand, it was driven by an ‘elite settlement’ (pact), which is seen as a crucial precondition not only for a successful transition but for democratic consolidation as well.⁶⁷ Regarding the mode of transition, it can be concluded that the Zambian path posed no negative legacy for the further development of democracy in that country. But the forces that help the institutionalisation of democracy may be insufficient or different to those which make democracy endure. More important for the derailing of Zambia’s democracy, are the various legacies of the old regime.

The process of consolidation came to a halt with the controversial declaration of the state of emergency. As mentioned before, the necessity of the state of emergency was even disputed within the government and among the ruling party MPs, because the seriousness of the perceived threat by some UNIP circles remained unclear. In our judgment, the state of emergency was not justified and was thus an overreaction.

However, this was not the only indication of the regime's defection from the democratic trajectory. Even before, some ministers, including Chiluba had resorted to a public language of threats against criticism and opponents. Internal disputes about the conduct of government and the direction of policies and politics had already led to the formation of the CNU, which was in favour of a more consequential implementation of the MMD's election manifesto pledges regarding democratisation.

The regime which emerged out of this turn cannot, however, be compared to the former one, although this has been done by some analysts (e.g. Mphaisha 1996: 76f; Joseph 1998: 6f). Despite an atmosphere of repression, combined with real repression in a number of cases, it offered far more political freedom than the previous regime could have offered, and opposition forces had the chance to articulate and organise themselves. It was this type of political context that finally stopped Chiluba's ambition for a third term.

With the change to Mwanawasa, the repressive attitude of the government has clearly been in decline. The somewhat surprising point is that this happened despite the president's weakened political position *vis-à-vis* a much stronger opposition in parliament and a strong factional opposition within his own party. This weakness of the powerholder could be seen as a reason for the return to repressive politics. In the case of Chiluba it was argued that the feared internal fragmentation and the perceived threat of the opposition provided reasons for the return to a more authoritarian type of rule. However, despite being in a much more threatened position, Mwanawasa did not turn to repression. This different attitude towards repression could be seen as a result of a more genuine different political orientation of the new powerholder, or, alternatively, as a result of a weakness of the new president against the background of a strengthened civil society and a stronger opposition in parliament that does not allow him to resort to authoritarian politics. However, the strengths of the latter are easily overestimated if one considers that the principle powers of the presidency are still in force and could be used in all sorts of subtle and more open ways in combination with patronage. More important than restraining the excessive use of presidential power seems to be the influence exercised by international donors.

Apart from this international influence there does seem to be a different political attitude in operation. Instead of applying presidential powers, Mwanawasa tried to create a new coalition to support his position. His fight for clean governance and against corruption has been taken to a level which no

government before, and hardly any other government in Africa, has achieved – notwithstanding reservations regarding the seriousness of this purge. The political usefulness of the anti-corruption campaign to get rid of political competitors is evident. But it is still a fight in Mwanawasa's own political camp which holds the risk of breaking up his party completely, and without assurance that a new coalition could be built in time. What makes the new political orientation more credible is the fact that Mwanawasa brought into his government – in exchange for former members of Chiluba's last cabinet – a number of people who had left the government and the party in the early 1990s. They left because of disagreements with Chiluba on matters of governance, democracy and even economic policy. At the same time Mwanawasa is also searching for a new economic policy that is supposed to deviate from privatisation and the austerity policy of his predecessor's government, although this will probably be blocked by the international finance institutions.

Apart from the political attitudes of the incumbent government, the persistent culture of neopatrimonialism is viewed as the major impediment for democracy. After the transition, neopatrimonial rule and culture were not dismantled. On the contrary, they were used by the democratically elected president to bolster his government. The argument is that while neopatrimonial rule does not inhibit a democratic transition, it is a major constraint on the permanent institutionalisation and consolidation of democracy. The neopatrimonial character of rule undermines the rule of law as a precondition of democracy as well as a meaningful and effective development policy based on a legal-rational bureaucracy, which applies universal principles instead of following particularistic interests. Mwanawasa's anti-corruption campaign can be regarded as a first serious attempt to dismantle this predominant pattern of politics. Whether he will be allowed to succeed is an open question, because if this policy is implemented, it would violate the rules of politics in Zambia, resulting in resistance and opposition from within the elite. Since independence the Zambian elite, both in the political and economic spheres, have been socialised in the rules of a neopatrimonial setting.

