



NEW ANTI-CORRUPTION GOVERNMENTS: THE CHALLENGE OF DELIVERY

ZAMBIA

A CASE STUDY

Dr. Alfred Chanda

Paper commissioned for the Kenya Meeting on New Governments, co-organised by the Government of Kenya, TI-Kenya and Transparency International, held in Nairobi, Kenya, in October 2004.

Zambia

1. Executive summary

Corruption has become endemic in Zambia in the last 13 years. It has had devastating effects on the people of Zambia, and considerably slowed down economic development. The most common forms of corruption are petty, grand and political corruption. It is estimated that 80 per cent of the Zambian population lives on less than US \$1 per day. Corruption rose exponentially during the Chiluba presidency (1991-2001), as there was no political will to combat it.

It was the election of President Mwanawasa in December 2001 that galvanised the anti-corruption fight. The main new initiative introduced to fight corruption has been the Task Force on Economic Plunder, an inter-agency body consisting of representatives of various law enforcement and regulatory institutions established in 2002 by President Mwanawasa. The most significant event in the new anti-corruption drive was the lifting of Chiluba's presidential immunity by the National Assembly at the urging of President Mwanawasa in July 2002. Since then, Chiluba, some of his top officials, ministers, managers of parastatals, and former intelligence and defence chiefs have been arrested and prosecuted for stealing public resources.

The government has attempted to address political corruption by appointing the Electoral Reform Technical Committee, which has made significant recommendations in this respect.

Among the recommendations made by the ERTC are state funding of political parties, requiring political parties to declare their sources of funds and requiring political parties to practise internal democracy as a condition for participating in elections.

In the area of public finance the government, with the support of donors, has embarked on public service reforms, which include reform of the budgeting process and strengthening the management of public funds. The problem of low remuneration in the public service is being addressed through another initiative, the medium-term pay review, which is aimed at decompressing salary scales and improving the remuneration of key professionals in the public service.

The existence of political will at the highest level, the work of civil society organisations like TI-Zambia in advocacy and raising public awareness, and the public's support for the anti-corruption drive have created a conducive environment for the implementation of the reforms.

The absence of a comprehensive national anti-corruption strategy, the lack of a legal framework for the Task Force, the use of dysfunctional institutions to implement reform, massive poverty, delays in the disposal of cases, selective arrests and prosecution of alleged plunderers, and inadequate human and financial resources have been serious constraints in implementing the reforms.

In order to enhance the fight against corruption the following measures are recommended:

- the operations of the task force must have a legal anchor;
- the government, working with other stakeholders, must formulate a long-term comprehensive anti-corruption strategy;
- the institutions in the frontline against corruption such as the Anti-Corruption Commission, the Anti-Money Laundering Unit, the police, the Auditor-General, the judiciary and the Zambia National Tender Board need to be well resourced, and have their independence or autonomy enhanced. This will require, *inter alia*, legal reforms;
- an independent prosecution service headed by the Director of Public Prosecutions must be established by law;
- anti-corruption prevention efforts must be intensified;
- codes of conduct for public service workers and the private sector should be developed and implemented; and
- the National Integrity System should be strengthened.

2. Country overview: conditions for transition

2.a. Country overview

Zambia, with a population of 10.5 million people is a republic with a mixed presidential and parliamentary system of government. It has a unicameral legislature with 150 members elected in single-member constituencies, eight members nominated by the president plus the speaker.¹ All executive power is vested in the president, who is directly elected by the people by simple majority. The president is both head of state and government as well as commander-in-chief of the armed forces.² The president is assisted by the vice president and a cabinet, whose members he appoints from among the members of parliament. The president also appoints deputy ministers from among members of parliament, the attorney general, the director of public prosecutions (DPP), the solicitor-general, the auditor-general and the investigator-general, among others.³ The executive is also supported by institutions such as the Anti-Corruption Commission, the Drug Enforcement Commission (DEC), the police, the Zambian army, the Zambian air force, the Zambia National Service, and the Human Rights Commission.

Judicial power is vested in the judicature. At the apex of the judicature is the supreme court, comprised of the chief justice, deputy chief justice and seven other judges, all appointed by the president subject to ratification by the National Assembly. It is the highest court of appeal and has original jurisdiction only in presidential election petitions.⁴

Below the supreme court is the high court, comprised of 30 judges with unlimited criminal and civil jurisdiction. High court judges are appointed by the president subject to ratification by the National Assembly.⁵

The Industrial Relations Court (IRC), a court specialising in industrial and labour matters, is at the same level as the high court. The chairman and deputy chairmen of the IRC are appointed by the president on the advice of the Judicial Service Commission.⁶ Judges of the supreme court, high court and IRC enjoy security of tenure.⁷

Subordinate courts (magistrates) then follow. These handle most of the criminal cases, including cases of corruption. At the tail end of the judiciary are local courts, which deal with customary law cases. Magistrates and local court justices are appointed by the Judicial Service Commission.⁸

The constitution guarantees the independence of the courts.⁹

Zambia is divided into nine administrative units called provinces, each of which is headed by a deputy minister appointed by the president, assisted by a permanent secretary (who is the top civil servant in the province). Each province is divided into districts. Local councils administer towns, cities and rural councils. Residents elect councillors, who in turn elect a non-executive mayor or chairman of the council. Districts are headed by district commissioners appointed by the president.

2.b. Brief political history

Zambia was under British colonial rule for 70 years up to 24 October 1964. The United National Independence Party (UNIP) and its leader, Kenneth Kaunda, took over from the colonial government. Zambia has gone through three major political transitions since 1964. The first phase, which lasted 8 years from 1964-1972 (the First Republic), saw the practice of a liberal multi-party democracy. It was also the golden era in terms of economic development as Zambia's economy was one of the most vibrant in Africa.

The second phase, starting in December 1972 (the Second Republic), saw the introduction of a one-party system of government. The ruling UNIP simply changed the constitution to abolish opposition parties and arrogate to itself the sole right to rule. The period was

characterised by severe restrictions on civil and political freedoms, diminished democracy, economic stagnation and plummeting living standards for the majority of the people.

In December 2000, Zambia started the third phase (the Third Republic), with the restoration of multi-party democracy. In landmark multi-party elections that took place on 31 October 1991, the Movement for Multi-Party Democracy (MMD) led by Frederick Chiluba, who had spearheaded the struggle for political pluralism, overwhelmingly defeated the UNIP and its leader, Dr. Kenneth Kaunda, in legislative and presidential elections. The elections were praised by both local and foreign observers as having been free and fair.¹⁰

The MMD retained power in the 1996 presidential and legislative elections, which were boycotted by UNIP and five other political parties. The boycott was in protest at the 1996 constitutional amendments, which barred presidential candidates whose parents were not born in Zambia. The effect of the amendments was to bar former president Kaunda from contesting the presidency on account of his parents' foreign origins. The 1996 elections ushered in a period of political instability as the opposition parties and civil society did not accept the results. The elections were considered to have been neither free nor fair by election observers.¹¹ In 1997, there was an unsuccessful attempt by sections of the army to overthrow the government. In the aftermath of the abortive coup, a state of emergency was declared by the president, leading to the detention without trial of more than a hundred soldiers and three prominent politicians: Dr. Kenneth Kaunda, Mr. Dean Mungomba and Princess Nakatindi Wina. The politicians were later released without being tried while the soldiers were tried for treason.

