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**An application of Lindberg's thesis in assessing democratic growth in  
Zambia.**

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This work has not been previously submitted in whole, or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed, and has been cited and referenced.

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Date

*17<sup>th</sup> October 2011*

## ABSTRACT

Amongst Africa's 3<sup>rd</sup> wave democracies, Zambia (along with Benin) has the longest line of uninterrupted competitive elections, and thus offers a critical test of recent arguments in political science about the role of elections in advancing the process of democratization. Many of these 3<sup>rd</sup> wave democracies have managed to maintain competitive elections, but without becoming full democracies. Scholars provide two different interpretations of this phenomenon. On one hand, scholars such as Carothers (2002:14), Levitsky and Way (2005:22), Schedler (2002) and Diamond (2002:32) argue that there is no underlying trend whereby countries are slowly moving, or transiting toward democracy or full democracy and that countries are developing into a new form of regime. There is no consensus over how to label this new regime form (hybrid regimes, grey zone, illiberal democracies, semi democracies etc...). Lindberg on the other hand, has focussed on the role of elections and argues that repeated elections actually promote democratic growth. The purpose of this study is to assess if democratic values in Zambia have deepened with repeated elections as suggested by Staffan Lindberg. If any country should exhibit the overtime changes that Lindberg attributes to repeated elections, it should be Zambia because of the country's long line of uninterrupted competitive elections.

More specifically, the study examines whether a within country, over time analysis of Zambia, reveal that Zambia is in fact becoming more democratic. The study assesses democratic quality in Zambia using sub-concepts of participation, competition, judicial autonomy, legislative autonomy, executive power, openness, and popular legitimacy of democracy. The data used in this study is mainly cross national data and public opinion data from Freedom House, Polity, Heritage House's, Bertelsman, World Bank Institute and Afrobarometer. In addition, country reports from Media Institute of Southern Africa, Amnesty international, Human Rights Watch, United Nations Human Rights, World Bank, Legal Resource Foundation Zambia and Transparency International among other publications were used.

The within country, over time analysis of democratic quality in Zambia reveals that Zambia is not becoming more democratic. The overall quality of democracy in Zambia has not improved overtime. Of the seven (7) sub-concepts used to measure democratic quality namely participation, competition, judicial autonomy, legislative autonomy, executive power, openness, and popular legitimacy of democracy, only the indicator of political participation under the broader concept of participation showed signs of minor progress. Although a major setback with the overall assessment of the sub concept of participation was revealed. There has not been any progress and therefore no change recorded with regards competition, judicial autonomy and executive power. Minor setbacks were experienced with regard to openness, legislative autonomy, and popular legitimacy of democracy.

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## ACRONYMS

|      |                                       |
|------|---------------------------------------|
| ACC  | Anti Corruption Commission            |
| CSO  | Civil Society Organisation            |
| ECZ  | Electoral Commission of Zambia        |
| FDD  | Forum for Democracy and Development   |
| MMD  | Movement for Multiparty Democracy     |
| MISA | Media Institute of Southern Africa    |
| NCC  | National Constitutional Conference    |
| NGOs | Non Governmental Organisation         |
| POA  | Public Order Act                      |
| PF   | Patriotic Front                       |
| UPND | United Party for National Development |
| UNIP | United National Independence Party    |

ZDC Zambia Democratic Congress

ZNBC Zambia National Broadcasting Corporation

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# CHAPTER 1: INTRODUCTION

## 1.1 Problem and Relevance

The purpose of this study is to assess if democracy in Zambia has deepened, with repeated elections, as suggested by the theory of democratization by elections, as advanced by Staffan Lindberg<sup>1</sup>. Zambia is amongst the countries that moved away from one party authoritarian rule in the post 1989 period. Many of these countries like Zambia have managed to maintain competitive elections, but without becoming full democracies (hybrid regimes, grey zone, illiberal democracies, semi democracies etc...). Scholars provide two different interpretations of this phenomenon. On one hand, scholars such as Carothers (2002:14), state that countries should not be analysed, as being on 'way stations to liberal democracy' but should be understood as having taken alternative directions. Levitsky and Way (2005:22) in support, suggest that these countries are developing into a new regime form called electoral authoritarianism, while Schedler (2002) referred to them as competitive authoritarianism. Diamond (2002:32), described these nations as electoral autocracies and classified Zambia as an ambiguous regime. The basic argument is that there is no underlying trend whereby countries are slowly moving, or transiting toward democracy or full democracy. In fact, they argue that these counties are developing into a new form of political regime that is neither democratic, nor wholly authoritarian.

Lindberg on the other hand, has focussed on the role of elections and argues that repeated elections actually promote democratic growth. This is unlike the above mentioned scholars, who argue that repeated elections are not moving these countries forward in any democratic direction. Lindberg's study examines the relationship between elections and

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<sup>1</sup> **Important Note;** The study is a within country enquiry which provides an in-depth overtime analysis of democratic quality in Zambia. A fourteen year time frame (1996-2010) is used for the purposes of this research, in order to capture the four consecutive elections (1996, 2001, 2006 and 2008). **The end date for data collection was therefore before the most recent election held on 20<sup>th</sup> September 2011.** Also, after the end date for data collection second Republican President FTJ Chiluba who had been at the centre of corruption charges also passed away.

level of democracy and provides evidence after compiling a dataset that included information on 284 elections in sub-Saharan Africa from 1989 to 2006, that repeated elections in fact improve the quality of democracy, as measured by data on civil liberties. According to Lindberg (2006: xi) there is a 'strong correlation between elections and democratic growth'. Lindberg's analysis shows that the inception of multiparty elections in a country instigates liberalization and that 'repeating electoral activities create incentives for political actors, by fostering the expansion and deepening of democratic qualities in the society'. Therefore, a sequence of elections not only contributes to increasing the quality of a 'political regime'<sup>2</sup> but also 'broadens and deepens civil liberties in the society' (ibid).

Repetitive elections, even when flawed, are one of the important causal factor in democratisation as 'flawed electoral experiences involving manipulation, rigging, and violence can be efficient in provoking actors to work harder to increase civil liberties in society' (Lindberg 2006:121). According to Lindberg (2006:3) regime transitions unfold in stages, from founding elections that signify the genesis of a new democratic phase. Democracy in Africa, tends to take root after a sequence of three electoral cycles and the longer an uninterrupted series of elections a country has, the more its society will become 'imbued with democratic qualities' (Lindberg 2006:99). Increases in democratic qualities, are therefore effects of holding elections. This is because elections have a 'self-reinforcing power'<sup>3</sup>. According to Lindberg (2006:109) elections are a causal factor in democratization rather than, as often assumed, merely a reflection of democracy.

## 1.2 Research Question

Zambia provides a critical case with which to explore this controversy. It has been labelled variously as a hybrid regime, grey zone country, ambiguous regime and most recently by

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<sup>2</sup> Regimes are the rules governing the distribution of power and the relationships between the agents of power in politics. According to Lindberg (2006:6) regime change is about breaking the old patterns and establishing new ones even if this alteration has to occur in the context of the old structure and in the face of established patterns of behaviour.

<sup>3</sup> Increases in democratic elections due to the experience accumulated over several electoral cycles leads to improvements in democratic qualities (Lindberg 2006:71).

Levitsky and Way (2010) as a competitive authoritarian regime. It is viewed by some scholars as a country that has stopped moving towards democracy. Lindberg's thesis alternatively provides renewed hope for countries like Zambia, whose progress towards democratic growth has been a matter of doubt. Lindberg's thesis provides a new lens of analysing democratic growth in Zambia. The country further provides a critical case, because it is not only a single case test of the Lindberg hypothesis, but also a useful case that can illustrate the Lindberg thesis, as it has had a series of uninterrupted elections, which according to Lindberg (2006:109) are a necessary condition for democratic growth.

It would therefore be important, to assess if Zambia conforms to Lindberg's hypothesis and such is the intention of this study. Lindberg's study raises a very interesting topic that should be subjected to further scrutiny. His study uses a large data set to make cross national comparison. This raises the need to make a more country specific longitudinal enquiry, to assess if the statistical evidence, is indeed reflected overtime in society's actual democratic qualities. The statistical evidence as shown by Freedom House, in fact, suggests that there is a gradual, over time positive trend in political rights in Zambia (refer to Table 1 below). The question that this raises therefore and which is partly the essence of the study is that, if one looked deeper beyond the statistics, into the Zambian society, are things really getting better (Discussed in more detail in Chapter Three, Section 3.1). Put differently there appears to have been overtime democratic growth in Zambia. This study will therefore, add value to the state of knowledge, with regards to the relationship between elections and increases in democratic growth and furthermore on the state of democratic growth in Zambia.

**Table 1: Freedom House Data Ranking Zambia**

| <b>Political Rights (PR) and Civil Rights (CL) in Zambia from 1996-2009</b> |           |           |                               |
|---|-----------|-----------|-------------------------------|
| <b>Year</b>   | <b>PR</b> | <b>CL</b> | <b>Status (Freedom House)</b> |
| 1996-1997   | 5         | 4         | Partly Free                   |
| 1997-1998   | 5         | 4         | Partly Free                   |
| 1998-1999   | 5         | 4         | Partly Free                   |
| 1999-2000   | 5         | 4         | Partly Free                   |
| 2000-2001   | 5         | 4         | Partly Free                   |
| 2001-2002   | 5         | 4         | Partly Free                   |
| 2003*   | 4*        | 4         | Partly Free                   |
| 2004  | 4         | 4         | Partly Free                   |
| 2005  | 4         | 4         | Partly Free                   |
| 2006  | 4         | 4         | Partly Free                   |
| 2007  | 3         | 4         | Partly Free                   |
| 2008  | 3         | 4         | Partly Free                   |
| 2009  | 3         | 3         | Partly Free                   |
| 2010  | 3         | 4         | Partly Free                   |

\*Source Freedom House-‘Freedom in the world rankings’

\*Countries are ranked on a scale of 1-7, with 1 representing the highest level of freedom and 7 representing the lowest level of freedom

\* In 2003\* Zambia's political rights rating improved from 5 to 4 due to changes in the survey methodology.

### **1.2.1 Key Research Question**

1. Does a within country, over time analysis of Zambia reveal that Zambia is becoming more democratic?

## CHAPTER 2: LITERATURE REVIEW

### 2.1 Literature Review

Literature that focuses on democracy and democratization reveals a distinct division among scholars. There are those scholars that have prescribed democracy via the transition route. While others have criticised the transitional paradigm and concluded, over the years, that these transitions have stalled. These scholars question whether the image of democratic transition and democratization can be used forever. They argue that once you get to a certain point<sup>4</sup> and the country is not yet a democracy, it would be incorrect to keep describing it as 'in transition to democracy'. They further contend that at that point, a country may be consolidating into a new type of regime that is neither democratic nor wholly authoritarian. Lindberg on the other hand, disputed the fact that transitions have stalled and provides evidence that, repeated elections have actually promoted democratic growth in these countries. Lindberg's assertion of democratic growth with repeated elections can be described as democratization by election. This literature review, elaborates on the different perspectives, provided by scholars, on the subject of democracy and democratic growth and is thus arranged into three sections namely transition paradigm, counter transitional paradigm and democratization by elections.

#### 2.1.1 Transition Paradigm

Transition theorists, hold the view that the process of democratisation, is supposed to move from authoritarian rule to democratic consolidation, where aspects in between present a transition to the final process of democratic consolidation. Transitional theory is synonymous with the 'third wave'<sup>5</sup> of democratization, which was inspired by the work of

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<sup>4</sup> Usually the 3rd or 4th election

<sup>5</sup> The term "wave of democratization" refers to the transitional movement of states from non democratic to democratic regimes that occur within a specified period of time and that significantly out number transitions in the opposite direction during the period. The "third wave" of democratization started in the mid-1970s in

Guillermo O'Donnell and Philippe Schmitter in their study of Southern Europe and Latin America. Scholars such as Bratton and van de Walle (1997) have pointed to the strength of civil society, as an important factor in the democratic transitions of the 1990s. Others such as Lawson (1999:2) backed the democratic transition scholars and suggested that two consecutive democratic elections often marked the end of this transition and consequently marked the beginning of consolidation.

Transitions were viewed as liberalization where the authoritarian government collapsed (Linz 1975:184-5). Cheibub *et al.* (1996) also embraced the transitional approach in their classification of regimes as democracies and dictatorships. Huntington (1991:11) proposed a dichotomous approach, in his study on democratization in the late twentieth century, which encompasses transitions from a nondemocratic regime to a democratic one. Other proponents of the transitional paradigm include scholars such as Alvarez *et al.* (1996) who analysed factors that contribute to successful transitions. Geddes (1999:115) provides evidence that democracy is more likely in more developed countries and that regime transitions of all kinds are more likely during economic downturns. The concept of transition was originally developed to describe something very specific, but gradually came to be used to describe a whole range of countries, like Zambia, even once they were in their 2nd and 3rd electoral cycles. Diamond (2002:33) emphasises that every step toward this political liberalization matters, both for the prospect of a transition to democracy and for the quality of political life. Lindberg's theory ascribes to the transitional approach, as he states that a repeated sequence of elections leads to democratic growth. States with authoritarian tendencies become more democratic as they repeat elections. Aspects of holding elections therefore, represent positive steps through the transition process towards the ultimate state of democratic consolidation.

The literature on Transitional Paradigm presents varying opinions of what constitutes a successful transition from Huntington's two consecutive democratic elections to Lindberg's sequence of repeated elections. Despite this, one area of commonality is that the process of democratisation is supposed to move from authoritarian rule to democratic consolidation,

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Southern Europe, expanded to South America in the late 1970s and early 1980s, it reached Asia and eventually spread to Africa in the 1990s (Huntington 1991, 15).

where the former presents a higher and more preferred state of democracy than the latter. Zambia can therefore be generally viewed as having gone through the transitional process or at least should be at an advanced stage to a point where democracy should flourish.

### **2.1.2 Counter Transitional Paradigm**

The criticism of the transition approach is provided by those who argue that transitions have stalled. These scholars question whether the image of democratic transition and democratization can be used forever. They argue that once you get to a certain point and the country is not yet a democracy, it would be incorrect to keep describing it as 'in transition to democracy'. They contend that at that point, a country may be consolidating into a new type of regime that is neither democratic nor wholly authoritarian. Scholars such as Carothers (2002:6) suggest that the transitional theory was only 'useful during a time of momentous and often surprising political upheaval in the world' but concludes that it has become clear that reality is no longer conforming to the model. The transition paradigm was a 'product of a certain time' which is associated with the third wave and that time has now passed.