The political culture of the political elite will decide on the future of the Zambian political regime. And the future does not look promising since many established politicians seem concerned only with their own personal advancement and enrichment and with their authoritarian style of leadership, while having little concern about political issues.

On the other hand, a large majority of the population seems to have a

positive attitude towards democracy and prefers a democratic regime. There are, however, some pockets of people reminiscent of Kaunda's one-party regime, in the face of the seemingly endless bickering of numerous political parties and factions. Trust in the institutions of the not very democratic state is low, but this should not be confused with an appreciation of democratic principles, which is much higher and is built on substance.

CSOs will support the anti-corruption campaign, and are strongly in support of constitutional reform. After the transition, the mobilisation capacity of civil society seemed to have declined. This is not surprising, since the high level of popular mobilisation which occurs during transition periods usually cannot be maintained. Even since the reversed transition, CSOs are fairly free to organise and to articulate themselves. Some sections of civil society have gained in strength, while others – such as the trade unions and some business or professional organisations – have been weakened. As stated earlier, CSOs organised in the Oasis Forum gained new confidence and competence in mobilising against the third term campaign. To a lesser degree this has been maintained through to the debate for a new constitution, although it lacks some of the focus of the previous campaign. Despite these positive developments, Zambian civil society is still weak and hardly capable of providing a proper and continual check on government.

In their present state, political parties are not conducive to the democratisation process. On the positive side, they are not highly polarised and fragmentation is limited, despite an altogether different appearance for a short while. On the negative side are factors such as internal fragmentation, lack of organisation in reaching out to citizens in a meaningful way, a focus on the 'big man', a lack of internal democracy, and an almost total absence of debate about issues both inside and between the parties. To sum up, political parties in their current state are not directly inimical to democracy, but in that state they certainly do not promote democracy, while indirectly they contribute to cynicism, apathy and indifference.

It should be noted that there is no party and no political group of any significance that openly challenges the democratic regime. The major opposition parties are seriously fractured and do not present a viable political and economic alternative to the ruling party. Finally, the presidential constitution in its present state makes democratisation and democratic consolidation more difficult since it supports the 'big man'-syndrome and personalism, as well as making patronage politics and an authoritarian style of government easier.

NOTES

- 55 For a critical review of the research on this problem see Erdmann 1996: 13-50.
- 56 In terms of purchasing power parities (PPP), GDP per head income increased slightly (*Table 10*) from US\$744 to US\$780.
- 57 A value of 0 represents perfect equality, while a value of 100 reflects perfect inequality. European countries are in the 25 to 35 range.
- 58 See footnote 4.
- 59 As regards public officials Tanzania, Zimbabwe, Ghana and Nigeria have been much worse.
- 60 Dipak Patel, then FDD MP for Lusaka, formerly MMD Minister for Commerce, Trade and Industry, 1994–1996; campaign manager for the MMD and President Chiluba, 1991–1996; since February 2003 again Minister of Commerce in the MMD government.
- 61 Some observers point out that Mwanawasa suffered much humiliation and abuse when he served as Chiluba's vice president, without Chiluba taking action. He was humiliated in a leadership election in 1995, and was forced to resign in 1994, more due to being politically sidelined and having his counsel ignored by the president than due to complaints of lack of action on corruption and drug-dealings within the government.
- 62 Katele Kalumba has since been released in a controversial decision whereby the state withdrew all charges against him. He seems to have made peace with Mwanawasa and has since been rehabilitated into the MMD, where he is serving a suspension pending expulsion. However, many believe that Kalumba's release through a *nolle prosequi* was wrong, as he has not been cleared of the charges against him by the courts.
- 63 Apart from all sorts of informed speculations and assumptions, the allegations of electoral fraud seem to be substantiated when one considers that at least eight parliamentary elections have been nullified by the High Court. Recently, the Supreme Court nullified the election of a cabinet minister who had petitioned the decision of the High Court. It also ruled that the said minister be arrested for theft of Constituency Development funds, which was alleged in many other cases as well; see *The Post*, 22 September 2003.
- 64 For a general discussion of the relationship between neopatrimonialism and democracy see Erdmann 2002a.
- 65 However, the government seized the initiative from the opposition and presented the bills as its own, arguing that it is its responsibility to initiate legislation. Two of the media bills so far have been passed into law. Those are the Independent Broadcasting Authority Act and the Zambia National Broadcasting Corporation Act, which gives the national broadcaster power to collect television licence fees. The crucial Freedom of Information Act is still to be passed.
- 66 Peter Mumba, Permanent Secretary, Ministry of Home Affairs, admitted that there were high levels of corruption in the police service and appealed to officers to be honest in their dealings, *Sunday Times of Zambia*, 8 June 2003, p.3; *The Post*, 22 August 2003.
- 67 The elite settlement, not the degree of autonomous mass participation, has been identified as the more crucial feature in transition literature (O'Donnell/Schmitter 1986: 37f; Burton/Gunther/Higley 1992: 16; Merkel 1999b: 114f).