In 2000, a further period of political instability was ushered in when President Chiluba attempted unsuccessfully to change the constitution so that he could rule for a third term. This provoked tenacious opposition from senior members of the MMD as well as from civil society groups, which fought the attempt under the umbrella of the OASIS FORUM. Senior members of the party who disagreed with the president's third term plans were forced out of the party, prompting them to form their own parties such as: the Forum for Democracy and Development (FDD), led by Lt. General Christon Tembo (former Republican vice-president); the Heritage Party (HP), led by General Miyanda (former minister and vice-president of MMD); and the Zambia Republican Party (ZRP), led by Ben Mwila (former minister of defence and also energy). The selection of a retired politician, Levy Mwanawasa, who had been vice-president from 1991-1994, as the MMD presidential candidate, led to further dissension in the ruling party. Michael Sata, secretary-general of the MMD, disagreed with the choice and formed his own party, the Patriotic Front (PF).

The 27 December 2001 elections were contested by 11 presidential candidates and more than 11 political parties. President Mwanawasa won the presidency with 28.69 per cent of

the vote while his nearest rival, Anderson Mazoka of the United Party for National Development (UPND), won 26.76 per cent of the vote. The MMD won 69 parliamentary seats, the UPND 49, UNIP 13, Forum for Development and Democracy (FDD) 12, Heritage Party (HP) 4, ZRP 1, Patriotic Front (PF) 1 and Independent 1.¹²

Three of the losing presidential candidates have challenged the results in the supreme court, which has yet to deliver its judgement, while more than 40 parliamentary election petitions were filed in 2002. Thus, since 1996 Zambian elections have been characterised by controversy. The elections have witnessed high levels of corruption and other malpractices. There are more than 30 registered political parties in Zambia.

2.c. Transition conditions

In terms of the political system, the transition was from one president, Frederick Chiluba, to a new president, Levy Patrick Mwanawasa. The ruling party, the MMD, remained the same. The political upheaval that occurred in the transitional period was essentially intra-party, that is within the ruling party. To a large extent, this also negatively impacted national politics as a whole. President Chiluba's attempt to give himself an illegal third term in office sparked off the quarrels and splits within the party, as indicated above.¹³ Levy Mwanawasa was handpicked by Chiluba to be his successor after all the potential successors had been forced out of the party. Mwanawasa was initially written off as a mere puppet of Chiluba, who would have no voice of his own and would merely do his master's bidding.

The Zambian economy was in free-fall, with high unemployment, an inflation rate of over 26 per cent and interest rates above 50 per cent.¹⁴ Chiluba had, for 10 years, pursued IMF and World Bank supported structural adjustment programmes whose main elements included: privatisation of parastatals; abolition of import and export controls; liberalisation of interest rates; liberalisation of the foreign exchange market; and restructuring of the civil service (reduction in numbers from 139,000 in April 1997 to 101,000 in April 2002). Zambia also had an unsustainable foreign debt of more than US \$6.5 billion, and a poverty rate of 80 per cent.¹⁵

Corruption levels were extremely high during Chiluba's presidency, with Zambia being ranked among the 11 most corrupt countries in the world.¹⁶ The types of corruption were petty, grand and political. Petty corruption was the most visible and widespread and mostly affected the Zambian police service, the courts, the Department of Immigration, the Zambia Revenue Authority, the Department of National Registration, Passports and Citizenship, and the Pensions Fund. Workers in these institutions demanded bribes in order to perform their work or to overlook regulations or to decide a case in favour of the applicant.¹⁷

Grand corruption, involving large sums of money had also become endemic. It manifested itself in several ways: those involved in the procurement of goods and services demanding kickbacks in order to award contracts; misappropriation of public funds; kickbacks in the privatisation of state-owned enterprises; and government officials obtaining kickbacks for signing loan agreements or for authorising development projects.¹⁸ The following are among the notable examples of alleged grand corruption that have been exposed by the media.

- President Chiluba and his Director General of Intelligence, Xavier Chungu, allegedly misappropriated or misused at least US \$52 million through a state-owned Zambia national commercial bank account in London (called ZAMTROP). The account was allegedly used to meet Chiluba's and Chungu's private and personal expenses as well as to bribe individuals. Among those bribed was the chief justice, Matthew Ngulube, who received US \$168,000 from 1998-2001. Other beneficiaries of these stolen funds were Chiluba's children, his friends and their children. They also included lawyers, auditor-general Fred Siame, journalists, companies and politicians.¹⁹
- In 2001, three ministers diverted a sum of K2 billion (US \$0,5 million) from the National Assembly account to the MMD convention. A tribunal established by the chief justice under the Parliamentary and Ministerial Code of Conduct Act found the minister of works and supply, Godden Mandandi, and the minister of home affairs, Peter Machungwa, guilty.²⁰
- The privatisation of the mines, Zambia's crown jewel, was undertaken by a team appointed by President Chiluba outside the provisions of the Privatisation Act. This illegal entity sold Luanshya Mine, one of the smaller mines, to the BINANI Group, an Indian scrap metal dealer with no mining experience, contrary to the provisions of the Privatisation Act. BINANI failed to run the mine, stripped it of its assets and got huge loans from the Zambia National Commercial Bank, which nearly led to the collapse of the bank when BINANI defaulted. This led to the closure of the mine and rendered thousands of workers unemployed.²¹
- The alleged theft of US \$90 million, which was given by the Bank of Zambia (the central bank) to Meridien Bank to save it from collapse. The money was, with the connivance of top politicians, allegedly transferred to the Bahamas. Meridien Bank was liquidated, resulting in thousands of depositors losing their money and employees losing their jobs. The Bank of Zambia has yet to recover this money and the culprits remained at large as they had the protection of the political authorities.²²

- The loss of US \$100 million by the state-owned Zambia National Oil Company (ZNOG), through importation of oil feedstock under dubious arrangements. ZNOG was subsequently liquidated.²³
- The irregular award in 1997 of a maize supply contract to a Canadian company, Carlington Sales Ltd. Although US \$7 million was paid to the company by the government, the maize was never supplied.²⁴
- The alleged misappropriation, theft and misuse of billions of kwacha belonging to the Presidential Housing Initiative (PHI) by the president and his adviser for press, Richard Sakala, who was in charge of the project.²⁵
- The sale of ZCCM copper and cobalt to an Israeli company at below market prices, resulting in Zambia losing about US \$150 million.
- The disappearance of proceeds from the privatisation of state-owned enterprises amounting to millions of dollars. Contrary to the requirements of the Privatisation Act, the funds were not deposited in a privatisation trust fund account at the Bank of Zambia.²⁶

Political corruption was also rampant, particularly during elections. The ruling MMD routinely abused public resources in its election campaigns.²⁷ Apart from using government vehicles, monopolising government radio and TV, government leaders always began a ritual of donations to schools, community projects and charitable organisations and other causes in areas where elections were scheduled. President Chiluba made sure he made substantial donations to every constituency in which by-elections were scheduled.²⁸ The abuse of state resources was also evident during the 27 December 2001 elections and was condemned by election observers. For example, the MMD used public resources amounting to K40 billion (US \$1 million) from the ZAMTROP intelligence account to purchase 300 vehicles and 5000 bicycles for its campaign.²⁹ Another major source of political corruption was the presidential discretionary fund (popularly known as the 'slush fund'). The president used it to buy political support, to induce opposition leaders to defect to the ruling party, to fund compliant church leaders, chiefs and NGOs, to fund his campaign for an unconstitutional third term of office, and to finance operations of the ruling party. Thirdly, during election campaigns, almost all the parties distributed gifts such as chitenge materials, salt, cash, bicycles, fertilizer or mealie-meal in order to induce voters to vote for them.