As analysed by Carothers, the political trajectories of most third-wave countries call into serious doubt the transition paradigm. This is apparent if we revisit the major assumptions underlying the paradigm. For instance, the almost automatic assumption of democracy promoters during the peak years of the third wave that any country moving away from dictatorship was 'in transition to democracy' has often been inaccurate and misleading. Carothers concludes that some of those countries have hardly democratized at all and suggests that many have taken on a 'smattering of democratic features but show few signs of democratizing much further and are certainly not following any predictable democratization script' (Carothers 2002:14).

Democracy promoters in the 1980s and 1990s, underestimated the complications that different underlying conditions could present and thus embraced the view that democracy

could succeed anywhere, and could do so quickly (Carothers 2007:24). According to Carothers, many countries that policy makers and aid practitioners persist in calling 'transitional' are not in transition to democracy, and of the 'democratic transitions that are under way, more than a few are not following the model'. He further observes that 'sticking with the paradigm beyond its useful life is retarding evolution in the field of democratic assistance and is leading policy makers astray in other ways'. It is time to recognize that the transition paradigm has outlived its usefulness and to look for a better lens (Carothers 2002:6).

Carothers suggests that countries such as Zambia, should not be analysed as being on a 'way stations to liberal democracy' but should be understood as having taken alternative directions (Carothers 2002:14). Carothers (2002:18) observes that what is often thought of as an uneasy, precarious middle ground between 'full-fledged democracy' and 'outright dictatorship' is actually the most common political condition today of countries in the developing world and the postcommunist world. Carothers (2002:18) advocates that the seemingly continual surprise and disappointment that Western political analysts express, over the very frequent falling short of democracy in 'transitional countries', should be replaced with realistic expectations about the likely patterns of political life in these countries.

Carothers (2002:20) recommends, that it is necessary for 'democracy activists to move on to new frameworks, new debates, and perhaps eventually a new paradigm of political change, one suited to the landscape of today, not the lingering hopes of an earlier era'. The assumed sequence of stages of democratization is defied by the record of experience. Carothers supports his argument by giving an example of what he views as some of the most encouraging cases of democratization in recent years namely Taiwan, South Korea, and Mexico. He argues that these countries did not go through the paradigmatic process of democratic breakthrough, followed rapidly by national elections and a new democratic institutional framework (Carothers 2002:15). Another example is Nepal which has held many multiparty elections since 1990 and experienced frequent alternation of power. Yet the Nepalese public remains highly disaffected from the political system and there is little real sense of democratic accountability (Carothers 2002:15-16).

Therefore, according to Carothers the assumption of achieving democratic legitimacy in new governments, continuous deepening of political participation and democratic accountability through regular, genuine elections has often come up short. Carothers notes that in many 'transitional countries', reasonably regular, genuine elections are held but political participation beyond voting remains 'shallow and governmental accountability is weak'. He further emphasises that, these disappointments do not mean that elections are pointless in such countries or that, the international community should not continue to push for free and fair elections, but instead recommends that greatly reduced expectations are in order as to what elections will accomplish as 'generators of deep reaching democratic change'.

Also adding to the criticism of the transition paradigm is Levitsky and Way (2005:22) who argue that, the process towards consolidation had hit a grey-zone. The movement towards democratic consolidation had unexpectedly crystallised into another form. According to Levitsky and Way in much of Africa, the former Soviet Union, and in parts of Central and South-Eastern Europe, East Asia, and the Americas, new regimes combined electoral competition with varying degrees of authoritarianism. Therefore countries such as Zambia have hit a grey-zone and combine electoral competition with varying degrees of authoritarianism.

Bratton and van de Walle (1997:64) concluded that Africa was reverting to "an institutional legacy of 'big man' rule and the electoral alteration of leaders were again becoming 'abnormal' by all indications. Other scholars, such as Diamond and Plattner (1999:169) in their analysis of the transitional process, concluded that second elections were merely 'transitions without change' as in the case of Zambia. Added to this debate was Cowen and Laakso (2002: 23) contribution which suggested that ruling party domination coupled with voter apathy, had contributed to the stagnation of transitions. The general view of these scholars was that regimes were not democratising as had been earlier predicted.

Sandbrook's (1996) study of six African countries (Ghana, Mali, Niger, Zambia, Tanzania and Madagascar) concluded that countries were in transition without consolidation. The reasons cited by many scholars for this lack of consolidation was the fact that government critics

were suffering harassment, arrest, and in some cases, violent attacks, electoral fraud, unfair media access, and abuse of state resources, which skewed the playing field heavily in favour of incumbents. There was some competition but this mostly related to elections hence scholars labelled these countries. Levitsky and Way preferred to label these countries as 'competitive authoritarian regimes'<sup>6</sup>. Diamond (2002:24) used the term 'pseudodemocracy'<sup>7</sup>. Brown and Timberman (1998: 14) used the term 'nascent democracy' when referring to Cambodia. Kenya was said to be in a state of 'arrested democratic consolidation' (Harbeson 1998: 162) whereas Zambia was described as 'stuck in transition' (Rakner and Svasand 2005). Teshome (2008) in his study of the democratization process in Africa and multi-party elections concluded that transitions had resulted into 'limited' democracies. Where transitions failed to bring about democracy, countries were generally described as 'stalled,' 'protracted' or 'flawed'.

According to Diamond (2002:24) these countries were deliberately stalling in transition, in that the existence of formally democratic political institutions, such as multiparty electoral competition, 'masked the reality of authoritarian domination'. Many autocrats learned that they could maintain their international standing by holding multiparty elections without democratizing. Thus according to Levitsky and Way (2005:30) in countries such as Mozambique, Tanzania, and Togo, as well as in Kenya from 1991 until 2002, autocratic governments remained in power via competitive authoritarianism.

The literature review, as presented by those opposed to the transitional paradigm seems to suggest that countries such as Zambia have not democratized but have instead taken another form i.e. hit a grey –zone. This is the challenge that arises when trying to assess Zambia's progress towards democratization. As alluded above, some scholars such as Diamond (2002:32) have classified Zambia as an ambiguous regime, while others such as

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<sup>6</sup> Levitsky and Way define these as civilian regimes in which democratic institutions exist and permit meaningful competition for power, but where the political playing field is so heavily tilted in favour of incumbents that the regime cannot be labelled democratic.

<sup>7</sup> Pseudo-democracy is a system where incumbent parties maintain a tight control on politics in a hegemonic fashion by manipulating constitutions and other governmental and political institutions to exploit and harass opposition groups and the civil societies (Huntington 1993: 182-187). In 'pseudo democracies', 'the existence of formally democratic political institutions, such as multiparty electoral competition, masks the reality of authoritarian domination' (Diamond et 1995: 8)

Carothers (2002:14) suggest that countries should not be analysed as being on 'way stations to liberal democracy' but should be understood as having taken alternative directions. This raises the question of whether democratic growth has really stalled in Zambia.

### **2.1.3 Democratization by elections**

Lindberg reinforces the transitional paradigm by providing evidence contrary to the critics of the paradigm. Lindberg refutes claims that countries have indeed stalled or protracted and instead shows that there is no general negative trend in either the frequency or the quality of elections in Africa and that elections are neither 'the end of a transition process towards democracy nor merely formal procedures' (Lindberg 2006:xi). According to Lindberg (2006: xi) there is a 'strong correlation between elections and democratic growth'. Lindberg's analysis shows that the inception of multiparty elections in a country instigates liberalization and that 'repeating electoral activities create incentives for political actors by fostering the expansion and deepening of democratic qualities in the society'. This finding, builds on earlier work done by Rustow (1970) who argued that democratic behaviour produces democratic values and that it is not democratic values that produce democratic behaviour (ibid). Therefore the mere act of a country having repeated elections (democratic behaviour) leads to inculcation of democratic values among its citizens and political actors. Therefore a sequence of elections not only contributes to increasing the quality of a 'political regime' but also 'broadens and deepens civil liberties in the society' (ibid).

Lindberg's theory can be summarised into five basic assumptions. Firstly repetitive elections, even when flawed, are one of the important causal factors in democratisation. Secondly 'flawed electoral experiences involving manipulation, rigging, and violence can be efficient in provoking actors to work harder to increase civil liberties in society' (Lindberg 2006:121). Thirdly, according to Lindberg (2006:3) regime transitions unfold in stages from founding elections that signify the genesis of a new democratic phase. Democracy in Africa tends to take root after a sequence of three electoral cycles and the longer an uninterrupted series of elections a country has, the more its society will become 'imbued with democratic qualities' (Lindberg 2006:99). This constitutes the fourth assumption. Lastly, increases in democratic

qualities are therefore effects of holding elections because elections have a 'self-reinforcing power'. According to Lindberg (2006:109) elections are a causal factor in democratization rather than, as often assumed, merely a reflection of democracy.

Zambia therefore provides a good case, as it has had a series of five uninterrupted elections on one hand, while on the other hand it is seen by some scholars as a hybrid regime that has stopped moving towards democracy. Lindberg's thesis therefore provides renewed hope for countries like Zambia whose progress towards democratic growth has been a matter of doubt. Contrary to Lindberg's thesis, Carothers and others argue that regular elections do not lead to democratic growth because political participation remains shallow and governmental accountability is weak. The conflicting view presented by the existing literature on democracy, provides the platform for further inquiry into Zambia which appears to lie in the middle of these important strands of thought in the study of new democracies.

Although Lindberg's theory is in essence part of transition theory, a fundamental difference arises. Lindberg suggests that moving from authoritarian rule to a competitive electoral regime, tends to lead to further democratization, through the self-reinforcing power of elections. His theory therefore locates within the larger literature on democracy and the role of elections in promoting democratic growth. Lindberg as already alluded to in the literature above, talks of the self-reinforcing power of elections in the process of democratic growth. He further states that elections are a causal factor in democratization rather than, as often assumed, merely a reflection of democracy (Lindberg 2006:109).

Other scholars that have agreed to this position are Seligson and Booth (1995:269) whose analysis specifies a causal association between elections and democratization. Their study involved six nations in Central America and their inductive inquiry points to the fact that elections promoted democracy in a couple of ways. They concluded that by opening up the political space for citizens, elections enabled people to mobilize and pursue their interests, petition government and local authorities, obtain and exchange information, and in effect had expanded civil liberties. These findings all corroborate Rustow's (1970) hypothesis which states that establishing institutions of democracy fosters democrats.

Similar findings have emerged from other scholars. For instance Howard and Roessler (2006) in their global study of electoral autocracies, found a strong support for what they label 'liberalizing effects of elections'. Their study reveals that despite the incumbent's reliance on unfair practices, such as the use of coercive and unfair means to disadvantage the opposition and to ensure their own electoral success to stay in power, such elections occasionally result in a 'liberalizing electoral outcome' (LEO), which often leads to a new government that is considerably less authoritarian than its predecessor (Howard and Roessler 2006:2). Liberalizing electoral outcomes provide at least a chance for a new beginning in each of these countries. According to Howard and Roessler (2006:2) many of these countries in fact, liberalize to the point that they can eventually be considered as electoral democracies, rather than competitive authoritarian regimes.

In recent contributions Bunce and Wolchik (2009:93-106) termed the transitions in Eastern Europe and former Soviet republics 'electoral revolutions', while Hadenius and Teorell (2007) in their global study of democratization, found that most successful transitions go 'the electoral route' of successively more free and fair elections eventually bringing them to a democratic dispensation. Schedler's (2002) study points to the causal effect of elections and democracy and resounds the fact that his study was the first to coin the label 'democratization by elections'. Huntington (1991) moves beyond the mere causation effect of elections and states that elections are indicators of consolidation. According to Huntington (1991:174) election are not only the life of democracy, but are the death of dictatorship. Zambia has had a series of five uninterrupted election and going by the views of the scholars presented above these elections should have led to increased democraticness within the country. Elections according to Lindberg (2006:109) and others are a sufficient condition for democratic growth.

Some researchers have sought to differ and argued that elections do not have a role in democratization. Theorists such as Herbst (2000:253) have asserted that elections have no role in democratization and are of no use as indicators of country's process of democratization. Others such as Terry Karl (1995:72) have criticized the tendency to equate democracy with competitive multiparty elections. Similarly Bratton and van de Walle argue

that elections alone are not sufficient to make a democracy. Carothers (2002:8) concludes that democracy promoters have been guilty of believing that elections equal democracy.

## CHAPTER 3: METHODOLOGY

This Chapter will discuss the methodology used in the overtime analysis of democratic quality in Zambia. This is a longitudinal within country study which provides an in-depth overtime analysis of democratic quality in Zambia. A fourteen year time frame (1996-2010)<sup>8</sup> is used for the purposes of this research, in order to capture the periods subsequent to Zambia's 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> elections. The fourteen year period is significant because it marks Zambia's second election and onwards which was after the first election of 1991 which signified the return to multipartism.

This Chapter as below is arranged into three sections 1. Measuring Democracy More Precisely, 2. Measurement of Key Concepts, 3. Data Collection and Research Limitations. The first section on Measuring Democracy More Precisely gives an overview of the some of the weakness of using a single cross national data set such as Freedom House to conclude that a country has experienced democratic growth. In light of this, the section outlines some of the controls used in the methodology to circumvent these challenges. The Measurement of Key Concepts section outlines the sub-concepts that were used to measure democratic quality and how each sub-concept was measured. The section on Data Collection gives an overview of the data sources that were used, data analysis technique employed and presentation of data. Lastly a section on Research Limitations concludes this Chapter.

### 3.1 Measuring Democracy More Precisely

As earlier alluded to in Chapter One (refer to Section 1.2), the statistical evidence as shown by Freedom House suggests that there is a gradual, over time positive trend in political rights in Zambia (refer to Table 1 in Chapter One, Section 1.2). However this does not necessarily mean that Lindberg is correct in concluding that repeated elections actually promote democratic growth. This is because there are limitations that exist when using a single data

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<sup>8</sup> **Important Note:** The end date for data collection as provided by this time frame was before the most recent election held on 20<sup>th</sup> September 2011.

source such as Freedom House to make or support such conclusions. Firstly some cross national data methodologies like Freedom House are not transparent. Hadenius (2004) observes that Freedom House methodology, is not transparent and therefore assessment of the scales is difficult. Though both Freedom House and Transparency International have tried to make available what constitutes each of the scores, they do not give information on the weights attached to arrive at the composite score. In this thesis, the section on Measurement of key Concepts (Section 3.2) tries to avoid this pitfall of a non transparent methodology, by clearly outlining the sub-concepts that were used to measure democratic quality and how each sub-concept was measured.