Chapter 5

ASSESSMENT OF PROSPECTS FOR FURTHER CHANGE

Political developments have become more fluid since Mwanawasa came to power. It is therefore difficult to predict possible future developments. In the short term, two things will be of major importance:

- The degree to which the president will succeed in maintaining and possibly extending the new inclusive coalition in support of his party; and closely linked with that is the question of how long the MMD can survive the internal factional divide without splitting.
- The survival of Mwanawasa's government depends on the pending Supreme Court decision involving petitions against the 2001 election results, which is not expected before late 2004.

In the current perspective it seems as if Mwanawasa has accomplished the task of building a new coalition to win the next elections. The winning of three out of four by-elections held in September 2003 has strengthened his majority position in parliament. Despite increased parliamentary strength Mwanawasa's position will be improved by the split of the opposition vote. But, how much must Mwanawasa 'pay' in terms of expected patronage in order to keep his coalition together? Frustrated patronage expectations may soon put the coalition in danger.

Provided that there is no major split of the MMD electorate, it is difficult to see how the opposition parties, which have lost a substantial amount of strength, could regroup and unite in a way that they could be a real challenge to Mwanawasa and the MMD. All efforts at inter-party alliances have failed during the past year, as opposition parties have continued to compete against each other in parliamentary by-elections, thereby reducing their chances of

winning seats. The opposition's loss in the Mwansabombwe by-election in July 2003 was mainly due to a split in the opposition vote, as the combined opposition vote was higher than that of the ruling MMD, which won the seat.

Irrespective of who wins the next election – either Mwanawasa or his strongest contender from the opposition, the UPND's Anderson Mazoka – the return to a more democratic system of governance than that experienced during Chiluba's presidencies seems possible; depending, of course, on the proper conduct of those elections.

Apart from the burning problems of poverty and economic development, two issues are crucial for *Zambian* governance in the longer term:

- Constitutional reforms are needed to dismantle the exceeding powers of the president.
- The state apparatus needs to be strengthened (not necessarily enlarged) in order to make it more effective. This should be done by implementing anti-corruption measures in support of the application of legal-rational bureaucratic rules against patrimonial behaviour.

Without these fundamental reforms long-term democratic development will be impossible, as will any substantial economic development which is needed to overcome mass poverty in the country.

Chapter 6

THE ROLE OF MAJOR EXTERNAL PLAYERS AND THEIR SUPPORT FOR DEMOCRATISATION

The international donor community has almost permanently imposed some pressure on the government in favour of human rights and good governance. In 1993 the state of emergency became a topical discussion, and during the following years single donors as well as the members of the Consultative Group were regularly concerned about governance issues. In 1996 the amendment of the constitution to prevent Kaunda's candidature and the general decline in adherence to the principles of good governance became reasons for the international donor community to withhold bilateral and multilateral aid. Aid was again terminated temporarily in 1997/98 when the state of emergency was declared. Although there were two occasions when donors acted uniformly, most often, donor policy was not well coordinated. In fact, the donor community sent different signals to the Zambian government; concerns about a lacking commitment to economic reform were coupled with concerns about human rights and governance issues:

“The bilateral donors’ focus on policy reform and governance issues [again with different emphasis – (GE/NS)] led them to reduce aid allocations at a time when the multilateral donors claimed that the government’s good economic reform record qualified for increases in donor funding” (Rakner/Walle/Mulaisho 2001: 586).