Corruption was caused by many factors including: poor conditions of service in the public service; weak internal financial controls and lack of a code of conduct for public service workers; weak enforcement of anti-corruption legislation owing to incapacity of relevant institutions; lack of public revulsion against corruption; wide discretion conferred on public officials in allocating rents, with little or no accountability of these officials; absence of ethical leadership by the political leaders, as they tended to place personal and private interest above national interest; political patronage; socio-cultural norms, which require

public servants to subvert the principles of objectivity and fairness in favour of loyalty to one's family members, clan and friends; the exploitation and abuse of African customs regarding exchange of gifts to extort bribes from persons seeking employment or any public services from public officials; and finally, absence of political will to fight corruption.

The rampant corruption of the Chiluba era had devastating effects on the country, *inter alia*:

- worsening of the economic crisis, resulting in mass poverty and destruction of local industry;
- serious violations of human rights;
- discouragement of foreign investment;
- loss of confidence of the people in political leaders and government institutions;
- government institutions seriously undermined;
- elections that were not free or fair thereby denying the nation quality leadership and political stability;
- poor service delivery by government institutions; and
- withholding of vital donor aid.

2.d. Preparations for transition

During the transition, an umbrella organisation, which brought together the three major church bodies (Evangelical Fellowship Association of Zambia, Council of Christian Churches of Zambia, and the Zambia Episcopal Conference), the Non-Governmental Organisations Coordinating Committee (NGOCC), and the Law Association of Zambia (LAZ) spear-headed the fight against the president's illegal attempt to change the constitution to give himself a third term of office. In terms of corruption, Transparency International conducted several research studies aimed at discovering the nature, causes and effects of corruption in Zambia, and used the research findings to raise public awareness and as a basis for advocacy to persuade the government to reform laws and institutions. *The Post* newspaper led public opinion with its investigative journalism, which exposed numerous acts of corruption and abuse of public resources. Some of *The Post* journalists, including its editor-in-chief, Fred M'membe, and two opposition MPs (Dipak Patel and Edith Nawakwi) were arrested and indicted for defamation of the president for calling Chiluba a thief in one of the exposés.

The Foundation for Democratic Process (FODEP) and other governance NGOs worked to sensitise the public to the need to reject the third term bid as well as not to vote for corrupt politicians. Transparency International Zambia also carried out sensitisation campaigns against corruption in the electoral process through radio and TV programmes, advertisements, posters, theater performances and public discussions.

Most opposition political parties campaigned on the platform of anti-corruption and promised to bring all culprits to account for their ill-gotten wealth, once elected into power. The FDD, for example, promised to establish a truth commission to investigate all cases of economic plunder.

The ruling MMD dismissed reports of rampant corruption in the country. Its presidential candidate, Levy Mwanawasa, indicated that he had not seen any corruption in the government. Quite clearly, anti-corruption was not on his publicly announced agenda during the election campaign.

3. Initiatives taken by new government

3.a. Designing a realistic plan of action

When President Mwanawasa came to power following the 27 December 2002, elections he had no plan of action to fight corruption. As indicated above, during the election campaign corruption did not feature in his speeches as one of the major problems his administration would tackle. The inconclusive nature of the election results, particularly the narrow margin of his victory and the fact that his party did not have an absolute majority in parliament, however, meant that he lacked legitimacy. Public opinion showed clearly that anti-corruption was a popular issue, which could galvanise public support for the minority government.

The revelations by *The Post* of the gross abuse of the ZAMTROP intelligence account by the former president and his intelligence chief during the 'Chiluba is a thief' criminal case against two *Post* journalists and the two members of parliament in the magistrate's court, provoked public anger against Chiluba. Transparency International and other civil society groups, including the privately owned press, started demanding the removal of Chiluba's presidential immunity by the National Assembly so that he could be tried for abusing public funds. At the same time, as president of the MMD, Chiluba made things difficult for Mwanawasa, because the party remained loyal to Chiluba. Mwanawasa was merely a trustee of the MMD and inevitably there was divided loyalty among the party cadres between the two men. Tension and public disagreements between the two men flared up, which eventually resulted in Chiluba being forced to step down as MMD president to allow Mwanawasa to take over as acting president.

In July 2002, President Mwanawasa succumbed to public pressure and lifted Chiluba's immunity. At a special session of parliament, he made serious allegations of corruption against his predecessor and urged the parliament to lift Chiluba's immunity so that he could be tried for his crimes.

Among the allegations made against Chiluba were:

- The disappearance of US \$35 million, which was the cash consideration for the sale of the state-owned Luanshya Mine (RAMCOZ) to Binani. Moreover, a further US \$12 million paid by the purchaser to offset a bank loan and to pay off retrenched miners had not been properly accounted for.
- That Chiluba directed the Ministry of Finance to pay US \$20.5 million to a Congolese businessman, Katebe Katoto, as deposit for the supply of military equipment, the total cost of which was US \$100 million. This was carried out despite the fact that Chiluba knew that Katoto, a friend of his, had no capacity to honour the contract. The equipment was never delivered and the deposit had not been recovered.
- The gross abuse of a Zambian intelligence service account in London, called 'ZAMTROP'. Millions of dollars from this account were embezzled at the behest of Chiluba and Xavier Chungu, the former director-general of the Zambian intelligence service and the sole signatory.
- The abuse of assets of MOFED London, a company incorporated in England to manage former ZCCM assets taken over by the government in a debt swap. The directors of this company included Attan Shasonga (ambassador to Washington), Katele Kalumba, chairman (minister of finance), Stella Chibanda (treasury secretary), Bonaventure Mutale (attorney-general), Faustin Kabwe, and Yotham Zulu (deputy intelligence chief). Huge amounts were paid to these persons in the form of director's fees (BPS 2000 for the chairman per sitting and BPS 1500 for the other directors). All expenses were paid for at top class hotels. In addition, MOFED paid huge consultancy fees to companies owned by Shasonga and Faustin Kabwe.
- The disappearance 67 fuel tankers carrying fuel for Zambia, which had been fully paid for.³⁰

Civil society marched on parliament to demand the removal of Chiluba's immunity, which was then done through a unanimous resolution of the National Assembly.

Following the lifting of Chiluba's immunity, President Mwanawasa set up an inter-agency body, the Task Force on Economic Plunder, to investigate and prosecute cases of plundering under the Chiluba regime. The members of the task force were drawn from the Zambia police, Zambia Revenue Authority, the Anti-Corruption Commission (ACC), the Drug Enforcement Commission (DEC), the Zambia Security Intelligency Service (ZSIS), the Bank of Zambia, and the Director of Public Prosecutions (DPP). Initially, the chairmanship of the task force rotated among the security chiefs, but later on a civilian, Mark Chona, was appointed as chairman.

