

SoD Summary

The State of Democracy in Zambia

McDonald Chipenzi, Laurent C W Kaela, Clever Madimutsa, Jotham C Momba, Hope Mubanga, Nchimunya Muleya, Charity Musamba

The Foundation for Democratic Process (FODEP) and the University of Zambia Department of Political and Administrative Studies (UNZA-PAS), Zambia, 2011.

Ingress

Zambia's post-independence political history was largely dominated by one-party rule under Kenneth Kaunda of the United National Independence Party (UNIP), who served as President from 1964 to 1991. In 1990 Kaunda conceded to public calls for the reintroduction of multi-party democracy and was voted out of office in the subsequent pluralistic elections held in October 1991. Despite the move to multi-party democracy, the next twenty years were again dominated by one political party, the Movement for Multiparty Democracy (MMD). But in September 2011 there was a peaceful transfer of power to the opposition party, the Patriotic Front (PF) after the elections. Despite these successes, questions remain about the quality of Zambia's developing democracy.

Key Recommendations:

- Increase funding for government and non-government grant-aided institutions and programmes that are established to assist vulnerable members of society;
- Implement more stringent police qualifications and more extensive training programs;
- Strengthen the capacity of the Legal Aid Board to assist vulnerable members of society;
- Enact the Freedom of Information Act;
- Appoint an independent Electoral Commission of Zambia (ECZ);
- Establish a code of conduct for political parties;
- Establish quotas to strengthen women's political participation
- Considerably scale up expenditure on public services;
- Enhance the capacity of the Anti-Corruption Commission (ACC);
- Review the NGO Act of 2010;

- Increase funding to local authorities and accelerate the implementation of the decentralization policy;
- Withdraw the power of the minister responsible for local government to dissolve councils or suspend all elected councillors;
- Strengthen Parliament to provide effective oversight on public debt contracting.

The 4 Pillars and the assessment

Origins: Why perform a SoD assessment?

The SoD assessment in Zambia was undertaken by The University of Zambia, Department of Political and Administrative Studies (UNZA-PAS) and the Foundation for Democratic Process (FODEP) in order to facilitate efforts to improve the quality of Zambia's democracy by providing information on its current state and recommending means by which it could be reformed. The assessment was conducted to determine the extent to which Zambia has achieved the democratic ideal in both politics and society, and, most importantly for continued development, and to provide recommendations on how to rectify the weaknesses highlighted by the assessment.

Citizenship, Law and Rights

Nationhood and citizenship

The assessment found that there is not yet public agreement on common citizenship without discrimination in Zambia. Democratic structures are largely in place, with guarantees of freedom of religion protected by the Constitution and various mechanisms established to ensure the protection of marginalized and vulnerable groups. In practice, however, the actual degree of protection provided falls short of these legally constituted rights. The assessment found that because of poor funding and a lack of prioritization, the efforts of institutions such as the Ministry of Community Development and Social Services and the Zambia Agency for Persons with Disabilities do not fully protect the rights of vulnerable social groups: with 74% of Zambians interviewed asserted that vulnerable groups (most notably the poor and disabled) were either "less protected" or "not protected at all." The assessment also indicated a lack of confidence in the durability of the Constitution, with a general consensus among participants that each new government began the process of Constitution making again.

Rule of law and access to justice

The assessment found that rule of law and access to justice in Zambia is not yet seen to be consistent across society. The perceived lack of independence of the judiciary from the executive is notable: only 17.3% of respondents agreed that the courts were "very independent" from executive interference, while 34.7% and 30% asserted that the courts were only "moderately independent" or "not independent," respectively. Respondents highlighted the executive appointment of judges as the primary cause of interference. Access to justice was also found to be limited: 57.7% of respondents felt that they had "no access to justice" at all, primarily due to their inability to pay for legal services and the perceived inability to appeal decisions.

Civil and political rights

The assessment found that individual security in Zambia was generally guaranteed for all. Freedom of expression, in particular, could be strengthened through the implementation of policies that promote transparency and accountability in the media.

Economic and social rights

Despite being a signatory to African and international agreements to respect economic and social rights, the assessment found that Zambia has not yet achieved the standards elaborated in those agreements or those established in the Zambian Constitution. A large majority of respondents agreed that people in Zambia did not have adequate access to food (76.7%), shelter (73%), or clean water (71.3%).

Representative and Accountable Government

Free and fair elections

Ease of registration and of the voting process was found to be adequate, but the impartiality of the Electoral Commission, which is appointed by the executive, was at the forefront of concerns for respondents. The ruling party’s access to state resources and the state media for campaigning, and the lack of enforcement mechanisms for the Electoral Code of Conduct are also problematic.

Democratic role of political parties

The assessment highlights the lack of internal democratic procedures of political parties, with only 16.3% of respondents agreeing that party members were able to influence party policies. Inadequate funding plagues individual parties, whereas the ruling party’s access to state resources and the state media during the campaign gives it a significant and unfair advantage over opposition parties. Funding issues also led to the strong perception that in order for a political party to be durable, its leader needs to be personally wealthy. While respondents agreed that political party membership was generally pluralistic and not based on affiliations such as ethnicity or religion, only 49.7% of respondents belonged to a party.