The result was that in many cases the Zambian government had some sort of selective ‘choice’ as to which conditionality it wanted to adhere to – the economic or the political. It was therefore no surprise that Zambian CSOs complained frequently about the political attitude of the international donor community and about their lack of commitment to enforce more consequential

political reforms in favour of democracy and human rights.⁶⁸ In fact, while the presidential results of the 2001 elections were fraudulent – even the European Union observer regarded them officially as ‘unsafe’. No action was taken by the donor community, and by that the fraudulent election was internationally legitimised despite internal protests.

CSOs did receive bilateral aid from various countries in support of human rights and democracy. Some of the political activities of these organisations would not have been possible without this international aid. The strength of the Zambian civil society is, to some degree, dependent on external support, which is not to say that it is ‘donor driven’. To give two prominent examples, the third term and the poverty issue in the context of the PRSP process, in which civil society played a crucial role, were doubtless genuine concerns of Zambian CSOs. However, it was only due to the conditional requirement of international financial institutions that NGOs got the chance to participate in the PRSP process. Zambian NGOs were later financially enabled by donor organisations to participate and contribute to the preparation of the strategy papers in a meaningful way. It was again donor money which helped to speed up and contributed to the successful organisation of the third term campaign.

It is difficult to come up with a conclusive evaluation about the effective political impact of international influence, because it is impossible to ‘measure’ or quantify the effect of political conditionality as well as the impact of the various projects in support of democracy, good governance and human rights. Only enlightened guess work is possible, which follows the rules of plausibility. What can be safely assumed is that without international concerns regarding human rights, democracy and good governance, the political situation in Zambia would be very different; there would most likely have been more repression and certainly more politically related violence.

NOTE

68 Take, for example, the most recent complaint to the Consultative Group meeting in 2002: “Donor behaviour in Zambia with respect to good governance is regrettable. Donor assertion of the universality and inviolability of human rights has been inadequate, if not lukewarm. In this respect, Civil Society in Zambia affirms that Donors should be decisive and exhibit response behaviours that respect the universality and inviolability of human rights” (Afronet 2002b).

Chapter 7

SUMMARY AND MAIN FINDINGS

Zambia's 'model' democratisation could not sustain its momentum. The transition was not geared towards consolidation, and within a few years the country reverted to an authoritarian style of governance.

The actual transition was almost free of violence and was in most parts determined by an opposition elite able to mobilise mass support. The crucial phase, however, was governed by an elite compromise – a pact between soft-liners of both camps. This path from authoritarian to democratic rule can be called a mass-supported pact. This eschews the difficulties of a mass-based transition, whose results can hardly be controlled and which often ends up in a new authoritarian regime. An elite pact, however, lacks the participatory momentum, although it is most likely to result in a consolidation of democracy.

The implication of the return to **authoritarian politics** in Zambia is not a complete reversal of the transition to an authoritarian regime. The result was rather a **hybrid regime**. The democratic constitution was kept, but was subverted informally by the political process. This became particularly apparent during the elections of 1996 and 2001. Political rights and civic freedoms frequently became circumscribed; especially freedom of the press and freedom of assembly. The violation of human rights was, however, not systematic, as is the case in many dictatorships. At the same time, a number of reforms which were promised during the transition election campaign and which were seen as essential for a democratic regime – such as a review of the constitution, parliament, local government and good governance – were either not implemented or were implemented, but not in the manner envisaged. To put it simply: the democratically elected new government avoided all democratic reforms which were once deemed absolutely necessary.

The **behaviour of the political elite** is identified as a crucial reason for the

authoritarian regression of the democratisation process – ironically, this was in part the same elite that pushed through the democratic transition. In reversing the process, the political elite did not respond to the pressure of the impoverished masses whose expectations of material benefit from democratisation were not met.

Without doubt the social and economic framework was not favourable for a democratic transition. The economy grew slightly, but could not catch up with the population increase. Income per head continued to decline even after democratisation, as it had a decade before under the authoritarian one-party state. The structural adjustment policy which the democratic government had promised to implement before it was elected to power, did not fundamentally alter the economic course. De-industrialisation took place in the industrialised Copperbelt, following the privatisation policies of bankrupt or hardly competitive enterprises. The adjustment policy aggravated the already acute social crisis. Most indicators show that absolute poverty has increased overall since the democratic transition, particularly among the politically sensitive population in urban centres. It is important to note, however, that this was only the continuation of a longer lasting process.