It is this task force that has been handling all the cases of corruption committed during the Chiluba era. In the last two and a half years, the task force has arrested and prosecuted Chiluba; the former intelligence chief, Xavier Chungu; former ministers, former permanent secretaries and other senior civil servants; former commanders of the army, air force, and Zambia National Service; former senior intelligence officials; and former senior officials of parastatals. It has also recovered property worth millions of dollars from the plunderers.

The task force has faced several obstacles. First, the task force does not have a legal anchor, as there is no legislation providing for its composition, powers, functions and accountability. This has led to charges that it is an illegal institution answerable only to the president and that he is using it to settle scores with his political adversaries. Second, the task force lacks highly specialised investigators who can unravel the complicated and intricate matrix of deceit and plundering. Third, there has been no legal reform to facilitate investigations. For example, laws on computer fraud and evidence make it difficult to prove cases in court. Moreover, there is no law to protect whistleblowers, making it difficult for the task force to find people willing to provide information and testify against the culprits.

Fourth, the prosecution's capacity is limited. The DPP's office has been considerably weakened over the years owing to chronic underfunding and a severe manpower shortage. Out of an establishment of 48, it has only fewer than 15 on staff. As a result, the task force is relying on poorly trained police prosecutors and two private prosecutors for all its prosecutions. Partly as a result of this, there has been only one conviction, of Richard Sakala, Chiluba's former adviser for press and public relations),³¹ since the corruption trials started more than two years ago. None of the cases against Chiluba has been concluded. The few cases of motor-vehicle theft against some of Chiluba's associates in the plundering, such as those against Xavier Chungu, Dr Katele Kalumba (former minister of finance and foreign affairs), have resulted in acquittals.

Fifth, there is resistance to the anti-corruption fight among a large section of the MMD cadre, which used to benefit from Chiluba's largesse, as the party was being financed from public funds. Levy Mwanawasa is not yet in full control of the party. In fact, he is still acting MMD president³² and most of the people who surround him and agree with his anti-corruption fight are considered outsiders. These were people who were forced out of the party during the third term campaign and have now returned. Some people view the fight against corruption in ethnic terms, as most of those arrested and prosecuted are Bemba speakers who held high positions in the Chiluba administration.

3.b. Keeping up the reform momentum

Political will at the highest level has continued. It is doubtful that the MMD party is fully behind the president's fight, however, as many cadre sympathise with the former president, who is seen as a victim rather than as a villain.³³ Some of the opposition leaders who were previously in favour of lifting Chiluba's immunity have now U-turned and are sympathetic to Chiluba for political expediency. The anti-corruption fight is vilified as being selective and aimed at Mwanawasa's opponents. It is alleged that the task force is ignoring the corruption taking place in the current administration. This is buttressed by the fact that President Mwanawasa has failed to take action against at least one serving minister and a deputy minister who were found guilty by the Lands Tribunal of corrupt dealings in land. Permanent secretaries who were implicated in the abuse of HIPC funds by an HIPC monitoring team (which has since been disbanded by the minister of finance) have not been disciplined either. Furthermore, the MMD has not returned to the government the campaign vehicles that were illegally purchased with public funds. Worse, some top politicians who were close to Chiluba and have now switched allegiance to Mwanawasa have not been arrested by the task force despite their alleged involvement in corruption.

It is things like this that are eroding public confidence in the anti-corruption fight. Transparency International Zambia, the Citizens Forum, the Oasis Forum and several prominent citizens have consistently spoken out against selective arrests and prosecutions of alleged economic plunderers.

To its credit the government has given the Anti-Corruption Commission more space to operate and also more resources than was the case under the Chiluba regime. The government is also more eager to cooperate with civil society watchdog institutions such as TI-Zambia, Integrity Foundation and the National Movement Against Corruption (NAMAC). The previous government was very hostile to civil society groups, and government institutions such as the DPP, the ACC and the auditor-general were afraid to associate themselves with vocal civil society anti-corruption organisations.

The donor community, particularly the US, the Danish and the British governments have provided valuable assistance to the task force. Donors who have supported the ACC, DEC and civil society organisations in the fight against corruption include the Royal Netherlands Embassy, the Swedish Embassy, Ireland, the Royal Norwegian Embassy, Frederick Ebert Stiftung (FES), German Technical Co-operation (GTZ), Finland, the United Nations Development Programme (UNDP) and the World Bank. Donor help has consisted of the provision of funds, capacity building and, in some cases, providing information to the task force.

3.c. Reforming dysfunctional institutions

Addressing political corruption

Political corruption has been endemic in Zambia since the restoration of multi-party democracy. The ruling party has for years thrived on public resources. It is true to say that almost all political parties have, to varying degrees, been bribing voters.³⁴ The Electoral Act and associated regulations, such as the Electoral (Code of Conduct) Regulations 1996, ban the bribery of voters, use of undue influence, and use of government transport and other resources (the president and vice-president being exempted) for campaign purposes. The main problem has been the lack of enforcement of the existing law. The Zambia police, the Anti-Corruption Commission and the Electoral Commission have each been denying that it is their responsibility to enforce the electoral law. Besides, there has been little political will to see the law enforced, as the ruling party has been the main violator.³⁵

In the last 10 years, particularly after 1996, there have been numerous election petitions challenging parliamentary election results, mostly based on allegations of corruption. Since the December 2001 elections, at least seven parliamentary results have been nullified by the courts. Furthermore, Chiluba's re-election in 1996 was challenged by three of the losing candidates, not only on account of his alleged failure to meet the qualifications but also because of alleged corruption. Mwanawasa's election in 2001 is currently being contested in court by three of the losing candidates. The main grounds for the challenge centre on the alleged abuse of public resources to aid his campaign. Parliamentary petitions are dealt with by the high court while presidential petitions are handled by the full-bench of the supreme court. Unfortunately, election petitions take too long to be processed. The challenge against Chiluba's election lasted three years while Mwanawasa has already served almost three years and the petition is far from over. This renders the whole court process irrelevant and an exercise in futility.

FODEP has for years been campaigning for electoral reform to level the playing field and to eliminate political corruption. Its efforts intensified after the 2001 elections when, after country-wide public consultations, it presented electoral reform proposals to the government in 2003. In August 2003, the Mwanawasa government, partly in response to this, established the Electoral Reform Technical Committee (ERTC) with members drawn from government, civil society and other stakeholders. The main function of the ERTC was to review the electoral system in Zambia and make recommendations aimed at ensuring that the electoral process is free and fair. The ERTC commenced its work on 16 September 2003, and after wide consultations with political parties, government organs, the churches, professional associations, NGOs and members of the public generally, it presented its report to the government on 10 August 2004. The interim report is currently being discussed by the public. Some of the main issues addressed by the ERTC concern political corruption. Among the recommendations made in this respect are that:

- there should be state funding of political parties in proportion to the number of seats they hold in parliament or local councils;
- the Electoral Commission of Zambia should be empowered to disqualify candidates who violate the Code of Conduct before the polls;
- ad hoc election tribunals should be established to deal with election petitions at various levels;
- penalties for violating the Electoral Code of Conduct should be stiffened;
- political parties should disclose their sources of funding;
- members of parliament and councillors who resign from their political parties should be barred from re-contesting their seats for the life of the National Assembly or the council;
- the electoral law should assign specific responsibilities for enforcing the law to the ECZ, Zambia police, the ACC and the DEC; and
- the involvement of the president in the appointment of the ECZ commissioners should be minimised and should merely be formal.