Another limitation of using a single data source is the discrepancy that arises between public opinion data and cross national scales. Joakim Ekman (2009) reveals positive citizens feelings about democracy from public opinion analysis in countries such as Tanzania, Russia and Venezuela but these countries tend to have negative cross national scores. Individuals judge the countries as democratic but 'experts' view them as not being fully democratic. In some instances state propaganda has been used to explain this but it still raises the question of which measure of democracy really matters. This study does not only rely on only public opinion data nor expert cross national data but analyses both measures. This is aimed at controlling for any discrepancies that may arise between public opinion data and expert ratings scales.

Added to the limitations is that most cross national data like Freedom House lack a country specific approach, as it is informed by 'experts' that are sometimes not resident within the country. This observation was supported by Landman (2007) who argues that complex causal mechanisms can best be understood from a country specific approach. Measured scales from cross national data lacking a country specific approach are not able to capture contextual effects. Landman (2007) therefore advocates using analysts that are resident in countries to avoid data bias that is 'common with most cross national data'.

The above concerns have been amply addressed within the methodology. The researcher for this study has been resident in Zambia for the past 29 years thereby providing insight into what may otherwise be viewed as complex. In addition this thesis was specifically measuring

democratic growth in Zambia. As a result of this country specific approach, greater understanding was provided for complex causal mechanisms which may not have been present in Lindberg's cross national data that was informed by 'experts'. Also a wide range of data sources were used to allow for greater scope. The study used Freedom House data, Polity data, Heritage House's Index of Economic Freedom, the Bertelsman Index, World Bank Institute Governance Indicators and Afrobarometer data and working papers. In addition country reports from Media Institute of Southern Africa, Amnesty international, Human Rights Watch, United Nations Human Rights, World Bank, Legal Resource Foundation Zambia, Transparency International, Electoral Commission of Zambia publications together with books, journals and other publications. This approach supplemented for data that may be missing and is recommended by Hadenius (2004) among other scholars, when using data that may have missing aspects arising from a lack of contextual approach.

Lastly there is still debate relating to the conceptualisation of democracy and whether the dichotomous approach<sup>9</sup> or graded approach<sup>10</sup> is most appropriate for measuring democratic growth. Przeworski (1991) among other scholars has supported the dichotomous approach. They argue that democracy should be measured in dichotomous rather than graded terms. Another variation to this approach is the trichotomous approach promoted by Epstein et al. These scholars argue that a trichotomous measurement should be used. This is the scale employed by Polity IV which measures democracy on a scale of autocracy, partial democracy (Anocracy) and full democracy.

Collier and Levitsky (2002) have critiqued this methodological approach of differentiating between democracies and non democracies. They argue that the use of residual categories often tends to gloss over important differences among regime types. Regimes that are different in fundamental ways are grouped in the same category. For instance, both Zimbabwe and Sudan in the 2009 Freedom House report are categorized as not free with the same political rights score of 7. A critical analysis of the two countries reveals that Sudan

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<sup>9</sup> The dichotomous approach uses categories. Democracy measurement in this form tends to make use of categories such free and not-free or democratic versus autocratic.

<sup>10</sup> The graded approach assigns values that represent less or more of the measure of democracy i.e. a Freedom House rating of one (1) is better than five (5).

carried out on going war crimes and genocide which were grave whereas in Zimbabwe violence was mainly reported around election time. The two crises alluded to are fundamentally different in nature but both countries belong to the same category. The graded approach has been supported by scholars such as Hadenius (2004) who argue that a continuous approach is better than a dichotomous one because democracy is not a yes or no question. Elkins (2000) also argues that to build a stable model of democracy the degree of the democracy matters

The concern raised by scholars relating to the conceptualisation of democracy and lack of consensus on whether the dichotomous approach or graded approach is the most appropriate measure of democracy, raises the need to make a country specific enquiry to assess if indeed the existing measures of democracy on Zambia reflect actual democratic qualities within society.

### **3.2 Measurement of Key Concepts**

A within country, over time analysis of Zambia was conducted to assess if Zambia is indeed becoming more democratic. The larger concept in this enquiry was therefore democratic quality and the sub-concepts used to measure democratic quality are participation, competition, judicial autonomy, legislative autonomy, executive power, openness, and popular legitimacy of democracy. These concepts present a far broader coverage of the quality of Zambia's democracy than the political rights and civil liberties that Freedom House considers.

Below is a table and subsequent discussion of each sub-concept and how it was measured.

**Table 2: Measurement of Key Concepts**

| Concept                                | Indicator  | Data Source  |
|--|--|--|
| <b>Participation</b>                   | <ol style="list-style-type: none"> <li>Has there been an increase in actual voter participation?</li> <li>Has there been any increased contact with elected officials?</li> <li>Has there been increased civil society participation such as attending community meetings?</li> <li>Are citizens free to form political and civic organisations, free of state interference and surveillance?</li> <li>What is the extent to which adult population show an interest in and follow politics in the news?</li> </ol>  | Amnesty International Report, Legal Resource Centre Zambia, Bertelsmann Index Zambia, Newspaper articles, Afrobarometer data, Electoral Commission of Zambia and Journal articles/books  |
| <b>Competition</b>                     | <ol style="list-style-type: none"> <li>How many candidates were fielded for elections overtime?</li> <li>How many parties contested elections overtime?</li> <li>What was the winner's percentage of the total vote cast overtime?</li> <li>How many parliamentary seats were won by the opposition?</li> <li>Do laws provide equal campaigning opportunities?</li> <li>Do opposition parties have a realistic prospect of achieving government?</li> </ol>  | Bertelsmann Index Zambia, Afrobarometer data, Electoral Institute for the Sustainability of Democracy in Africa, Electoral Commission of Zambia and Journal articles/books   |
| <b>Judicial Autonomy</b>               | <ol style="list-style-type: none"> <li>Is the judiciary allowed to function freely?</li> <li>Does the judiciary support democratic rights such as petitioning authorities and demonstrating?</li> <li>To what extent is the judiciary independent of government influence?</li> <li>Have the courts ever issued an important judgment against the government, or a senior government official?</li> <li>To what degree are citizens treated equally under the law.</li> <li>Are favoured members of groups spared from prosecution under the law?</li> </ol> | Bertelsmann Index Zambia, Newspaper articles and Journal articles/books  |
| <b>Legislative Autonomy</b>            | <ol style="list-style-type: none"> <li>Is the legislature the supreme political body, with a clear supremacy over other branches of government?</li> <li>Does an effective system of checks and balances on the exercise of government authority exist?</li> <li>Do institutions provide citizens with the opportunity to successfully petition government to redress grievances?</li> <li>Are there sufficient mechanisms and institutions in place for ensuring government accountability to the electorate in between elections?</li> </ol>               | Polity data, Bertelsmann Index Zambia and Journal articles/books   |
| <b>Executive Power</b>                 | <ol style="list-style-type: none"> <li>Does the Constitution of Zambia maintain, enhance or delimit executive powers in promoting democracy.</li> </ol>  | Freedom House, Polity data, Bertelsmann Index Zambia and Journal articles/books  |
| <b>Openness</b>                        | <ol style="list-style-type: none"> <li>Is the functioning of government open and transparent, with sufficient public access to information?</li> <li>Are all citizens allowed access to public offices and information?</li> <li>Do media bodies (both private and public) operate freely?</li> <li>To what extent is freedom of expression of the media accommodated?</li> <li>How pervasive is corruption?</li> </ol>  | Media Institute of Southern Africa, Freedom House, Afrobarometer data, Amnesty International Report, Bertelsmann Index Zambia, Transparency International, Newspaper articles, Journal articles/books and Heritage House's Index |
| <b>Popular Legitimacy of Democracy</b> | <ol style="list-style-type: none"> <li>Do people prefer democracy and reject authoritarian rule?</li> <li>What percentage of the public demonstrates confidence in government/Democracy?</li> </ol>  | Afrobarometer data   |

### 3.2.1 Participation

The feature of participation in democracies is based on the notion of citizen's political equality. Individuals, who wish, should be able to form a political party and contest in elections on the same conditions as everyone else (Lindberg 2006:23). Added to the above definition of participation are civil liberties and civic engagement. Civil liberties are rights protected by institutions that allow the individual to engage in the democratic process. Civic engagement can include among other things, citizenship involvement in community processes such as meetings and engaging elected leader.

Therefore voter turn-out is used as an indicator to measure the sub-concept of participation, as it points to the level of actual participation, under the assumption that everyone would vote if they had the same opportunity. The key question is thus, has there been an increase in actual voter participation? Other indicators used to measure participation include, contact with elected officials and attending community meetings. These are important elements of civic engagement which constitute an integral part of any definition of participation. Thus the key questions asked are; has there been any increased contact with elected officials? And has there been increased civil society participation such as attending community meetings?

In addition the study also used indicators relating to political participation, which assessed the extent to which adult population shows an interest in and follows politics in the news. Lastly, when measuring the sub-concept of participation, the extent to which citizens are guaranteed rights and freedom to participate and also the degree to which these are upheld was considered. This is because it was viewed that a standalone enquiry on levels of citizen participation, may not provide accurate information into the underlying factors influencing their participation or lack of thereof. The key question of whether citizens are free to form political and civic organisations, free of state interference and surveillance was therefore asked.

### **3.2.2 Competition**

Competition is defined 'as the struggle for the highest executive or legislative office channelled through a specific kind of electoral processes, which are constituted by a particular set of rules governing candidate, party, and voter eligibility criteria, political rights of speech, association and information, electoral management bodies, the electoral system, district boundaries, campaign contributions, voting requirements and rules for complaints and abjuration' Lindberg (2006:23).

In order to measure this sub-concept of democratic quality, indicators such as the number of parties contesting elections overtime and winners share of votes in presidential elections were used. As such, the following key questions were asked; how many parties contested elections and what was the winner's percentage of the total vote cast overtime? Furthermore indicators of competition relating to the largest party's share of seats in the legislature and how many parliamentary seats were won by the opposition were explored. These necessitated questions like what was the largest party's share of seats in the legislative elections and how many parliamentary seats were won by the opposition? Indicators relating to the second party's share of votes and the occurrence of alternations in power were further analysed. According to Lindberg alternation of power is the ultimate indicator of competitiveness. If competitive electoral regimes are really competitive it is likely at some point that alternations in power will occur. Guided by this the following questions were asked: do opposition parties have a realistic prospect of achieving government, do laws provide equal campaigning opportunities and what is the threshold required for presidency?

### **3.2.3 Judicial Autonomy**

Judicial Autonomy relates to the independence of the Judiciary and its ability to be able to exercise power over other arms of government when need be. An autonomous Judiciary as highlighted needs to be independent of government influence and is expected to support democratic rights such as petitioning authorities and demonstrating. This indicator was

explored and necessitated the following question; does the judiciary support democratic rights such as petitioning authorities and demonstrating? In addition in practice courts should be allowed to function freely and ought to issue important judgments against the government, or senior government officials if need arises. The latter constitutes an important indicator for judicial autonomy. This is a view supported by Julio Rios-Figueroa (2006:12) who contends that most scholarly work [Helmke (2002), Ramseyer and Rasmussen (2003) and Laryczower et al 2002] involving country case studies use 'decisions against the government as a proxy for judicial independence'. Therefore the following questions were asked; have the courts ever issued an important judgment against the government, or a senior government official and to what extent is the judiciary independent of government influence and is the judiciary allowed to function freely? Over and above, the analysis of the sub concept of judicial autonomy also included an enquiry as to the extent citizens are treated equally under the law and whether members of favoured groups are spared from prosecution under the law.

#### **3.2.4 Legislative Autonomy**

Legislative autonomy like judicial independence beckons the need for a legislature with a clear supremacy over other branches of government. As an institution the Legislature should provide an effective system of checks and balances on the exercise of government authority and a mechanism for ensuring government accountability to the electorate in between elections. Citizens should therefore have the opportunity to successfully petition government to redress grievances. Guided by the above indicators of Legislative autonomy the following questions were asked; is the legislature the supreme political body, with a clear supremacy over other branches of government, does an effective system of checks and balances on the exercise of government authority exist and do institutions provide citizens with the opportunity to successfully petition government to redress grievances? Lastly are there sufficient mechanisms and institutions in place for ensuring government accountability to the electorate in between elections?

### **3.2.5 Executive Power**

Under this sub-concept the study examines the powers of the Executive. The powers of the Executive are provided for by the Constitution of the Republic of Zambia. Therefore the study examines the various watersheds in the Constitutional making process in Zambia and the effect these have had on maintaining, enhancing or delimiting Executive powers. Does the Constitution of Zambia maintain, enhance or delimit executive powers in promoting democracy.

### **3.2.6 Openness**

The sub-concept of openness examines whether the functioning of government is transparent. Indicators of openness would be the extent to which the public are allowed access to information. In addition to this is the question of whether private and public media bodies operate freely. Paramount to the media operating freely is the grantee of freedom of expression of these bodies. Transparency relates to an analysis that examines if there is honest and prudent use of public resources by those entrusted with the responsibility. Central to this is the extent to which corruption is pervasive. Therefore the enquiry under the concept of openness allowed for the following key questions; firstly is the functioning of government open and transparent, with sufficient public access to information, second are all citizens allowed access to public offices and information? Third do media bodies (both private and public) operate freely, fourth to what extent is freedom of expression of the media accommodated? And last how pervasive is corruption?

### **3.2.7 Popular Legitimacy of Democracy**

Critical to any assessment of democracy are the citizens' evaluations and experiences. This is because this provides essential 'insider or ground-up' assessments of democracy which may be absent from macro-level data or expert evaluations (Logan & Mattes 2010:5). The study therefore assessed Popular Legitimacy of Democracy as a sub-concept of democratic quality.

The two main indicators that were considered under this sub concept were whether people support democracy and rejection authoritarian alternatives. This beckoned two key questions namely; do people prefer democracy and reject authoritarian rule and what percentage of the public demonstrates confidence in government/Democracy?