The result was that hardly a year passed by without a labour strike, especially in the public sector. Despite the frequency of the strikes none had political connotations which could have fundamentally threatened the regime. This indicates, on the other side, a high degree of preparedness for mobilisation, although the trade union movement has been organisationally fragmented and politically weakened since the transition.

Despite these generally unfavourable social and economic conditions **support for democracy** by a majority of people was maintained. This was demonstrated during the 1996 elections when, in spite of the unfavourable political framework, electoral participation did not decrease in absolute terms, but declined only marginally below the level of the founding elections of 1991. A decline in electoral participation after founding elections, which are characterised by the excitement of regime change, is by no means surprising but rather usual.

Towards the end of the decade a number of opinion polls revealed the enduring support for democracy. Moreover, the results showed that most people had a 'liberal' and not a 'material' understanding of democracy. It also showed that the understanding of democracy was not instrumental, but in many cases substantial in its appreciation of freedom and the right for political

participation as a value on its own. Broad support for democracy became apparent during the mobilisation of the population in support of the anti-third term campaign of opposition parties and CSOs. The majority of votes obtained by opposition parties (about 72%) and the fact that the ruling party – which was responsible for the lack of democracy and for manipulation of the constitution – gained less than 30%, is seen to be confirmation of the pro-democracy attitudes of most people. It should be noted that no direct link can be found between economic crisis and democratic regression.

Part of the structural problem in terms of democratic development is the **weakness of civil society**. CSOs were mainly responsible for the democratic transition. After the successful transition they were unable to maintain the same degree of mobilisation. Furthermore, crucial forces of civil society, such as the trade unions, became weakened due to internal splits. Because the trade unions brought President Chiluba as one of their former leaders to power, they might have been hesitant for some time to mobilise against ‘their’ government.

At the same time, the fact that civil society activities were highly dependent on foreign donors cannot be overlooked. For example, without the demand by international finance organisations that CSOs participate in the PRSP process, and without financial support from bilateral donor agencies, meaningful participation by CSOs would not have been possible.

Opposition by political parties was only weakly evolved up to the third democratic elections in 2001. The **predominant party system** which emerged in the Third Republic, together with the presidential system, made political opposition difficult. Additionally, opposition parties were not in a position to articulate themselves as a serious political alternative. It was only when conflict regarding the third term issue emerged that different positions became clear. At the same time it demonstrated the dominant personalism of Zambian politics and the cause of fragmentation of the political party system. When this temporary reason for political polarisation waned, the feature of the predominant party system returned.

The structural problems faced by the political parties remained. These included a lack of political and programmatic alternatives, active members, income, effective organisation, activities between elections, and internal party democracy. These types of political parties as purely personalised electoral and patronage organisations were not able to contribute to the stabilisation, internalisation and consolidation of democracy as crucial institutions of a parliamentary democracy.

The very modest polarisation of the party system did not pose a challenge for democratic development. Although ethnicity plays a crucial role in the formation of political parties as well as in the electoral orientation of the people, ethnic coalitions on which political parties are formed are by no means fixed or exclusive. There even seems to be a trend to form a maximum coalition. Apart from the political transition-*cleavage*, which caused clear-cut political differences between the old and the new ruling party, all other political parties could interact without major problems. Since Mwanawasa took over, even this cleavage lost its power and the old state party became a partner in a somewhat ambiguous political alliance.

The predecessor regime's legacy of neopatrimonial rule remained a burden for the newly established democracy. Extensive patterns of neopatrimonialism are not compatible with democratic rule. Those patterns have extended from the traditions of the First and Second republics into the Third Republic. Neopatrimonialism, together with the extensive powers of presidentialism, were characteristics of the political culture of the elite whose attitudes have been formed by authoritarian governance since colonial times; and pre-colonial rule was at least patrimonial. The implication is that democratic attitudes seem to be, at least for a substantial part of the elite, rather superficial. As soon as their own power appears to be threatened, they tend to forget about democratic principles.

The treatment of the presidential constitution indicates that political actors did have a choice and were not helpless heirs of an almighty past. Before the first democratic election the MMD leadership, including Chiluba, denounced the constitution as a "recipe for dictatorship", but used it afterwards in government for its own benefit while forgetting about the declaration of a new constitution. However, some sections of the MMD leadership demanded constitutional reform and therefore had to leave government. They were convinced that it was possible to rule the country with a constitution that limited the vast presidential powers.