Another area tackled by the Mwanawasa Administration was the corruption emanating from the Presidential Discretionary Fund, which Chiluba had used to buy off his political opponents, civil society, chiefs and religious leaders. President Mwanawasa abolished this fund. Another measure he took was to transform the office of District Administrator (DA) into a civil service office. In 1999, President Chiluba had created the position to which he appointed MMD party cadre in all the 73 districts. Most of the people so appointed lacked both academic and professional qualifications as well as the requisite experience for the job. He appointed the cadre specifically to spearhead his illegal third term campaign. The DAs were essentially party officials living off public funds. Upon assuming office, President Mwanawasa told the DAs to choose between their party positions and their government jobs. He has also been replacing the cadre whose contracts have expired with more qualified candidates.

Reshaping and depoliticising the civil service

Civil service reforms that have been taking place since 1993 cannot be ascribed to President Mwanawasa's reform drive as he found them already in place. The Public Service Management Division, the Public Service Commission and the Management Division at Cabinet Office have been implementing a far-reaching Public Service Reform Programme aimed at reorganising and restructuring the civil service. The ultimate goal of the public service reforms is to improve the quality, delivery, efficiency and cost effectiveness of public services. It is to be accomplished through creating a lean, streamlined, efficient and responsive civil service. The reforms are intended to completely transform the public sector, including adoption of professional ethics whereby public accountability,

transparency, punctuality, innovation and responsibility will become the hallmarks of the civil service.³⁶ Since the start of the programme, almost all the ministries have been restructured. The programme also involves the gradual introduction of performance-based contracts for senior public officers, which will have set targets. Renewals of contracts will depend on performance, and lower level officials will be given job descriptions. Promotions will depend on fulfilment of assigned targets.³⁷ The PSRP programme has been funded by the government and donors. For example, in 1998 and 1999, donors contributed K40 billion (US \$1 million) to the PRSP programme.³⁸

Despite these reforms, the civil service is still lethargic, ridden with corruption, unmotivated and demoralised. Political influence has still not been completely removed, as permanent secretaries and their deputies are appointed by the president and serve at his pleasure. The lack of security of tenure therefore compromises their political neutrality, as they have to dance to the tune of the politicians if they want to keep their jobs. The salaries and conditions of service are extremely low and discourage well-qualified professionals from joining the public service. Moreover, the poor conditions of service fuel corruption as the public service workers strive to survive in a harsh economic environment.

President Mwanawasa, as noted above, has tried to minimise political influence by directing district administrators (now renamed district commissioners) to give up their party positions. While this is commendable, in reality few district commissioners act impartially or professionally. A large number of them are loyal to the ruling party and still exhibit the 'cadre mentality' in their administration of government affairs. The public and most opposition parties have been agitating, without success, to have the post of district commissioner abolished.

Reforming the judiciary

Judicial reform started long before Mwanawasa's advent to power. Article 91(2) of the Constitution provides that judges, magistrates, and local court justices shall be independent, impartial and subject only to the constitution and the law. Moreover, Article 92(3) states that the judicature shall be autonomous. The Judicature Administration Act, 1994 and the Judicial Code of Conduct Act of 1999, reinforce these provisions. The tenure of superior court judges is protected by the constitution and they may only be dismissed for inability to perform the functions of their office, whether arising from infirmity of body or mind, incompetence or misbehaviour. The dismissal can only be effected after a judicial tribunal comprising three judges or lawyers appointed by the president so recommends following investigations.³⁹

Recently, the judiciary, in line with the PSRP, completed its restructuring plan. The shortage of resources, however, has prevented its implementation. The judiciary is linked

to the Ministry of Justice on matters of representation in the National Assembly. Moreover, it is still linked to the executive through the appointment and secondment of non-judicial staff by the Public Service Commission. The judiciary recognises the need to delink the judiciary from the executive. It has been observed that the two-tier system of recruitment⁴⁰ has created administrative problems in terms of appointments, transfers and discipline. The goal of the restructuring programme is 'to achieve full autonomy and efficient and effective operation of the judicature through funding for the timely acquisition of appropriate resources'.⁴¹

Poor funding, uncompetitive conditions of service and a severe shortage of well-trained staff have undermined judicial independence. In fact, the judiciary's share of the national budget is only 0.4 per cent. It lacks financial autonomy as it cannot determine its own budget and even the annual funding approved by parliament is rarely released in full. In most cases, it has only been able to carry out operations because of court fees, which it retains. The judiciary has not been able to recruit sufficient staff because of poor conditions of service. Magistrates and local court justices are poorly remunerated and their conditions are linked to the civil service. They work in deplorable conditions, thereby making them highly vulnerable to corruption.⁴² There have been several cases of magistrates and local court justices being investigated or prosecuted for corruption.⁴³

The president determines the remuneration and conditions of service for high court and supreme court judges, thereby enabling him to influence superior court judges. For example, in 1996, when Chiluba's election was being challenged by his opponents in the supreme court, Chiluba awarded two salary increases exceeding 320 per cent to the judges within a period of nine months.⁴⁴ At the same time, magistrates and local court justices were denied a pay rise, which led to a nation-wide strike by magistrates. In 2002, President Mwanawasa, whose own election was being challenged in the supreme court, awarded a big salary increment to judges of the supreme court and high court. The other judicial workers were left out.

Addressing corruption in the police

The Zambia police force, currently standing at no more than 16,000, has been undergoing reforms since 1995, which are aimed at improving its performance and bringing it closer to the public. Apart from the Victim Support Unit, however, the police force has not been effective in combating crime and crime levels have been escalating.

The police role in the fight against corruption has been minimal as the bulk of corruption cases are handled by the Anti-Corruption Commission. In fact, police have in the past harassed journalists who have exposed corruption committed by the president and other government leaders, by arresting and charging journalists with offences such as breach of

the State Security Act, defamation of the president and criminal defamation.⁴⁵ The police have constantly been accused of being partisan, lacking professionalism and conducting selective arrests at the behest of politicians of the ruling party. In politically sensitive cases, the police have over the past decade been reluctant to arrest MMD officials who have committed criminal offences, but have been quick to arrest opposition leaders and members, even on trumped up charges.⁴⁶ Under Chiluba, there was a deliberate policy to recruit MMD cadre into the police force and, as a result, the force became so politicised that it ceased to be a professional force but instead became an 'MMD militia'.