### **3.3 Data Collection**

The study used secondary sources of data to collect evidence on each sub-concept and its indicators in order to assess democratic quality in Zambia. Information relating to each indicator was derived from country data such as public opinion data, country reports, books, journals and other publications. The public opinion data and country data included Freedom House, Polity, Heritage House's Index of Economic Freedom, the Bertelsman Index, World Bank Institute Governance Indicators and Afrobarometer. Other country reports from Media Institute of Southern Africa, Amnesty international, Human Rights Watch, United Nations Human Rights, World Bank, Legal Resource Foundation Zambia, and Transparency International were also used. Data from the Electoral Commission of Zambia and Electoral Institute for the Sustainability of Democracy in Africa (EISA) was used with together with books, journals and other publications

For purposes of data analysis, for the qualitative data from country reports, books and journals on Zambia content analysis was applied. This involved systematically identifying information relating to each of the indicators under the various sub-concepts being assessed. The qualitative data for each sub-concept is presented in the form of a discussion per indicator covering the fourteen year time frame (1996-2010). At the end of this discussion an overtime in-depth analysis is provided in narrative for each sub-concept. The quantitative data from country data and public opinion data was analysed using descriptive statistics (graphs and tables). Overtime descriptive statistics (graphs and tables) were generated and are included under the analysis for the appropriate sub-concept to which the data relates.

### 3.4 Research Limitations

One of the limitations the study faced was missing data from some of the data sources. For instance the Afrobarometer country data is only available from 1999 yet the study's intention is to provide an overview from 1996. Added to this in a few instances some of the variables from the Afrobarometer data do not consistently have data for all the years. The study attempted to control for aspects of missing data from one data source by using a multitude of data sources. Also, indirectly case studies can make an important contribution to the establishment of general propositions and thus to theory building. Though the study provides an in-depth analysis of democratic growth specific to Zambia, which is not present in Lindberg's study. The study does not constitute the basis for a 'valid generalization' nor the ground for disproving Lindberg's theory (Johnson & Joslyn: 1995). This study will simply provide a basis for further inquiry into Lindberg's theory. This can take the form of larger case studies involving comparative analysis.

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## **CHAPTER 4: DISSCUSSION & ANALYSIS**

This chapter provides an overtime in-depth analysis of democratic growth in Zambia. The discussion and analysis covers seven dimensions of democratic quality participation, competition, judicial autonomy, legislative autonomy, executive power, openness, and popular legitimacy of democracy. A discussion is provided for each sub-concept broken down per indicator covering the fourteen year time frame (1996-2010). For some of the sub-concepts the discussion of the indicators is assisted by descriptive statistics in the form of graphs and tables. Furthermore at the end of the discussion of each indicator an overview is provided on whether there has been process or regress. Added to this is a concluding overtime in-depth analysis for each concept.

### **4.1 Participation**

The idea of an informed citizenry engaging in the democratic process is central to the realisation of a democratic state. Citizen's participation in the democratic process is therefore important to the advancement of democracy in nations like Zambia. This section firstly assesses the extent to which citizens are guaranteed rights and freedom to participate and also the degree to which these are upheld. This is essential because a standalone enquiry on levels of citizen participation may not provide accurate information into the underlying factors influencing their participation or lack of thereof. Participation is based on an opportunity structure which is provided by the political institutions (Logan and Mattes 2010:10). An in-depth assessment of the freedom of assembly and freedom of association was conducted and is provided below. Secondly an assessment of citizens' levels of civic participation and political participation is provided. The analysis of participation covers four thematic areas namely freedom of association, freedom of assembly, civic participation and political participation.

#### **4.1.1 Freedom of association**

Freedom of association as a civil liberty is guaranteed by the free formulation of civil society. In a democratic society the right to form or join civic organisations including trade unions and professional organisations must be guaranteed. Since 1991, there has been a rapid growth in the number of civil society organisations (CSOs) in Zambia within the area of democracy, good governance, decentralisation and poverty eradication. Their mandates range from monitoring government commitments to spend money on poverty reduction to fostering participation of communities in the development process.

Zambian CSOs are regarded as credible alternatives to government when it comes to service delivery, in the form of community empowerment initiatives. But the relationship is often strained between government and those CSOs involved in advocacy, who point out government weaknesses and are often mistakenly regarded as political bodies. Both foreign and local CSOs that support local advocacy work have to tread carefully when openly criticising government's role. Added to this, interaction between government and civil society is weak, muddled by undercurrent of mutual mistrust and suspicion. As such the government has made several attempts to regulate CSOs and has finally managed to do so.

In 1998, 2000 and 2007 the government attempted to pass a Non Governmental Organisation (NGO) Law but they were met with strong opposition from international, regional and local development players. In 2009, parliament<sup>11</sup> finally passed the NGO Act of 2009, which was designed to restrict the work of NGOs in Zambia through tighter regulations. The passing of this law is a clear indication of the state's lamentable failure to uphold its obligations to protect human rights, especially the freedom of association, expression and assembly provided under international human rights instruments, the African Charter on Human and Peoples Rights, and Zambia's Constitution, which recognises that citizens must always have the capacity to join associations without state interference (Amnesty International Report 2009).

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<sup>11</sup> One might argue that parliament is a composition of the opposition and ruling party but the irony of the situation is that parliament is controlled by the ruling party by virtue of its majority as will be discussed in Chapter 4 Section 4.4.

The new mandatory registration of civil society organisations restricts the right of NGOs who fail to register to exist and carry out collective activities. Requiring a group of people that has come together for a common purpose to register with the government first, as the new law does, is contrary to the notion of free association. The report by Amnesty International states that freedom of association cannot be 'dependent on registration or legal personality, and it should not be a right granted by the government to its citizens'. Zambia's new NGO Act not only regulates the formulation of CSOs but also gives discretionary powers to the new government-controlled NGO Board to determine both the sector and the geographical area where organisations can work. The new law further requires re-registration of NGOs every five years. These efforts go beyond regulation as they are aimed at granting the state influence and control. CSOs provide a mechanism of vertical accountability and these efforts are clearly meant to frustrate any attempts in this direction. In 2010 Freedom House civil liberties rankings in Zambia declined from 3 to 4 (refer to Table 1 above) due to these restrictions on nongovernmental organizations.

Judging by the forgoing the overall trend shows that there has been a regress in terms of freedom of association. This is because despite domestic, regional and international objection the government has still proceeded and imposed tighter regulation by tampering with the law that provides for freedom of association. This as already mentioned is a direct infringement of human rights as provided for by international human rights instruments and in conflict with democratic values.

#### **4.1.2 Freedom of assembly**

Freedom of assembly as a civil liberty must be guaranteed in a democratic society. Freedom of assembly includes the right to demonstrate and to have open public discussions. This freedom if allowed to prevail, complements the work of civil society and opposition political parties in a democratic society, as it serves as a forum to express views that are divergent from the state and as such is a measure of state tolerance. In Zambia this freedom has been curtailed through the enforcement of legislative frameworks such as the Public Order Act

(POA). The Public Order Act<sup>12</sup> was part of the legislation inherited from colonial rule which served and continues to serve the purpose of prohibiting public meetings and protests not sanctioned by the police. The Act has been left on the statute books despite clear rulings by the judiciary to the effect that it has no place in a democratic society<sup>13</sup> (Legal Resource Centre).

Under the POA, the police must be notified of all demonstrations seven days in advance; while the law does not require demonstrators to acquire a permit, the police have frequently broken up "illegal" protests because the organizers lacked a permit. The police frequently deny rally permits to opposition and citizens' groups, and forcibly break up demonstrations (Bertelsmann Index Zambia<sup>14</sup>). The POA has been used by the state to restrict the freedom of assembly of political opponents or those critical to it thereby creating unfair competition. In December 2004 and January 2005, civic groups and opposition politicians held demonstrations calling for a Constituent Assembly and the enactment of a new constitution before the 2006 elections; 68 protestors-including members of the United Party for National Development (UPND) and some journalists-were briefly detained in December for participating in an "illegal" protest.

In November 2005, the Oasis Forum a coalition of civil society and church group's attempts to coordinate protests of Zambians, to push for a Constituent Assembly had most of their permits denied (Amnesty international Report 2007). Police further prevented Q-FM, a private radio station, from covering live a demonstration outside Parliament organized by the OASIS forum and the Collaborative Group on the constitution. Though the conveners of the demonstration had informed the police in advance, police claimed that the permit did not include media coverage. In November 2006, the government moved to restrict the activities of Michael Sata and his Patriotic Front party. On 22 November 2006, President Mwanawasa instructed the police not to grant Michael Sata permission to hold post-election rallies, but the Solicitor-General, Sunday Nkonde, overruled the ban. In response, the

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<sup>12</sup> The Public Order Act requires that police be notified 14 days before any public gathering can take place. The police have decided to misinterpret notification and instead grant or deny permits. Police usually sight shortage of manpower as a reason for denying permits.

<sup>13</sup> The Supreme Court found that section 5(4) of the Act contravened Articles 96 (Protection of freedom of expression) and 97 (Protection of freedom of assembly and association) of the Constitution.

<sup>14</sup> Data source [www.bertelsmann-transformation-index.de](http://www.bertelsmann-transformation-index.de)

President called on the Solicitor-General to resign (Amnesty International Report 2007). In 2010 the police arrested two members of parliament from the opposition Patriotic Front for taking part in demonstration against the newly proposed constitution. Furthermore opposition political rallies are frequently interrupted by ruling party cadres, in the full view of police who are unable to do anything for fear of losing their jobs. The Solwezi Central by elections held in September 2010 was one such incident where the opposition United Party for National Development (UPND) leader was attacked in the presence of the Inspector General of police and some junior police officers. During this incident perpetrators were not brought to book but the police opted to scamper for safety (The Post Newspaper<sup>15</sup>).

The overall trend reveals that it is difficult to assemble freely in Zambia and more so if the cause motivating the gathering is not supported by the government. The law is again being used to deny citizens their freedom of assembly. The grantee of Freedom of Assembly remains a selective process which is determined by the police aided by colonial legislation. There has not been any progress with regard to freedom of assembly as legislation is yet to be favourably changed. As observed by the Supreme Court justices the Public Order Act 'has no place in a democratic society'.

#### **4.1.3 Civic Participation**

Civic participation is an integral part of democracy as it allows for citizens to interact with political institutions. Civic engagement is essential in refining political institutions and promoting a more transparent political regime. Also related to this is the realisation of the ideal democrat who is part and parcel of the democratic process. The in-depth analysis explored attitudinal data to assess the levels of participation among Zambian citizens. The assessment involved reviewing behaviour trends on key indicators of participation namely; contacting elected officials and attending community meetings.

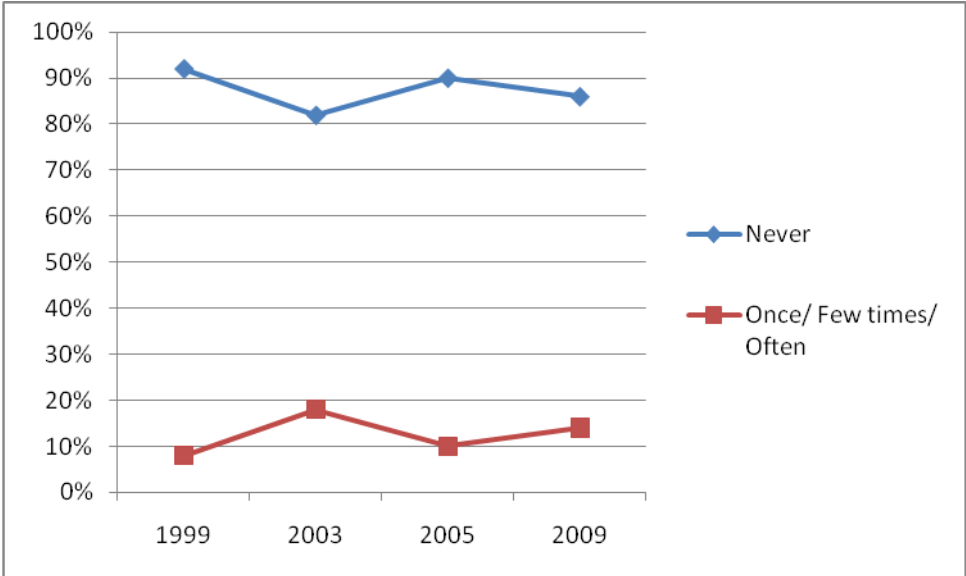
Firstly the study assessed using Afrobarometer data if there was increased contact with elected officials. Contact of an elected official would demonstrate ability to participate

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<sup>15</sup> Data source: [http://www.postzambia.com/post-read\\_article.php?articleId=9647](http://www.postzambia.com/post-read_article.php?articleId=9647)

within one’s community and engage in the political system. The graph below shows the frequency distribution for contact with Member of Parliament for the years 1999, 2005 and 2009.

**Figure 1: Contacted Member of Parliament**

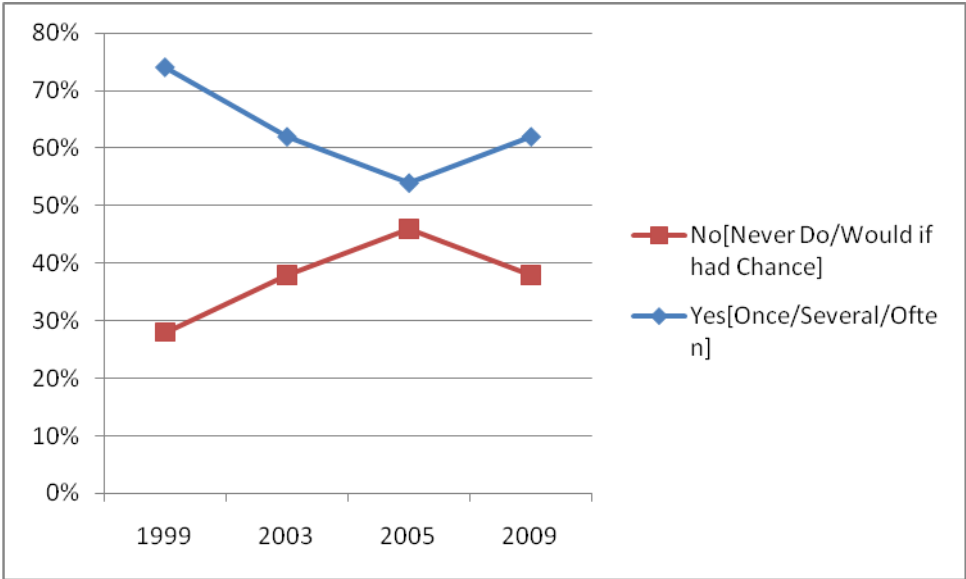


\* Source: Afrobarometer data

Figure 1 above shows that overtime, the majority (82-92 percent) of Zambian citizens never contacted elected officials or political leaders for help to solve problems or to give them their views. This could indicate lack of information on how to contact elected officials. On the other hand this could indicate a lack of interest due to the unresponsive nature of these elected officials. Contact with elected members of parliament has remained low. In 1999 only about 9% of total respondents reported as having contacted a member of parliament compared to 18% in 2003, 10% in 2005 and about 14% in 2009. By and large the percentages still remain small.