The same applies to decisions about the declaration of the state of emergency, which was a crucial step backwards to authoritarian regression. The decision was based on a specific perception of the imminence of a coup by the former state party – behind which the chance of a stabilisation of power lured. The major actors were divided about this threat. Despite an absolute majority in parliament and no apparent disloyalty of the military, the president opted for the authoritarian approach to solve the crisis. Because the violation of

democratic rules was not sanctioned from either side, but accepted without major protest, the field was left free for similar actions in the future. On the other hand, 10 years later, Mwanawasa showed totally different behaviour in spite of a more politically volatile situation and without a secure majority in parliament. He did not resort to repression but used co-optation tactics.

Since Mwanawasa took power there are some indications of a **political change** or at least a change in the style of politics. Parliamentary, constitutional and local government reforms have been put on the political agenda again. The president's attitude to politics seems to be much more open and transparent than his predecessor's, and most importantly, in a situation of danger or perceived weakness he does not respond with repression but with politics of co-optation; informal coalition offers which slowly turn into renewed strength. Remarkable is his anti-corruption campaign, although it is not clear yet how serious and successful this will be. On the one hand, it could be nothing but a well-tried instrument to paralyse political opponents. On the other hand, if seriously pursued, it will interfere with the established neopatrimonial politics, violating the informal rules of Zambian patronage politics. A consequence could be that some people in his government, expecting patronage in vain, could become frustrated and may pull out of the alliance, thereby threatening the majority in parliament.

An open question also remains as to whether parliament will sustain its relative strength, gained due to the president's weakness during the early stages of his office while he had no secure majority. The gain of parliamentarism may only be of a temporary nature.

Whether Zambia's hybrid regime will shift towards democratisation and perhaps even later to democratic consolidation, will depend on Mwanawasa's will and capability to implement the vast programme of reforms affecting the constitution, parliament, local government, and efficiency of the state bureaucracy (the fight against corruption).

Zambian politics has received mixed and sometimes contradictory signals from the international community. Some of its neighbours experienced similar trends in authoritarian regression during the second half of the 1990s. None of these neighbours, apart from South Africa, was worried about authoritarian tendencies in Zambia. The international donor community did show an interest in democracy, human rights and good governance, but with no real follow-up on these issues. The contradicting conditionalities of different donors – some economic, some political – has enabled the Zambian government to deal

generously with democratic conditionalities. At the same time bilateral donor agencies enhanced the capability of CSOs in support of democracy, human rights and social justice. It seems to be obvious that the success of democratisation in Zambia continues to depend on international support which is requested by CSOs and even by government.

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Glossary of acronyms

ACC	Anti-Corruption Commission
ANC	African National Congress
AZ	Agenda for Zambia
CCJDP	Catholic Commission for Justice, Development and Peace
CNU	Caucus for National Unity
CRC	Constitutional Review Commission
CSO	Civil society organisation
CSPS	Civil Society for Poverty Reduction
DA	District administrator
EAZ	Economic Association of Zambia
ECZ	Electoral Commission of Zambia
FDD	Forum for Democratic Development
FODEP	Foundation for Democratic Process
GDP	Gross domestic product
HDI	Human Development Index
HIPC	Heavily Indebted Poor Country
HP	Heritage Party
HRC	Human Rights Commission
ICCPR	International Covenant of Civil and Political Rights
IMF	International Monetary Fund
LAZ	Law Association of Zambia
MMD	Movement for Multiparty Democracy
NGO	Non-governmental organisation
NP	National Party
PF	Patriotic Front
PHRC	Permanent Human Rights Commission
PPS	Provincial permanent secretary
PRSP	Poverty Reduction Strategy Paper
SAP	Structural adjustment programme
TIZ	Transparency International Zambia
UNIP	United National Independent Party
UP	United Party
UPND	United Party for National Development

UPP	United Progressive Party
ZCTU	Zambian Congress of Trade Unions
ZDC	Zambia Democratic Congress
ZNBC	Zambia National Broadcasting Corporation
ZRP	Zambia Republican Party
ZSIS	Zambia Security Intelligence Service