The public has no confidence in the police for a number of reasons. First, they are generally perceived as being tools of the ruling party, used to suppress its opponents. Second, the police are the main violators of human rights. There have been numerous reports of police torture of suspects, police brutality in breaking up opposition meetings and demonstrations, extra-judicial killings of suspects, arbitrary arrests and hostage-taking, selective application of the law such as the Public Order Act,⁴⁷ and false imprisonment.⁴⁸

Third, the police force has exhibited gross incompetence and inefficiency in dealing with crimes, as few crimes are solved. Fourth, the police force has many bad eggs that are either corrupt or consort with criminals. The most notorious are those who man roadblocks, which are conducted frequently throughout the country. Traffic police often extort bribes from motorists. Some police officers have been tried for participating in armed robberies.⁴⁹

Statistics compiled by the ACC on the number of complaints authorised by sector from 1996-2000 show that the police were the worst affected by corruption: 103 in 1996; 128 in 1997; 125 in 1998; 91 in 1999; and 195 in 2001.⁵⁰ A TI-Zambia Annual Public Perception Survey for 2002 ranked the police force as the most corrupt government institution.⁵¹

Some of the reforms have attempted to address these ills. For example, with the help of the Institute for Human Rights, Democracy and Intellectual Property (HURID), police officers at various levels have been undergoing training in human rights since 2003. Furthermore, the entry qualifications into the police force have been raised to a minimum education level of 12th grade. Additionally, the syllabi at the three police academies have been revised to include human rights and more specialised training courses. The establishment of community policing, particularly the Victim Support Unit, has gone some way in restoring public confidence in the police.

Nevertheless, the reforms have yielded few successes for a number of reasons. First, funding for the Zambia police force has always fallen far short of its requirements. The police lack adequate transport, fingerprinting equipment, crime laboratories and operational funds. Second, the police are demoralised because of extremely poor

conditions of service.⁵² Moreover, most officers live in very poor accommodation, lacking basic facilities such as sanitation, water and electricity. Third, the police lack independence as the law does not protect the tenure of the police leaders. In addition, the inspector-general under the Zambia Police Act is subject to the directions and instructions of the president and the minister of home affairs. To address this issue, the ERTC has recommended that the police inspector-general and the commissioner of police should be appointed by the president subject to ratification by the National Assembly, and that their security of tenure be similar to that enjoyed by superior court judges.⁵³

Dealing with conflicts of interest

There have been no significant initiatives taken in this area.

The role of codes of conduct and ethics education

There have been no new initiatives in this area. Although there are codes of conduct for parliamentarians, ministers⁵⁴ and the judiciary,⁵⁵ there is no code of conduct for the public service. Other statutory corporations like the Zambia National Tender Board, the Anti-Corruption Commission, the Drug Enforcement Commission and others also do not have any codes of conduct. This is one area that is crying out for action.

The salaries question

As indicated above, salaries in the public service are extremely low. This not only discourages well qualified professionals from taking up vacancies in the public service, but also encourages public service workers to engage in corruption in order to make ends meet. The government, with the support of the World Bank and other donors, has embarked on a medium-term pay review, which is intended to decompress salaries in the civil service. The idea is to reward professionals adequately in order to increase efficiency and professionalism in the public service. The results of this initiative have yet to be seen.

3.d. Implementing institutional change using dysfunctional institutions

Many of the institutions meant to fight corruption have been struggling over the years. They have suffered from a lack of adequately trained manpower equipment and poor salaries. They have also lacked meaningful autonomy, have had inadequate operational funds and have also been saddled with demoralised and demotivated staff. As a result, they have failed to perform to optimum levels.

President Mwanawasa's decision to set up the Task Force on Economic Plunder is an acknowledgement that the existing institutions, such as the ACC, the DEC, the DPP and the police force have failed to deal effectively with corruption. The task force, however, is composed of officers from these failed institutions.

At the political level, the president is a member of a party that has since 1991 been associated with corruption. Although some MMD members have left to join other parties, most of the old members are still in place and still have the same values and attitudes they had before Mwanawasa's ascendancy to power. Some of the prominent members are ministers or members of parliament. They are, therefore, in a position to frustrate the anti-corruption campaign. Moreover, the personnel of the civil service remain without much change. A few permanent secretaries and other senior officials have been retired or sacked, but the majority remain in office. This makes the reform effort quite difficult to accomplish as there are many centres of resistance.

The government media does not play the role of watchdog over government operations. In 2002, parliament enacted the Zambia National Broadcasting Corporation (Amendment) Act and the Independent Broadcasting Act, which were meant to free the public media from government control by taking away significant powers from the minister of information and broadcasting, such as the power to approve TV and radio licences, the power to censor broadcasts and the power to appoint boards of directors for the Zambia National Broadcasting Corporation (ZNBC) and the Independent Broadcasting Authority (IBA).

However, the minister of information has been resisting implementation of the full provisions of the law. The matter is currently in court as the various media organisations have challenged the government's refusal to submit the names of nominees for the boards of directors of the IBA and ZNBC to the National Assembly for ratification. Furthermore, the government has been reluctant to enact a Freedom of Information Act, which would greatly strengthen transparency in government and facilitate exposure of wrongdoing. This resistance is essentially due to the fact that the mindsets of significant members of the ruling party and government officials have not changed much in the last three years.

3.e. Financing reform

Improving financial control mechanisms

The government has come up with the Government Strategy and Action Plan for Public Service Management and Capacity. The six broad focus areas include: right sizing and pay reforms; enhancing performance management; strengthening policy management; and enhancing public expenditure management and financial accountability. The Public Financial Management Reforms (PEMFAR), which the government has embarked on, include strengthening the office of the auditor-general in order to improve public expenditure management and financial accountability. In order to improve public procurement, the government, through the Zambia National Tender Board (ZNTB), is implementing a number of activities, including: a review of the legal framework; procurement and training consultancy; revising procurement standards; establishment of Procurement and Supplies Units (PSUs); training of procurement personnel; review of procurement practices; and an

integrated management information system involving a pilot network between ZNTB, nine selected ministries and other institutions.⁵⁶

The weaknesses in public administration, particularly in relation to financial management, have led to inefficiencies and widespread corruption. The PEMFAR report analyses the capacity of the public sector. Among the reforms being implemented under PEMFAR include a focus on improved and transparent budget preparation and execution as well as overall financial management in order to, *inter alia*, limit the opportunities for corrupt practices. Separately, a system for overall monitoring of the results of the poverty reduction strategy is being developed. These reforms are being supported by the World Bank, UNDP, NORAD, DANIDA, DFID and other donors.

Increasing revenue collection

When the MMD government assumed power in 1991, it embarked on the reform of the tax collection system with the help of donors such as the United Kingdom. The previously existing Income Tax Department in the Ministry of Finance was abolished and replaced by a semi-autonomous statutory corporation, the Zambia Revenue Authority (ZRA). Revenue collection has increased several times since those reforms were instituted.

Asset tracing and recovery and mutual legal assistance

The Task Force on Economic Plunder has traced and confiscated assets from suspected plunderers worth millions of dollars both in Zambia and abroad. Most of the recoveries have been effected in Zambia, however. The assets recovered include cash, hotels, houses, vehicles, warehouses, companies and shares. Both the Anti-Corruption Commission Act and the Drugs and Psychotropic Substances Act empower the heads of the ACC and DEC, respectively, to confiscate and forfeit to the state property or assets that were illicitly acquired by those under investigation. The seizures can be challenged in the high court.

3.f. Dealing with the past

The question of amnesties

The question of granting amnesties in the ongoing economic plundering investigations by the task force has not yet arisen.

Truth, justice and reconciliation

No truth, justice and reconciliation commission has been put in place. In fact, there are no plans to establish one.

The question of contract cancellations

This question has not been addressed to date.