Secondly the study assessed if there had been increased civil society participation such as attending community meetings. Again attending a community meeting is an indicator of someone’s willingness to participate in the democratic process. The graph below shows the frequency distribution attend community meeting for the years 1999, 2003, 2005 and 2009.

**Figure 2: Attend Community Meeting**



\*Source: Afrobarometer data

It is evident from Figure 2 that over 55% of the respondents attended community meetings for the respective years under inquiry (1999, 2003, 2005, and 2009). What is interesting to note is that community participation in meetings was slowly declining from 1999 to 2005 until recently (2009). Despite the sharp climb in 2009 to about 62% community participation is still not as pronounced as 1999 where about 72% of the respondents reported as having participated in community meetings.

From the two indicators of civic participation assessed, the data on contacting elected officials shows that things have remained the same. There has not been progress. Overtime, the majority (82-92 percent) of Zambian citizens never contacted elected officials. With regard to the indicators of attending community meetings there has been an overtime regress. Community participation in meetings was slowly declining from 1999 to 2005 until recently (2009). Despite the sharp climb in 2009 to about 62% community participation is still not as pronounced as 1999 where about 72% of the respondents reported as having participated in community meetings. Overall there has been a minor regress in terms of civic participation as community participation has declined and is yet to be restored to its previous best. This may be related to the strict regulations that the government has imposed

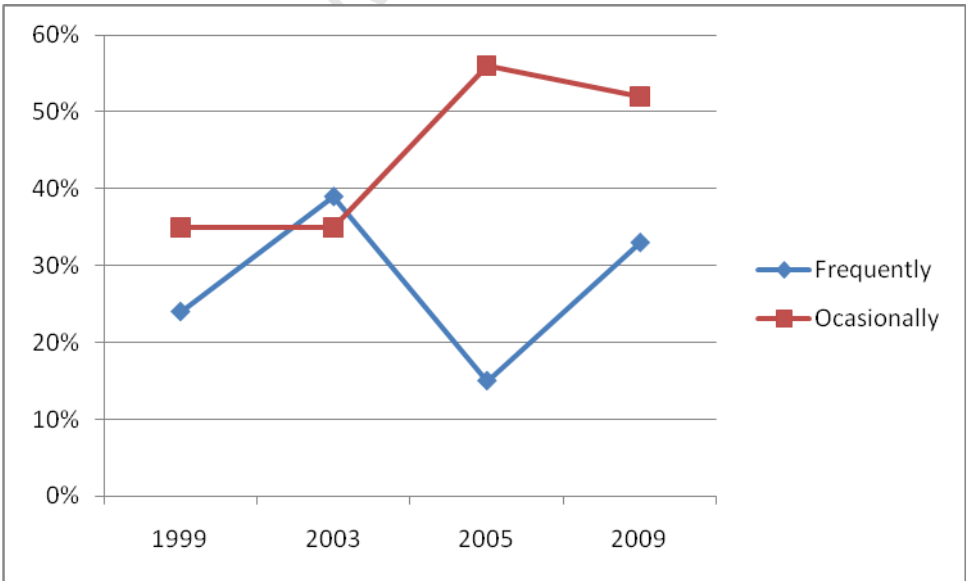
regarding freedom of assembly and freedom of association. Added to this the majority of Zambians have consistently not contacted elected officials overtime.

#### 4.1.4 Political Participation

Political participation involves going beyond merely being knowledgeable about the political system to acting within the provided political space. It allows individuals to be part of the democratic process and may involve actions such as participating in elections. Beyond this it allows individuals to decide who presides over their affairs. The analysis on political participation examines attitudinal data on discussion of political matters with friends and family. Furthermore political participation in elections was explored using voting figures in relation to voter turn-out. More specifically the analysis involved a triangular assessment of eligible voters, registered voters and actual voter turn-out.

Interest in politics in Zambia was explored as part of the inquiry on political participation. The graph below presents the frequency distribution of the extent to which Zambians discuss political matters with friends and family.

Figure 3: Discuss political matters with friends and family



\*Source: Afrobarometer data

Generally the data shows that most recently (2009) the number of people discussing politics has increased. In 2003 the highest number of respondents (about 40%) reported to having discussed politics. There was a political landmark in 2001 that may explain the increased interest in discussing politics around this period. Chiluba’s attempt to stand for a third term may have set in motion greater interest in political matters even for those who would otherwise be disinterested. However this declined and only rose in 2009. Overall, the data reveals fluctuations with regard to interest in discussing politics.

Part of the political participation enquiry was centred on citizen’s involvement in elections. Involvement in elections is an essential indicator of participation in political process. Voter turn-out is used to indicate the level of actual participation. The table below shows participation figures for presidential elections from 1991 to 2008.

**Table 3: Voter Turn-out Presidential Elections**

| Year | Total population | Voting age population | Registered voters | Turn-out  | % Turn-out As PPRV* | % Turn out As PPVA* |
|------|------------------|-----------------------|-------------------|-----------|---------------------|---------------------|
| 2008 | 11,669,534       | 5,241,627             | 3,944,135         | 1,791,806 | 45.43%              | 34.18%              |
| 2006 | 11,502,010       | 5,002,483             | 3,941,229         | 2,789,114 | 70.77%              | 55.75%              |
| 2001 | 9,582,418        | _____                 | 2,604,761         | 1,766,356 | 67.81%              | _____               |
| 1996 | 9,712,000        | 4,467,520             | 2,267,382         | 1,258,805 | 55.52%              | 28.18%              |
| 1991 | 8,412,000        | 3,869,520             | 2,981,895         | 1,325,155 | 44.44%              | 34.25%              |

\*Source: Electoral Commission of Zambia

\*PPRV stands for Proportion of Population of Registered Voters

\*PPVA stands for Proportion of Population of Voting Age

The voting turnout as a proportion of population of registered voters has slowly been increasing from 1996 to 2006 (55.2%-70.77%).A slump was recorded in 2008 to 45.43%. This could be due to the fact that the by elections following the death of Mwanawasa was unexpected leaving most voters unprepared. Turnout as proportion of population of voting

age increased from 28.18% in 1996 to 55.75% in 2006 but also recorded a slump in 2008 possibly for the reasons illustrated above.

From the three indicators analysed on political participation namely; discussion of political matters with friends and family and figures in relation to voter turn-out the following can be concluded; Overall, the data reveals fluctuations with regard to interest in discussing politics with the highest number of respondents (about 40%) in 2003 reported to having discussed politics. Importantly voting turnout as a proportion of population of registered voters has slowly been increasing from 1996 to 2006 (55.2%-70.77%) though a slump was recorded in 2008 to 45.43%. Turnout as proportion of population of voting age, increased from 28.18% in 1996 to 55.75% in 2006 but also recorded a slump in 2008. This as explained could be due to the fact that the by elections following the death of Mwanawasa was unexpected leaving most voters unprepared. Political participation can therefore be said to be improving where there are no restrictions such as on voting, where improvements have been recorded. This said the effect towards improving democracy would be greater if there were no restrictions.

#### **4.1.5 Overtime Analysis of Participation**

One of the drivers of citizen participation is civil society organisations. Instead of promoting their existence the government has worked towards weakening CSOs in Zambia. CSOs that engage in advocacy work have unfortunately been viewed as a threat to the state. It is therefore not surprising that the government has instigated these measures. This is unfortunate as CSOs in Zambia were hailed as the driving factor in overcoming the one party state and should therefore have a role to play in consolidating democracy in Zambia. This could also explain the current leaders' agitation towards CSOs. Zambia has witnessed the same individuals that held public office in the one party state resurface within the corridors of power. An example is the current president Rupiah Banda an old party stalwart of the United National Independence Party (UNIP) now holding the highest office in the land under the Movement for Multiparty Democracy (MMD). This in some way echoes Bratton's (1997:64) observation that Africa was returning to an institutional legacy of the 'big man' rule. The regulation of CSO activities therefore, come as no surprise but will surely not

enhance citizen participation or democracy in Zambia. Civil society regulation of this nature has no place in a democracy.

Citizen participation in Zambia is further hindered as freedom of assembly is restricted. Freedom of assembly is controlled by state organs through repugnant colonial laws such as the Public Order Act. This Act has remained in the statutes despite a Supreme Court ruling that declared that it had no place in a democratic society (Legal Resource Centre). Political parties and individuals are harassed under the disguise of the law. Permits are rarely given for public marches or demonstration with a motive to oppose the government. Guaranteed rights and freedom of citizens to participate will surely enhance democracy in Zambia. This will also be important in determining if the current dose of democracy will continue to be preferred by citizens.

The assessment of citizen's level of civic participation shows the majority (85-90 percent) of Zambian citizens never contacted elected officials. This could indicate lack of information on how to contact elected officials or a lack of interest due to the unresponsive nature these elected officials. Elected leaders are the representatives of the people. Constant contact with these leaders could refine their decision making and allow them to preside over matters in the interest of those they rule. With regards to community meetings over 55% of the respondents attended community meetings for the respective years under inquiry (1999, 2003, 2005, and 2009). What is interesting to note is that community participation in meetings was slowly declining from 1999 until recently (2009). Despite the sharp climb in 2009 to about 62% community participation is still not as pronounced as in 1999 where about 72% of the respondents reported as having participated in community meetings (Afrobarometer). Community engagement is a key element to enhancing civic and general participation in the democratic process and should therefore be encouraged.

There are fluctuations in the level of interest in politics by Zambians. This may be influenced by agenda setting within the political landscape. Periods with political landmarks show greater interest than other periods. For instance in 2003 the highest number of respondents (about 40%) reported having discussed politics (Afrobarometer). This Afrobarometer survey was in the aftermath of Chiluba's failed 3<sup>rd</sup> term bid. Voter turn-out as a proportion of

population of registered voters has slowly been increasing from 1996 to 2006 (55.2%-70.77%). A slump was recorded in 2008 to 45.43% which could be due to the fact that the by elections following the death of Mwanawasa were unexpected leaving most voters unprepared. Turnout as proportion of population of voting age increased from 28.18% in 1996 to 55.75% in 2006 but also recorded a slump in 2008 possibly for the reasons illustrated above (Electoral Commission of Zambia). This interest in politics could be attributed to political historic events such as, the barring of Kenneth Kaunda from contesting elections in 1996 and Fredrick Chiluba's failed third term bid of 2000 among others. Another factor that can explain this is the expectation associated with a growing democracy that has now been in place for some time.

## **4.2 Competition**

A competitive political environment is one that presents opposition parties a realistic prospect of achieving government. This has been expressed more shrewdly by Diamond and Morlino (2005) who suggest that the ultimate measure of competition is the ease with which incumbents can actually be defeated. This entails a level playing field in which all political players have equal footing, without undue influence in terms of access to state funds and platforms (media among others). Beyond that, a competitive political environment entails tolerance towards diverging views. In the assessment of the sub-concept of Competition the indicator of electoral competition was considered.

### **4.2.1 Electoral Competition**

Electoral competition involving regular, free and fair elections among political parties is essential to any given democracy. In fact based on Robert Dahl (1971) conception of a democracy, elections are a minimal indicator of democracy. Added to this, Lindberg (2006:23) argues that the occurrence of alternations in power is the ultimate indicator of competitiveness. Therefore elections alone are not sufficient indicators of competitiveness. Elections should eventually lead to alternations in power. If competitive electoral regimes

are really competitive it is likely at some point that alternations in power will occur (ibid 2006:23).

The political landscape in Zambia makes it difficult to have an alternation in power. The country from the second republic<sup>16</sup> has been presided over by a single party. The MMD has presided over the affairs of the country from 1991 to date (2011) representing 20 years of rule. This reaffirms Cowen and Laakso (2002: 23) observation which suggested that ruling party domination, coupled with voter apathy had contributed to the stagnation of transitions. Single party domination has had a tendency of creating patronage as individuals in power do anything to continue to stay in power for continued benefits. Luckily there has not been a complete reversal in regime (a return to a single party state) but democratically there have not been any improvements.

An alternation in power based on competition is difficult in Zambia as the political playing field has not been level and is littered with a history of electoral irregularities. Bertelsmann Index Country Report on Zambia of 2010 outlines that there are some constraints on the extent to which elections can be considered free and fair in Zambia. An overview of elections in Zambia reveals that all the elections from 1996 to 2008 have been marred with irregularities. The second election in 1996 was flawed with disputes and controversy. The then president Fredrick Chiluba barred his leading opponent from contesting the 1996 election and following this, a number of parties boycotted the elections due to disagreement over electoral rules and processes. The parties that contested the 1996 elections later challenged the election results in the Zambian courts. There was a general feeling though that despite these manipulations Chiluba was still favoured to win the elections due to the economic reforms he had initiated.

While there was no boycott of the 2001 general elections, the uncertainty of the rules and regulations affected the quality of the 2001 electoral process. This was demonstrated by the fact that, 'International observers and the domestic opposition alike heavily criticised the

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<sup>16</sup> Zambia is in its fourth republic with the first having been presided over by Kenneth Kaunda, second Fredrick Chiluba, third Levy Mwanwasa and fourth Rupiah Banda. Aside from the first republic, that was presided over by United Independence Party the rest have been presided over by the Movement for Multiparty Democracy.

administration of the presidential and parliamentary elections' (Bertelsmann Index Country Report Zambia: 2010). The losing opposition parties' alleged electoral malpractice and three of the unsuccessful presidential candidates brought lawsuits against the state. The electoral victory of Levy Mwanawasa was challenged by three opposition parties (United Party for National Development, Heritage Party and Forum for Democracy and Development) in the Supreme Court and 37 parliamentary elections were petitioned in the High Courts.