Effective and responsive government

The assessment found that there was little room for public engagement at the initial stages of government legislation, and that even at later stages the committee system which bills pass through does not guarantee equal access to all to provide input on legislation. The availability of public services was regarded as especially poor, with only 13% of respondents believing that they had easy access to justice, health services, clean water, or education. The quality and responsiveness of the services was also regarded negatively: only 36.7% of respondents asserted that services were adequate, and input from those who receive the services was reported to be “rare.” Opportunities for constituents to engage with their representatives were similarly scarce, with many MPs only visiting their constituencies annually.

The democratic effectiveness of parliament

The independence and powers of Parliament are, in certain instances, liable to be compromised by the role of the Executive in the legislative process because a majority of members of parliament are either ministers or associated with the ruling party. This makes Parliament’s powers to oversee the Executive and hold it to account ineffective. In addition, while MPs have the power to initiate and amend legislation, constitutional restrictions limit their extensiveness and effectiveness. The accessibility of elected representatives to their constituents is also very limited, which poses a challenge to the quality of democracy.

Integrity in public life

Funding and form

The Foundation for Democratic Process (FODEP) and the University of Zambia Department of Political and Administrative Studies (UNZA-PAS) with support from, and partnership of the International Institute for Democracy and Electoral Assistance (International IDEA) carried out a two year (2010-2011) research project to assess the quality of Zambia’s Democracy since 1991. A modified version of IDEA’s thematic framework, comprised of four thematic pillars and thirteen sub-pillars, served as the basis for the assessment. The research team’s members were drawn from FODEP and UNZA. The team collected secondary data through desk research, and primary data through a combination of key informant interviews (95), household surveys (300), and Focus Group Discussions (140). Financial support for the assessment was provided by International IDEA.

Although corruption in the government has been on the decline since the era of “grand corruption” under the administration of President Fredrick Chiluba (1991-2001), the assessment found that it is still a pressing problem undermining the efficacy of Zambian democracy. Institutions charged with policing corruption, such as the Anti-Corruption Commission (ACC), are not adequately funded and rely on funding from donors. Also, the head of the Anti-Corruption Commission is appointed by the President compromising its independence and effectiveness, especially on cases linked to ruling elites. The Constitution provides for Cabinet Ministers and Deputy Ministers to conduct themselves in accordance with a code of conduct adopted by Parliament. However, *The Parliamentary and Ministerial Code of Conduct Act*, enacted by parliament, which is applicable to all members (including Cabinet Ministers and Deputy Ministers), contains weak anti-corruption provisions since it does not give powers to the tribunal or courts of law to prosecute those who breach its provisions. They can only lose their seats in parliament. Public opinion reflects these institutional weaknesses, with 56% of respondents reporting that measures to prevent those holding public office from involvement in corruption were not effective.

Civil Society and Popular Participation

The media in a democratic society

The assessment found that legislation protecting freedom of expression in Zambia is a mixed bag: while the Constitution and Article 20(2) protect press freedom, other legislative measures, such as Article 20(3) and the *State Security Act*, limit their effectiveness. As a result, media in Zambia suffers from a lack of independence, with government owned media continuing to dominate the print and electronic media (radio, TV sectors). There is a conspicuous lack of a media regulatory body, and efforts to create an effective Zambia Media Council (ZAMEC) had not been successful at the time of the publication of this report (but it has since been launched). The new Patriotic Front (PF) government has also indicated its support for the enactment of the Freedom of Information law. Public views on the independence of the media were far from a consensus, with 32.7% indicating that the media in Zambia was “moderately independent,” 28.7% indicating “very independent,” and a similar number (26.7%) indicating “not independent.”

Political participation

The assessment found that there is a political arena for the Zambian people to participate in civil society organizations, but additional measures are needed to protect their ability to engage. Trade unions are still weak as a result of the restrictive policies under late former President Fredrick Chiluba and Zambia’s earlier anti-union governments, and NGOs and other civil society organizations are weakened by the lack of public financing which makes them susceptible to the so-called “donor-dependency syndrome” that influences their policies and efforts. The assessment highlighted the participation of women as particularly problematic: while 52% of registered women are voters, only 15.2% of parliamentary seats and 6.6% of local government seats were held by women by the time of the multi-party elections in September 2011.

Decentralisation

Decentralization has been effected at two levels. First, through the creation of democratically elected local councils and, second, through establishing administrative local units of central government. The assessment found that these local tiers of government are largely independent of the centre, but that the democratic quality of the councils is clearly hampered by the fact that, under the *Local Government Act*, local elected councils are actually accountable to and financially dependent on the central government, while appointed local government ministers have powers to dissolve or suspend them, and mayors are not elected by universal suffrage but by the elected councillors.

Democracy Beyond the State

External influences on the country's democracy

As Zambia continues to develop its free-market economy it is the recipient of - and very much dependent on - significant amounts of direct foreign aid. Most donors insist on a degree of “good governance” as a condition for Zambia to receive aid that, while promoting democratic values, puts the ownership of the democratization process into question.

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