4. Conclusions

4.a. Overall outcomes and current status

In the last three years, there have been no legislative reforms aimed at advancing the fight against corruption. The increase in inter-agency cooperation through the establishment of the Task Force on Economic Plunder has proved beneficial, however. While in the past there was little sharing of information, expertise or resources among the various law enforcement and regulatory institutions, the creation of the task force appears to have sorted out that problem. Furthermore, the usual rivalry between such institutions has been considerably reduced. The task force has managed to recover much property and money embezzled by former public officials.

The fact that there is political will at the highest level to combat corruption has breathed new life into the anti-corruption fight. The anti-corruption institutions have been energised and now feel encouraged to pursue corrupt officials without fear of retribution from the government. The Chiluba government had been hostile to these institutions and did everything to frustrate their work. Officers worked in fear for their jobs if they annoyed those in power. Chiluba, through his conduct and tolerance of corruption, had literally given an open license to public officials to indulge in corruption. Mwanawasa's administration has sent a clear message to all that corruption will no longer be tolerated. The arrest of former ministers, senior parastatal chiefs, former and serving permanent secretaries, former defence commanders and other senior officials has sent a chill into the spines of public officials.

Although corruption has not been totally eliminated, there are indications that it is not as wanton, particularly among top officials, as it was under Chiluba. Petty corruption, however, is still a serious problem in government because of outrageously low salaries paid to public service workers. The absence of a code of conduct for public officials aggravates the problem. Although no legislative reform in the area of public procurement has been undertaken hitherto, there are indications that tender procedures are being taken seriously by public officials. A number of top officials have been arrested and prosecuted for flouting tender procedures in the awarding of contracts or for conflicts of interest.

Political corruption has not abated. It is encouraging, however, that the government is trying to address it by setting up the Electoral Reform Technical Committee (ERTC). The ERTC's recommendations, if implemented in full, will go a long way in levelling the political playing field and reducing political corruption.

There are several obstacles to anti-corruption reform. First, the absence of a legal framework for the operations of the task force has created legitimacy problems for it. The

task force has, to some extent, lost the confidence of significant portions of civil society because it is perceived to be acting at the behest of the president. It has been accused of being selective in its investigations, arrests and prosecutions. Second, apart from the recovery of property and cash stolen, the task force has secured an insignificant number of convictions in courts of law. It has suffered a number of embarrassing defeats through acquittals of suspects. This suggests that the task force has capacity problems and lacks independence from the political authorities to do its work professionally without fear or favour.

Third, the various law enforcement institutions constituting the task force have not been significantly strengthened. They still suffer from inadequate funding, poorly motivated staff, inadequately qualified manpower and a lack of logistics. Some of their weaknesses, particularly the quality of staff, have been transferred to the task force.

Fourth, the political will to deal with political corruption does not appear to be as strong as it is for other types of corruption. That is why there has been no enforcement of the Electoral Code of Conduct.

Fifth, there is no comprehensive national anti-corruption strategy or plan. Transparency International Zambia has for the past three years been advocating the adoption of such a plan and has even done research and come up with suggestions on the basic elements of such a plan. Seminars have been held with policy-makers on this subject. The government has not yet taken any concrete position on the desirability of such a plan, however. The Anti-Corruption Commission, with help from DFID, has been working on a Corruption Prevention Plan, but this has yet to be finalised and is too narrow in scope to constitute a national anti-corruption strategy or plan.

Sixth, there is still resistance to the anti-corruption fight by vested interests in government, the ruling party and some opposition parties.

4.b. Current challenges

The challenges facing the nation include:

- poor accountability and management of public funds;
- the lack of meaningful control over the budgetary process by the National Assembly;
- wide discretionary power given to the minister of finance in terms of disbursements of public funds as well as loan contraction;
- the weakness of watchdog institutions;
- the fact that civil society is still young, developing and trying to find its feet;
- the lack of consolidation of the democratic system;

- the fragility of the rule of law;
- the weakness of the office of the DPP, which is prosecuting the alleged plunderers;
- the fact that the courts are very slow in disposing of cases and that the rules of evidence make it difficult to convict a suspect of corruption;
- resistance to political reforms by the main stakeholders, particularly the ruling party as well as some opposition political parties;
- the absence of a comprehensive national anti-corruption strategy or plan;
- the high levels of poverty and the slow pace of economic development in the country, fertile ground for corruption;
- low remuneration in the public service, which encourages corruption and also discourages well-qualified professionals from working in the public service;
- the over-concentration of power in the presidency, which undermines the other co-equal branches of government;
- widespread ignorance of the law by the public;
- reluctance by the government to enact a freedom of information act; and
- the absence of legislation to protect whistleblowers.

4.c. Evaluation and lessons learned

The past three years have demonstrated that political will at the highest level is crucial for success in the fight against corruption. In addition, it is essential for civil society to keep putting pressure on the government to ensure that there are no reversals in the anti-corruption drive.

The benefits of various law enforcement and regulatory institutions working together and coordinating their activities have been quite enormous. The fight to recover the plundered resources has been constrained by the weaknesses of the various institutions that make up task force. The institutions lack adequate professional competence. The office of the DPP, for example, is so understaffed that the task force has had to hire private lawyers at considerable cost to undertake the prosecution of former president Chiluba and his associates in crime.

Prosecution of corruption cases takes a long time and convictions are hard to come by. This often leads to frustration by both politicians and members of the public. The task force is constantly being attacked by politicians and civil society for the slow pace of both investigations and prosecutions and for the failure to record any significant conviction against the culprits to date.

The cost of task force operations has been quite tremendous and has provoked public dismay. But the government maintains that the total amount the task force has recovered so far exceeds what has been spent on it. Besides, the donors have met most of the costs.

Another lesson learned is that it is difficult to arrange for suspects who have fled the jurisdiction to be brought back to Zambia, particularly where no extradition treaty exists between Zambia and the country where the suspects have sought refuge. So far, two prominent suspects charged jointly with Chiluba, Xavier Chungu (former director-general of intelligence) and Attan Shasonga (former ambassador to the United States), who fled to Congo DR and the UK, respectively, have been at large for months. The government has so far failed to have them extradited to Zambia. In fact, there are even reports that Chungu is now in Canada and that Shasonga is no longer in the UK.

Another lesson learned is that politicians should not be involved in or be seen to be involved in investigations of corruption and deciding who should be prosecuted. This compromises the professionalism of the law enforcement agencies and reduces public support for the anti-corruption fight. The anti-corruption fight is then viewed as a tool being used by politicians in power to settle scores with their opponents. Chiluba is, for example, increasingly drawing public sympathy because of Mwansawasa's perceived control of the task force.

The absence of a legislative framework for the operations of the task force has also resulted in unnecessary tensions among its constituent elements. The lines of accountability are not clearly delineated, allowing for political interference in the work of the task force.

The role of the media in exposing corruption and sensitising the public on issues of corruption has been significant. The anti-corruption fight would not have reached the current stage without the investigative journalism and bravery of the private media, particularly *The Post*.

4.d. Recommendations

Certain measures need to be taken in order to strengthen the fight against corruption.

- A legal framework for the operations of the task force needs to be put in place, clearly specifying the composition, the method of appointment, the powers, functions and accountability of the task force.
- An independent prosecution service must be established to handle prosecutions. It should be well resourced and have qualified state advocates who are well versed in handling financial crimes.