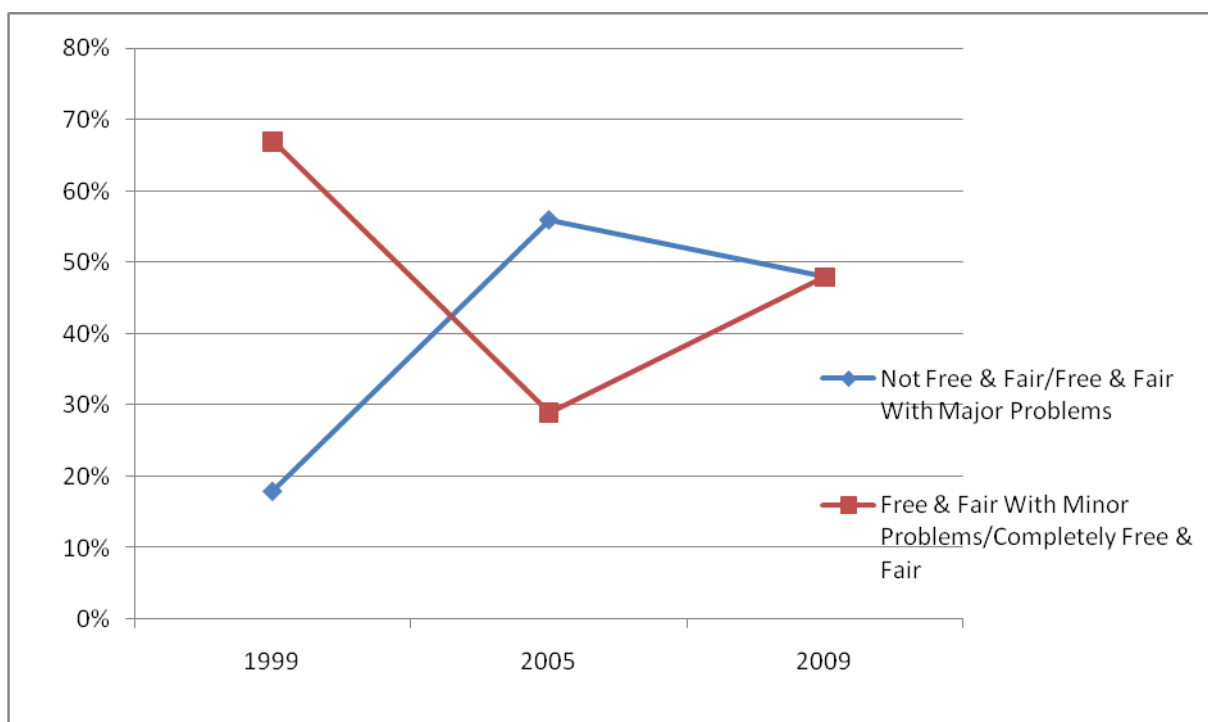
The elections of 2006 were different to the preceding two. Losing candidate Michael Chilufya Sata challenged Mwanawasa's election victory which ushered him into his second term of office. Though the EU observer mission described the elections to be 'generally peaceful and well managed', the government used state resources to campaign. The Electoral Commission proved ineffective in supervising the poll. There were several cases of delays in opening polling stations, while the collation, counting and transmission of results was not only delayed but also full of inaccuracies, resulting in more than 50 electoral petitions (Bertelsmann Index Country Report Zambia: 2010). Sata called upon the international community to intervene but refused to petition owing to what he termed as lack of confidence in the courts of law<sup>17</sup>. This was not surprising as an earlier petition of 2001 which was lodged in December 2001, was only turned down in February 2005 by the Supreme Court which throw out the petition to nullify the presidential elections.

The recent by-election of 2008 had similar outcomes, leading to a petition by the Patriotic Front in the Supreme Court, challenging the election of Rupiah Bwezani Banda following the by-election held after the death of Levy Mwanawasa. Sata filed a legal challenge calling for a recount, but his request was rejected by the Supreme Court in March 2009. Lindberg states that even if elections are disputed they should improve with time and lead to more democraticness. Despite this assertion it appears that the quality of elections is not improving and people are losing faith in the electoral process. The Figure (Figure 12) below shows respondents evaluations of elections. Respondents were asked on the whole, how they would rate the freeness and fairness of the last national election, held.

#### **Figure 4: Evaluations of Elections**

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<sup>17</sup> Though some may deem this as loser's sour grapes.



\* Source: Afrobarometer data

The Figure above shows that 56% to 48% of respondents in recent times (2005 and 2009) feel that elections are not free and fair. This represents almost half of the respondents during this period. This confirms the general feeling of the political parties that have petitioned the government and is further an indication that these parties have simply not been bad losers.

After reviewing data on the quality of elections and prospects for alternation in power, it can be seen that there has not been any progress. As discussed the quality of elections has not improved overtime and an alternation in power is difficult in Zambia as the playing field has not been levelled.

As part of the electoral competitiveness assessment the study also explored how many presidential candidates contested elections overtime from various political parties. Table 15 below illustrates this enquiry.

**Table 4: Votes in Presidential elections 1991 – 2008**

|   | 1991                        | 1996                        | 2001                        | 2006                          | 2008                        |
|---|-----------------------------|-----------------------------|-----------------------------|-------------------------------|-----------------------------|
|   | % of Vote<br>&<br>Candidate | % of Vote<br>&<br>Candidate | % of Vote<br>&<br>Candidate | % of Vote<br>&<br>Candidate   | % of Vote<br>&<br>Candidate |
| <b>Movement for Multiparty Democracy (MMD)</b>      | 75.8%<br>Frederick Chiluba  | 72.6%<br>Frederick Chiluba  | 28.7%<br>Levy Mwanawasa     | 43%<br>Levy Mwanawasa         | 40%<br>Rupiah Banda         |
| <b>United National Independence Party (UNIP)</b>    | 24.2%<br>Kenneth Kaunda     | *a _____                    | 10.2%<br>Tilyenji Kaunda    | _____                         | _____                       |
| <b>United Party For National Development (UPND)</b> | _____                       | _____                       | 26.8%<br>Anderson Mazoka    | 25.3%*c<br>Hakainde Hichilema | 19.7%<br>Hakainde Hichilema |
| <b>Patriotic Front (PF)</b>                         | _____                       | _____                       | *b _____                    | 29.4%<br>Michael Sata         | 38%<br>Michael Sata         |
| <b>Zambia Democratic Congress (ZDC)</b>             | _____                       | 12.7%<br>Dean Mung'omba     | _____                       | _____                         | _____                       |
| <b>Forum for Democracy and Development (FDD)</b>    | _____                       | _____                       | 13.2%<br>Christon Tembo     | _____                         | _____                       |

\* Sources: Electoral Commission of Zambia, <http://www.elections.org.zm/results/seatswonout.php> & Electoral Institute for the Sustainability of Democracy in Africa <http://www.eisa.org.za/WEP/zam4.htm>

\*a UNIP boycotted the election in 1996 when Kaunda was barred from contesting.\*b The patriotic front contested the 2001 elections but only managed to get 3.4% of the total vote.\*c In 2006 UPND formed a coalition called United Democratic Alliance (UDA) with FDD and ZDC.

\*The period of interest is from the second election (1996-2008). There are always a number of political parties contesting any given election in Zambia. The parties presented in the table above are those that got at least 10% of the total vote as per respective election year they contested in.

There are always a number of political parties contesting any given election in Zambia. This may appear to be a good indicator of a competitive democracy but the reality is that this leads to vote splitting and minority presidents. Zambia uses the first past the post system, which has in the past permitted a winning candidate to assume office with only 28.7% (2001). The opposition has argued that the rules be changed because the total opposition votes from 2001 elections onwards have been more than the ruling party. The opposition have been advocating that the winning candidate should have 51% of the total votes cast, and in the event that this is not achieved re-run of the top two should be conducted. The ruling party has been opposed to this because they clearly do not have majority support. Zambia continues to have minority Presidents and the government remains opposed to changing the system as the status quo works in their favour. As such there has not been any progress.

Opposition political parties also remain divided and their voting constituents are split on lines of ethnicity. It has therefore been alleged that some political parties in areas that are dominated by the opposition are sponsored by the ruling party to split votes and allow continued dominance of the ruling party. In terms of the parliamentary elections from 2001 the opposition has continued to hold the majority of seats as shown in Table 5 below. The majority of seats were won by the opposition but this has had no bearing in the long run due to constant Floor crossing. The MMD continued to have a hold on power as far as the legislature is concerned.

**Table 5: Vote and seat distribution 1996 – 2008**

|                        | 1996         |              | 2001         |             | 2006  |              |
|------------------------|--------------|--------------|--------------|-------------|-------|--------------|
|                        | Votes        | Seats        | Votes        | Seats       | Votes | Seats        |
| <b>MMD</b>             | <b>60.88</b> | <b>87.33</b> | <b>28.02</b> | <b>46.0</b> | _____ | <b>50.00</b> |
| <b>Second Party *a</b> | <b>13.79</b> | <b>1.33</b>  | <b>23.77</b> | <b>32.7</b> | _____ | <b>28.67</b> |
| <b>Third Party *b</b>  | <b>9.98</b>  | <b>6.67</b>  | <b>15.58</b> | <b>8.0</b>  | _____ | <b>17.33</b> |

\*Sources: Electoral Commission of Zambia, <http://www.elections.org.zm/results/seatswonout.php> & Electoral Institute for the Sustainability of Democracy in Africa <http://www.eisa.org.za/WEP/zam4.htm>

\*There are a total of 150 seats in the Zambian Parliament.

\*a In 1996-ZDC, 2001-UPND, 2006-PF

\*b In 1996-Independents, 2001-FDD, 2006-UDA

Electoral laws also leave much to be desired as they do not provide for equal campaigning opportunities. The state has repeatedly used public resources when running for election which are not available to the opposition. Government vehicles, air craft and other logistics have been used to carry out campaigns. Besides this there are also legislative barriers to political competition aside from the freedom of assembly explained in Chapter 4 Section 4.1.2. Recent changes to the Electoral Act No 12 of 2006, empowers the president and not the electoral commission to set the election date. This gives undue advantage to the ruling party.

As emphasised with the other indicators reviewed on Electoral Competition there has not been any progress. Despite the majority of seats being won by the opposition in Parliament there has been no bearing in the long run due to constant Floor crossing. The state uses public resources and as such has an undue advantage over other political parties. The Electoral Act and other laws (Public Order Act) present legislative barriers to political competition as the manner in which they are applied disadvantages opposition political parties'.

#### **4.2.2 Overtime Analysis of Competition**

If we go by Diamond and Morlino (2005) ultimate measure of competition which is the ease with which incumbents can actually be defeated then we can conclude that the facet of competition will remain difficult as far as Zambia is concerned. There has not been any alternation in power from the first democratic elections of 1991. Coupled with this the quality of elections has not improved overtime and an alternation in power is difficult as the playing field has not been levelled. This is reinforced by peoples' evaluations of elections which reveal that almost half of the respondents in the Afrobarometer's recent studies (2005 and 2009) feel that elections are not free and fair.

Opposition political parties also remain divided and their voting constituents are split on the lines of ethnicity. Since the opposition is divided and Zambia uses the first past the post system, the president can assume office with as little as 28.7% of the vote. Zambia continues to have minority Presidents and the government remains opposed to changing the system as the status quo works in their favour. Electoral laws are fraudulent and do not provide for equal campaigning opportunities. The state has repeatedly used public resources when running for election which are not available to the opposition. Besides this there are also legislative barriers to political completion aside from the freedom of assembly explained in chapter 4. Recent changes to the Electoral Act No 12 of 2006, empowers the president and not the electoral commission to set the election date. This gives undue advantage to the ruling party.

### **4.3 Judicial Autonomy**

#### **4.3.1 Judiciary**

The Judiciary can only be effective if it is allowed to function freely. This means that it should support democratic rights even if these are in conflict with those in authority. A well functioning judiciary enhances 'horizontal accountability'<sup>18</sup> and is supposed to be independent of government influence. The judiciary should treat citizens equally under the law, with no one spared from prosecution. The issuing of judgments against the government is an important proxy for judicial independence as has been highlighted by Julio Rios-Figueroa (2006:12), Helmke (2002), Ramseyer and Rasmussen (2003) and Laryczower et al 2002. This indicator was therefore explored. Based on this assessment it was revealed that the judiciary in Zambia does not functioned independently. In high profile cases where the state or senior government officials have a vested interest, courts usually issue judgments in

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<sup>18</sup>It refers generally to the system of checks and balances that exist between judicial, legislative and executive branches of government, but also to the ability of monitoring agencies or institutions such as anti-corruption commissions, ombudsman's offices and others to compel cooperation from the government officials they are meant to monitor or oversee (O'Donnell 1996:38).

their favour. The Bertelsmann Index County Report of 2010 on Zambia points out that 'the more politically important a case is, the more court rulings are prone to political interference by the government'. Though the report further highlights, that it should be noted that political interference by the government happens in a few crucial cases.

In these crucial cases it appears that the outcome of judicial cases is a factor of who holds the realms of power. For instance Chiluba was found guilty of having misapplied funds in a London high court decision. The case was due to be registered in Zambia during the reign of Levy Mwanawasa. The current government of Mr Banda has made it clear that it is not within its interests to register this case. Those within the judicial system have proceeded with this advice and the case has been buried despite public outcry (The Post Newspaper<sup>19</sup>). Equally Chiluba's wife Regina who was found guilty of receiving stolen goods in a Magistrate Court has now appealed to a higher court and has been acquitted. The state has also been quick to enter into Nolle-prosequi(s)<sup>20</sup> in cases of interest. Kashiwa Bulaya a relative of the late President's (Levy Mwanawasa) wife misused public funds when he was Permanent Secretary under the Ministry of Health. The state entered a Nolle-prosequi and withdrew the case. The case was only resumed after pressure from the media. Mr Bulaya is now serving a five year jail sentence.

Evidence of lack of judicial independence also surfaced recently when the MMD National Secretary lamented that the former Finance Minister Ngandu Magande would not have won his election had it not been for state assistance (Post Newspaper<sup>21</sup>). These sentiments were uttered in a bitter exchange of words through the papers with the former Finance Minister whose parliamentary seat was determined through the courts. Mr Magande was Member of Parliament for Chilanga constituency. It is difficult to explicitly attribute a given judgement to

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<sup>19</sup> Data source: [http://www.postzambia.com/post-read\\_article.php?articleId=12899](http://www.postzambia.com/post-read_article.php?articleId=12899)

<sup>20</sup> This is a legal Latin term meaning we "we shall no longer prosecute," which is a declaration made to the judge by a prosecutor in a criminal case (or by a plaintiff in a civil lawsuit) either before or during trial, meaning the case against the defendant is being dropped (<http://legal-dictionary.thefreedictionary.com/Nolle+prosequi>)

<sup>21</sup> Data Source: [http://www.postzambia.com/post-read\\_article.php?articleId=13576](http://www.postzambia.com/post-read_article.php?articleId=13576)

state interference but most of the judgements involving the state or high profile individuals have not gone in the public's favour.

#### **4.3.2 Overtime Analysis of Judicial Autonomy**

The rule of law has not been upheld. As demonstrated above the law has been selectively applied in most cases. As such there has not been any progress with regards to judicial autonomy. In high profile cases where the state or senior government officials have a vested interest courts usually issue judgments in their favour. It appears as if the outcome of judicial cases is influenced by those who hold the realms of power. The changing of approach with regards to Chiluba's corruption cases due to a change of government illustrates this point<sup>22</sup>. The judiciary has fallen short of providing horizontal accountability due to its lack of independence. There have been several instances of the executive arm of government exerting influence on the judiciary. Former Permanent Secretary (PS) in the Ministry of Health Kashiwa Bulaya was one such case of attempted state influence. It is difficult to establish when the state is interfering with judicial processes because these acts are done away from the public eye. Despite this the people have an expectation of justice and transparency to prevail in all instances including high profile cases.

#### **4.4 Legislative Autonomy**

##### **4.4.1 Legislature**

The legislature as the supreme law making body is an integral part of any democracy. A well balanced legislature enhances horizontal accountability and provides an opportunity for the people to govern through their representatives. The legislature is essential in providing checks and balances on other arms of government and more precisely on the executive.

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<sup>22</sup> It is widely viewed that cases against Chiluba were dropped for political reasons. Ruling party support is viewed to be declining in the province that Chiluba's hails from. Cases were dropped to allow for Chiluba to rally support for the MMD in this region ahead of the polls.

Through the legislature, citizens should be able to petition government in between elections using their elected representatives. Polity data on Zambia (2008) indicates that although the constitution gives the National Assembly substantial powers, in practice it has historically provided only limited check on presidential authority. In the initial years after Zambia reverted back to multiparty democracy the legislature's oversight functions over government were limited as it was dominated by the ruling Movement for Multiparty Democracy (MMD). However in the 2001 presidential and parliamentary elections the opposition combined vote won the majority of seats (refer to Table 4). This presented a perfect opportunity for the legislature to effectively assert its oversight functions.

Unfortunately this was not to be but was in-fact the beginning of a new era of floor crossing. This was characterised by Members of Parliament (MPs) leaving the opposition to join the ruling party due to a desire for ministerial positions. Notable figures like the United Party for National Development (UPND) shadow finance minister crossed the floor to join the MMD as Minister of Finance. Other notable floor crossers from UPND were Benny Tetamashiba (late) appointed as Minister of local government and Jonas Shakafuswa appointed Deputy Minister of Finance. MMD managed to take control of the House through this scheme.

Over the years parliament has been a rubber stamp of the government as parliamentarians have voted based on personal needs and not to represent the voice of the electorate. The Bertelsmann Index County Report on Zambia (2010:7) states that the legislature has rarely overturned executive decisions. In 2010 the government tabled the Anti Corruption Bill aimed at removing the abuse of office clause. Despite public outcry members of the ruling party together with some opposition 'rebel members'<sup>23</sup> voted in favour of the Bill. In some instances when members of the opposition have been suspended by their parties for siding with the ruling party the speaker has ignored the suspensions and has not declared the seats vacant.

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<sup>23</sup> The Patriotic Front has identified members that are in a habit of disregarding party positions and siding with the ruling party. These have been labelled as 'rebel members of parliament'. The party has assured the public that these will not be adopted for re-election.

#### **4.4.2 Overtime Analysis of Legislative Autonomy**

The legislature is another arm of government that has fallen short of the role it is expected to play in a democracy. The Legislature has not ensured an effective system of checks and balances on the exercise of government authority. Zambian legislators have put self, before service and engaged in floor crossing. The sole aim of such activities is personal benefit at the expense of national interest. The government has not been made accountable to the electorate for periods in between elections owing to an inadequate legislature. Over the years parliament has been a rubber stamp of the government. Parliamentarians have voted based on personal needs and not to represent the voice of the electorate. An illustration is the Anti Corruption Bill which was passed despite public outcry. The Bill proposed to remove the abuse of office clause from the original Anti corruption law.

#### **4.5 Executive Power**

##### **4.5.1 Constitutionalism**

The powers of the Executive are provided for by the Constitution of the Republic of Zambia. The constitution represents the basic structure of any organized society. The constitution provides a commitment to democracy and to government with the consent of the governed (Ndulo and Kent 1996:1). The constitution is very important in advancing self government if it is produced through broad based consensus. It is further supposed to be legitimate, credible, enduring and guaranteeing rights and freedoms (ibid). The constitutional making process and resulting constitutions in Zambia unlike in other countries has been marred with problems. For instance the constitution does not guarantee any basic rights though it contains these. This means that rights are not enforceable and consequently one cannot hold the government accountable for not ensuring these basic rights.

Furthermore the constitution grants the executive arm of government immense powers. The executive branch wields significant authority within the Zambian political system (Polity Data

Zambia 2008). Most of the laws that give unwarranted powers to the Executive were part of the founding constitution which was derived from colonial laws. In a colonial dispensation there would have been a need to have immense power over the colony but not in a democracy. There have been several attempts to change the constitution. The Zambian constitution has been changed four times from 1964 with a fifth one on the way. The National Constitutional Conference (NCC) responsible for developing a new constitution was underway in 2008, although it was boycotted by elements of civil society and the opposition (Freedom House 2010). This was because the government refused to consider the constituent assembly method of adopting the constitution which was perceived by the civil society to be more inclusive than the use of parliament. Previous changes to the constitution have been effected without wide spread participation of the people, and the changes are mostly intended to serve the short-term political interests of those in power. For instance the Constitution was changed in 1996 to prevent Kenneth Kaunda from contesting election.

The country has amended the constitution so many times because amendments only require a simple 2/3 majority in parliament which the ruling party always mobilises, through its manipulations of the legislature. The draft constitution is yet to be tabled before parliament whose independence remains highly questionable. Ndulo and Kent (1996:2) state that the constitution is no ordinary law to be modified or replaced by ordinary legislation. The constitution must be perceived as a higher law, authorizing and governing law and commanding adherence to constitutional precepts. 'While ordinary law may be adopted and altered by legislative majorities of whatever size, the adoption of a constitution and its amendment requires much more, wide spread participation by the citizenry and the achievement of broad-based consensus' (ibid 1962:2). Unless Zambia adopts a constitution through broad based consensus which should include putting more rigorous procedures for amending the constitution, the populace will continue to be manipulated by those in the corridors of power. The executive power needs to be limited or at least put in check if aspects of good governance are to be upheld. Vertical and horizontal accountability will be difficult if institutions are not properly geared through the relevant laws to hold those in power accountable.

#### **4.5.2 Overtime Analysis of Executive Power**

The executive maintains substantial powers. Therefore there has not been an overtime progress with regards to limiting the powers of the Executive. As outlined by the Polity Country Report on Zambia of 2008, the powers of the Executive as provided for by the Constitution of the Republic of Zambia grants the Executive immense powers and authority within the Zambian political system. Laws from colonial rule that give unwarranted power to the Executive continue to exist within a democracy. Attempts to change the constitution have yielded no results as procedures to change the Constitution do not favour meaningful change. Zambia needs a new constitution adopted through broad consensus such as the constituent assembly method. Unless Zambia adopts a constitution through broad based consensus which should include putting more rigorous procedures for amending the constitution, the populace will continue to be manipulated by those in the corridors of power. The executive power needs to be limited or at least put in check if aspects of good governance are to be upheld.

#### **4.6 Openness**

Openness relates to whether the functioning of government is accommodating and transparent. This section firstly assesses the extent to which the public are allowed access to information and whether private and public media bodies operate freely. Furthermore, the analysis on transparency examines if there is honest and prudent use of public resources by those entrusted with the responsibility. This Section is therefore arranged into two sub-sections namely; Freedom of speech and information (media) and transparency and corruption discussed below.

##### **4.6.1 Freedom of speech and information (Media)**

Freedom of speech and information is essential to providing checks and balances on those in authority. Citizens' access to information is important as it enhances transparency and also

provides insight on how the state is being run. This information should in turn be made available to the public. An integral part of this process is the media, which should ideally be independent in a democratic state. The media should be allowed to operate freely in the advancement of rights and civil liberties. The media if used 'properly'<sup>24</sup> works as a medium through which individuals can receive information and also serves as a means through which individuals can acquire knowledge.

The media legislative framework in Zambia has not entirely promoted the existence of free media. This is because aspects within the law still remain unchanged from that which was inherited from colonial rule. For instance section 53 of the penal code empowers the President to ban a publication in his absolute discretion (Media Institute of Southern Africa (MISA Zambia)). This piece of legislation has been used by the state to intimidate privately owned media. One example Omega TV a private television station which was repeatedly closed in 2004 by armed police officers (Freedom House 2004 Report). Despite these actions by the state Afrobarometer data shows that Zambian respondents support an open media that is critical of the state. Respondents were asked in the 2009 which of the following statements was closest to their view? Statement A or Statement B.

A: The news media should constantly investigate and report on corruption and the mistakes made by the government.

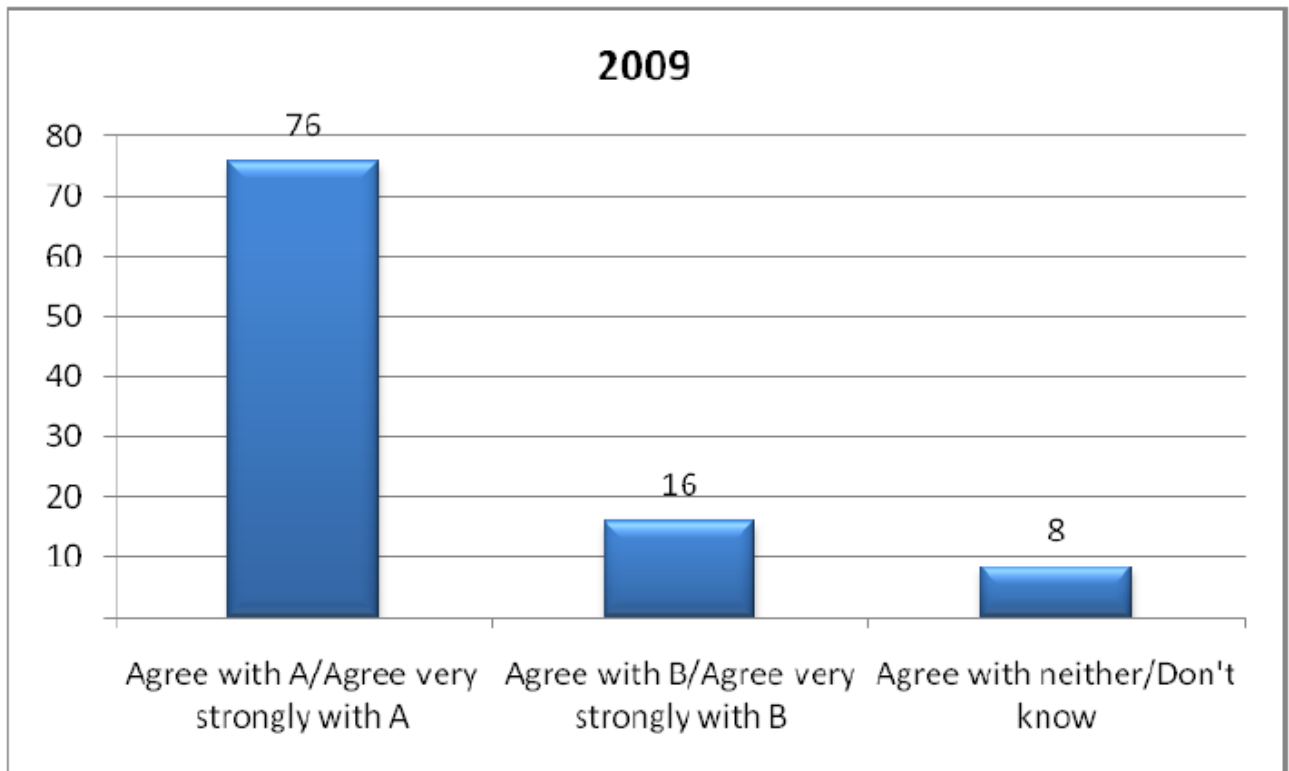
B: Too much reporting on negative events, like corruption, only harms the country.

Most of the respondents reported that news media should constantly investigate and report on corruption and the mistakes made by the government as show in Figure below.

**Figure 5: Support for Media**

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<sup>24</sup> The media can also be used as a medium for propaganda in order to deceive the masses this is usually common with state operated media



The government has done very little to live up to the expectations of the people. The Freedom of Information, Broadcasting, and Independent broadcasting Authority draft laws of 2003, which were supposed to facilitate easier access to information held by government official organs, was abruptly withdrawn citing national security reasons. Even after 45 years of independence and with the rest of the world moving towards open governance, transparency and accountability, the state has opted for secrecy and non transparency for public institutions in Zambia. This allows the continued existence and application of such retrogressive colonial legislation as the 'Official Secrets Act of 1923 which criminalises access and possession of public information with a minimum sentence of 25years '(MISA Zambia 2010).The draft law was also supposed to transform the state-owned Zambia National Broadcasting Corporation (ZNBC) from a government propaganda organ to a public broadcaster, and to establish an independent regulator to regulate broadcasting.

What was later presented to parliament owing to pressure from private media organisations was not the initial bill that had earlier been tabled. The aspect of freedom of information which was supposed to facilitate access to information was conspicuously missing. When the bill was passed the subsequent act was the subject of controversy between the government

and civil society with regards to the interpretation of who should appoint the management boards of Zambia National Broadcasting Corporation (ZNBC) and the Independent Broadcasting Authority, which regulates the industry and grants licenses to prospective broadcasters. Government eventually won the case at Supreme Court level and as such the ruling left the appointments largely in the hands of the government (Freedom House, MISA Zambia). This ruling not only gives government indirect control over private media, but also serves as a means to strengthen state control over ZNBC. From a legislative perspective, the country has retrogressed as it seems laws are continuously made to strengthen already existing controls of the media as opposed to advancing a free media. For instance the electoral act of 2006 which was passed prior to the elections prohibited the reporting of 'speculative analysis, unsourced opinion polls, and predictions of the result before the official announcement' (Amnesty International Report 2008).

The widest media circulations are those that are owned by the government namely, Zambia Daily Mail, Times of Zambia and Zambia National Broadcasting Corporation (ZNBC). With an exception of the print media, state owned media is relatively cheaper than private owned media owing to government subsidies. Coverage at state-owned media outlets is generally supportive of the government, and as a result of prepublication review at government-controlled newspapers, journalists commonly practice self-censorship. For instance during the run-up to elections in 2001, the government increased press-freedom abuses. State-funded media were monitored and harshly warned (Freedom House 2003 Report). With the wide circulation of government media and biased coverage the state owned media serves as an effective propaganda tool for the government.