- The Anti-Corruption Commission and the Money Laundering Unit of the DEC need to be strengthened in terms of qualified personnel, training and logistical support.
- Conditions of service in the public sector need to be significantly improved.
- There is need to review and strengthen legislation against corruption. In particular, there should be legislation protecting whistleblowers and the Freedom of Information Bill, which was withdrawn from the National Assembly on dubious grounds, should be enacted immediately.
- The auditor-general's office should be given more autonomy, be well resourced and should be empowered to prosecute those who abuse public funds.
- Anti-corruption institutions should have meaningful autonomy. They should have greater control over their budgets, their allocations should be released promptly and in full, and they should be self-accounting. Furthermore, the institutions should have full control over all or most of their personnel. They should be able to hire, discipline and set conditions of service for their personnel.
- Efforts aimed at preventing corruption must be intensified. Public education on the evils of corruption should be given special attention. As long as the majority of Zambians see nothing wrong with corruption, corrupt public officials and politicians will continue to thrive.
- Zambia should strengthen its national integrity system.
- A comprehensive anti-corruption plan should be developed and implemented.
- Codes of conduct should be developed for the public service and the private sector.

NOTES

¹ Constitution of Zambia, Cap. 1, Laws of Zambia, Article 63.

² Constitution, Articles 33 and 34.

³ Constitution, Articles 45-56.

⁴ Constitution, Articles 91, 92 and 93.

⁵ Constitution, Articles 94 and 95.

⁶ Constitution, Article 95(2).

⁷ Constitution, Article 98(2), (3), (4) and (5).

⁸ Judicature Administration Act, Cap. 24, Laws of Zambia.

⁹ Constitution, Article 91(2) and (3).

¹⁰ B.S. Chisala, *The downfall of President Kaunda* (Lusaka: 1994).

- ¹¹ P. Burnell, 'The party system and party politics in Zambia: continuities past, present and future', *African Affairs*, vol. 100, no. 399 (2001).
- ¹² Republic of Zambia, *Interim report of the electoral reform technical committee appointed to review the electoral system in Zambia*, (Lusaka: Republic of Zambia, August 2004).
- ¹³ *The Monitor*, 30 March 30-5 April 2001.
- ¹⁴ *The Post*, 30 September 2004.
- ¹⁵ Afronet, *Zambia human rights report 1999* (Lusaka: 1999).
- ¹⁶ Johann Lambsdorff, in *Global corruption report* (Berlin: Transparency International, 2001).
- ¹⁷ TI-Zambia, *State of corruption report for 2001* (Lusaka: TI-Zambia, 2002).
- ¹⁸ A. W. Chanda, in *National integrity systems country study report Zambia 2002* (Lusaka: TI-Zambia, 2002).
- ¹⁹ *The Post*, June 29, 2002; *Ibid*, July 1, 2002.
- ²⁰ *The Post*, February 14, 2002.
- ²¹ T. Kenny, *Zambia: deregulation and the denial of human rights*. Submission to the Committee on Economic and Social Rights (Oxford: March 2000).
- ²² *The Post*, 16 April 2001.
- ²³ *The Post*, 31 May 2002.
- ²⁴ *The Monitor*, 21-23 May 2002.
- ²⁵ Republic of Zambia, *Report of the auditor-general on the operations of the presidential housing initiative for the period November 1998 to August 2001, presented to the National Assembly* (2002).
- ²⁶ Kenny.
- ²⁷ *The Post*, 2 July 2002.
- ²⁸ FODEP, *Zambia's 2001 tripartite elections report* (Lusaka: FODEP, 2001).
- ²⁹ *The Monitor*, 16-19 August 2002; *The Post*, 21 August 2002.
- ³⁰ President Mwanawasa's address to the special session of the National Assembly on 11 July 2002.
- ³¹ Sakala has been sentenced to five years imprisonment for using public funds to acquire a personal vehicle and for flouting tender procedures.
- ³² Currently there is a case in which some MMD members are challenging Mwanawasa's control of the party.
- ³³ Peter Henriot, *Notes on Mobilising Political Will to fight Corruption in Zambia*, 1 PROMOTING AND PROTECTING INTEGRITY IN PUBLIC LIFE IN ZAMBIA 16 (MAY 2001)
- ³⁴ A.W. Chanda, 'Corruption in the electoral process', *CORRUPTION EYE*, no. 1 (September 2001).
- ³⁵ A.W. Chanda, 'Legal frameworks for fighting Corruption in the Electoral Process' (Chrismar Hotel, Lusaka: 26 July 2001).
- ³⁶ Republic of Zambia, *Report of the auditor-general on the accounts for financial year ended 31 December 2000* (Lusaka: Republic of Zambia, 2000).
- ³⁷ Interview with deputy secretary to the cabinet, 29 May 2002.
- ³⁸ Republic of Zambia, *Report of the auditor-general on the accounts for financial year ended 31 December 2000* (Lusaka: Republic of Zambia, 2000).
- ³⁹ Constitution, Article 98(3), (4) (5).
- ⁴⁰ Judicial Service Commission and the Public Service Commission.
- ⁴¹ Republic of Zambia, *Approved Structure of the Autonomous Judicature* (Lusaka: Republic of Zambia, 2003).
- ⁴² M. Chuulu and others, *Women and justice: myth or reality in Zambia* (Lusaka: WLSA 1999).
- ⁴³ *The Post*, 26 June 1996.
- ⁴⁴ *The Post*, 5 July 2002.
- ⁴⁵ A.W. Chanda, 'The State Security Act v. open society: does a democracy need secrets?' *Zambia Law Journal* (1998).
- ⁴⁶ M. Munalula, 'Government watchdog institutions. A position paper prepared for Transparency International Zambia' (TI-Zambia, July/July 2002); AFRONET.
- ⁴⁷ This act provides for the regulation of public meetings and processions.

-
- ⁴⁸ AFRONET; Amnesty International, 'Zambia applying the law fairly or fatally? Police violation of human rights' (Amnesty International, April 1999); Human Rights Watch, 'Zambia no model for democracy: continuing human rights violations' (*Human Rights Watch*, May 1998).
- ⁴⁹ *Zambia Daily Mail*, 20 November 2002; *Sunday Post*, 28 April 2002.
- ⁵⁰ Anti-Corruption Commission, *Annual report for the year 2001*.
- ⁵¹ Musonda Lemba, *An opinion poll on the perceptions and experiences of corruption among Lusaka residents* (Lusaka: Transparency International, 2003).
- ⁵² A police officer's salary is in the range of US \$25-US \$63 per month.
- ⁵³ Republic of Zambia, *Interim report of the electoral reform technical committee appointed to review the electoral system in Zambia* (Lusaka: Republic of Zambia, August 2004).
- ⁵⁴ *The Parliamentary and Ministerial Code of Conduct Act 1994*.
- ⁵⁵ *The Judicial (Code of Conduct) Act*, no. 13 of 1999.
- ⁵⁶ Republic of Zambia, *Public expenditure management and financial accountability. programme document*; Ministry of Finance, *2004-2006 medium term expenditure framework and the 2004 budget*, (Lusaka: MFNP, October 2003).