The government has made several attempts to try and restrict the independent media (Bertelsmann Index County Report Zambia: 2010) and these attempts have sometimes focussed on increasing their cost of production. In March 2007, the government passed an amendment to the Value-Added Tax Act that would have increased the standard rate applicable to the supply of newspapers and magazines and raised the costs of production by 25 percent (Freedom House). Though the amendment was later withdrawn after protests from local media organizations, the cost of independent media production still remains much higher than that of state owned media. A positive stride that Zambia has achieved is

that Internet access though not provided freely remains unrestricted by the government. In fact, Internet access has increased over the years from 2% of the population<sup>25</sup> as of 2005 to 4.3 % of the population in 2009.

The state continues to have a strong hand (or at least attempts to do so) in the regulation of media. Media outlets that are critical of the state are constantly harassed by the state through state security wings. One of the frequently used tools of harassment has included criminal libel suits and defamation suits. This is because Section 69 of the penal code provides that it is a criminal offence for any media outlet to defame the president. For instance sections of the media that have widely exposed acts of corruption within the media have been constantly charged using the provisions of section 69 of the penal code. An example are, criminal charges brought against two Post newspaper journalists and two political figures in 2001 on charges of defaming the then President Frederick Chiluba in an article accusing the president of misappropriating \$4 million the government had earmarked for emergency food imports several years ago(Freedom house Report 2002).

Media violations have been on the increase in Zambia. In January 2003, three journalists from the independent biweekly The Monitor were arrested and another went into hiding after the paper published a story accusing the president's brother of corruption (Amnesty International Report 2003).In May 2005, the government attempted to expel a columnist from the independent daily The Post, announcing his deportation order on state television. The reporter, a British citizen with permanent residency in Zambia, had written a satirical article that officials characterized as insulting to the president. A court eventually annulled the deportation order as unconstitutional (Freedom House Report 2005).The government had attempted to limit live Q-FM broadcasts in the past, particularly in the period leading up to the 2006 general election. In November 2006, Radio Lyambai, a radio station based in Mongu was banned from broadcasting live call-in shows because the station was 'becoming a platform for confrontation, controversies, and a channel of insults and misinformation' (Mike Mulongoti-Minister of Information and Broadcasting).

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<sup>25</sup> Zambia population currently stands at 12.2 million people

Reporters continued to face threats and physical assaults at the hands of police and ruling party supporters. In June 2006, Anthony Mukwita was summoned by police and warned of potential sedition charges after he read a facsimile critical of the government during his talk show on Radio Phoenix. In November, police arrested (and later released) Fred M'membe-editor in chief of The Post, Zambia's only private daily- after accusing him of criminally defaming Mwanawasa in a series of vitriolic editorials; M'membe had been formally warned in July after protesting the constitutional review process.

These abuses have also been extended to newspaper vendors selling The Post who are constant targets of attacks. In addition, police detained at least six journalists and beat others covering a demonstration (Freedom House Report 2006). Further abuses include the arrest and detention of a catholic priest, who was station manager of Radio Ichengelo, a catholic-owned radio station after the station aired a live call-in program which was viewed to have been inciting unrest in the aftermath of the 2008 elections. Editors from the Post newspaper are currently going to court on charges of circulating obscene materials. This was after the newspaper 'brought to the attention'<sup>26</sup> of the Vice President pictures of a woman giving birth at University Teaching Hospital whose delivery was unattended to owing to the strike by medical staff.

An assessment of current abuses as produced by Media Institute of Southern Africa- Zambia (MISA Zambia) reveals 22 media violations reported in 2008 compared to seven in 2007. According to MISA Zambia, this was the highest number of media violations in the SADC region during the period (MISA Zambia Report 2009). Therefore, it seems that even though these violations may not be unique to Zambia, they are certainly more rampant within this state. Despite these Media abuses, citizens in general remain highly opposed to such actions.

To date media regulation remains contentious. While groups within the industry made progress toward establishing a self-regulatory body in 2010, some government officials favour statutory regulation (MISA Zambia 2010). In August, the government threatened to

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<sup>26</sup> The pictures in question were not published and were further not produced by the newspaper but were instead brought to the media outlet by the irritated husband of the woman who gave birth unattended to in full view of the public.

introduce a bill to regulate the media if it failed to come up with its own regulatory body. The independent press and media continued to deteriorate in 2010. The government and ruling party aggressively harassed and interfered with press outlets deemed opponents of the administration, specifically the leading independent newspaper, the Post. As of July 2009, the Post’s staff had been physically or verbally attacked by MMD members on several occasions (Freedom House 2010). Supporters of the ruling Movement for Multiparty Democracy beat up Post photographer Thomas Nsama in retaliation for the paper’s reporting on the president. In February 2010, a group of 11 plainclothes police officers beat and pepper-sprayed Post photographer Abel Mambwe and detained him with reporter Mutuna Chanda after he photographed them assaulting an unlicensed taxi driver.

The Table below (Table 3) shows Freedom of the press in Zambia as assessed by Freedom House.

**Table 6: Freedom of the Press in Zambia**

| Freedom of the press in Zambia |                   |                       |                      |             |                        |
|--------------------------------|-------------------|-----------------------|----------------------|-------------|------------------------|
| Year                           | Legal Environment | Political Environment | Economic Environment | Total Score | Status (Freedom House) |
| 2002                           | 22                | 24                    | 19                   | 65          | Not Free               |
| 2003                           | 20                | 24                    | 19                   | 63          | Not Free               |
| 2004                           | 19                | 24                    | 20                   | 63          | Not Free               |
| 2005                           | 20                | 25                    | 20                   | 65          | Not Free               |
| 2006                           | 19                | 24                    | 21                   | 64          | Not Free               |
| 2007                           | 19                | 24                    | 21                   | 64          | Not Free               |
| 2008                           | 20                | 24                    | 20                   | 64          | Not Free               |
| 2009                           | 20                | 25                    | 20                   | 65          | Not Free               |
| 2010                           | 19                | 25                    | 20                   | 64          | Not Free               |

\*Source Freedom House-‘Freedom Press rankings’

\* The degree to which each country permits the free flow of news and information determines the classification of its media as Free, Partly Free, or Not Free. Countries scoring 0 to 30 are regarded as having free media; 31 to 60, Partly Free media; and 61 to 100, Not Free media.

Zambia received a total score of 64 in 2010 which is not the country's best score. Periods before this reveal slight fluctuations in both positive and negative directions. Looking at the data above, one cannot outrightly conclude that rankings have improved overtime as they have been positive and negative fluctuations with the most recent score of 2009 ranking among the countries worst. What can be deduced is that the country remains 'Not Free' which raises the need to put mechanisms to improve this ranking.

#### **4.6.2 Transparency and corruption**

Central to the idea of democracy is good governance which among other things entails prudent use of state resources. Most states have an established institution to provide horizontal accountability and ensure that all institutions acting in the interest of the people are devoid of any wrong doing. In Zambia the Anti Corruption Commission (ACC) which was established in 1980 under an Act of Parliament (the Corrupt Practices Act No. 14 which has since been repealed and replaced by the Anti-Corruption Commission Act, No. 42 of 1996) is entrusted with this responsibility. Zambia Ranks 99 of 180 countries in the world rankings on corruption provided by Transparency International's Corruption Perceptions 2010 Index.

There has been a mixed approach to the fight against corruption in Zambia from sporadic efforts targeted at fixing political opponents to window dressing for the donor community (Post Newspaper<sup>27</sup>). One such example is outlined in the Bertelsmann Index Country Report on Zambia of 2010 which states that Mwanawasa's 'anti-corruption policy, which he announced at the beginning of his first term, lost credibility because hardly any of the corruption charges against leading members of the former Chiluba government have been successfully concluded'. In general the whole approach to fighting corruption is similar to what Carothers (2002:16) termed as 'weak governmental accountability'. No real attempt has been made to rid the vice of corruption, whose roots in some cases are culturally embedded, to a point where corruption is now perceived to be a means of efficiency. For instance in the second republic under the reign of Frederick Chiluba it was common for

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<sup>27</sup> Data Source: [http://www.postzambia.com/post-read\\_article.php?articleId=7621](http://www.postzambia.com/post-read_article.php?articleId=7621)

government officials and civil servants to openly demand a bride in order that they render a service in good time. According to the Heritage House's Index, 'officials dealing with the public frequently demand illicit payments with impunity'. One of the problems is that corruption in Zambia appears to be 'cultural'<sup>28</sup>.

Corruption has also flourished due to lack of institutional capacity. Investigative units lack authority and personnel (Heritage House's Index). For instance in Mwanawasa's reign a parallel institution from the Anti Corruption Commission (ACC) called the Task Force on corruption was established due to a lack of confidence in the ability of the Anti Corruption Commission to pursue cases against the former president. The Task Force was mainly composed of private lawyers and private prosecutors. The appointment of people from the private sector would suggest that the institution lacked internal capacity or that it had not been impartial during the time of Chiluba and would therefore be sympathetic to him.

Added to the cultural and institutional crisis is the lack of political will to address corruption. The intensity with which the fight against corruption is carried out seems to be the preserve of the incumbent. The fight against corruption seems to be driven by the good will of the incumbent and not properly laid down laws of good governance. Institutions are not properly empowered to preside over corruption matters free from political interference. An example of corruption being the good will of the incumbent is the sudden halt to cases of corruption against Chiluba and his administration. The current President, Rupiah Banda has abandoned the cases against former president Frederick Chiluba. A 2007 British high court judgment against Chiluba's corruption charges has not yet been registered or enforced in Zambia. As earlier alluded the President had made it clear that he has no intentions of registering the judgment (Post Newspaper)

Another corruption trial that was ongoing in the Zambian high court in August 2009 found the former president Chiluba not guilty of embezzlement charges after Rupiah Banda assumed office. When the head of a special task force on corruption attempted to appeal this ruling, he was dismissed from his position. The President had made it clear that the

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<sup>28</sup> The word 'cultural' is used to denote that fact that this is now an accepted way of life that has been practiced over time.

government will not appeal the judgement and the subsequent dismissal of the Chairman of the Task force reaffirmed this position. The President has countered scepticism over his administration's commitment to anti-corruption efforts by launching an official Anti-Corruption Policy in July 2009. Despite these false assures in 2010 the government enacted legislation that removed the 'Abuse of Office' clause from the Anti-Corruption Commission Act, No. 42 of 1996 (Post Newspaper<sup>29</sup>). This is perceived to be among the pieces of legislation that provided the basis for prosecuting Chiluba's acts of corruption. The removal of the clause speaks volumes about the governments intentions while in office.

The government has continued to engage in miscellaneous dealings. The government awarded a tender to RP Capital a South African Consortium to oversee the sale of the Zambia Telecommunications Company (Zamtel) without tender procedures. After opposition from a wide section of Zambians a judicial tribunal was instituted that found that the process followed was irregular. The telecommunications Minister Dora Siliya a close ally of the President was forced to resign in April 2009 after being found guilty by a judicial tribunal of inappropriate behaviour. However, a high court ruling overturned the verdict, and the minister was subsequently re-appointed to a cabinet position.

There have also been revelations of abuse of public funds within the health sector. Public funds including the global funds provided by donors were abused. The Auditor General's (AG) report issued in early 2009 stated that huge sums of money had been lost in 2007 through misuse, theft, and misappropriation of public resources. After these revelations of millions of dollars having been embezzled from the ministry of health, the Swedish and Dutch governments both suspended funding to the health sector (Lusaka Times<sup>30</sup>).

#### **4.6.3 Overtime Analysis of Openness**

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<sup>29</sup> Data Source: [http://www.postzambia.com/post-read\\_article.php?articleId=14010](http://www.postzambia.com/post-read_article.php?articleId=14010)

<sup>30</sup> Data Source: Withdrawal of funding hampers Health sector | LusakaTimes.com

The government in Zambia has not embraced an open and transparent approach. The Legislative framework has not entirely promoted the existence of free media. This is because aspects within the law still remain unchanged from that which was inherited from colonial rule. For instance section 53 of the penal code empowers the President to ban a publication in his absolute discretion. The Official Secrets Act of 1923 which criminalises access and possession of public information with a minimum sentence of 25years still exists on the statutes. Section 69 of the penal code also provides that it is a criminal offence for any media outlet to defame the president. The Supreme Court has in the past emphasised that there is no place for such pieces of legislation in modern time. Progress towards a more free and democratic Zambia will be difficult to achieve with such legislative barriers.

Afrobarometer studies have shown that Zambian's support an open media that is critical of the state and this will have to be met for them to accept that the democratic system is being responsive. The government has done very little to live up to the expectations of the people. The Freedom of Information, Broadcasting, and Independent Broadcasting Authority draft laws of 2003, which were supposed to facilitate easier access to information, were curtailed. State-owned media are used for government propaganda and government media personnel are monitored. It would be prudent to provide equal access for all, in the interest of transparency. After all, the funds used for these institutions are public funds.

The state continues to harass outlets that are critical of the state, through state security wings. The government and ruling party aggressively harassed and interfered with press outlets deemed opponents of the administration, specifically the leading independent newspaper, the Post. These abuses have also been extended to newspaper vendors selling The Post who are constant targets of attacks. One of the frequently used tools of harassment has included criminal libel suits and defamation suits. While groups within the industry made progress toward establishing a self-regulatory body in 2010, some government officials favour statutory regulation (MISA Zambia 2010). In August, the government threatened to introduce a bill to regulate the media if it failed to come up with its own regulatory body. Zambia received a Freedom House, freedom of the media score of 64 in 2010 which is not the countries best score. What can be deduced is that the country

remains 'Not Free' which is not surprising given the government retrogressive positions on most aspects that grantee free media.

Zambia's Transparency International rankings on corruption remain high. The fight against corruption seems to have been included for the sole purpose of attracting donor support rather than out of the realization that the problem needs attention. There is constant lip service about the fight against corrupt but when the opportunity to fight corruption presents itself the contrary is done. The current President, Rupiah Banda has abandoned the cases against former president Frederick Chiluba. The British high court judgment against Chiluba has not been registered and may not be. The Anti-corruption policy in July 2009 may just be another policy document with no meaning. This is because the laws that define what constitutes corruption like the Anti-Corruption Commission Act, No. 42 of 1996 are being changed. The government has continued to engage in corrupt activities and the Zambia Telecommunications Company (Zamtel) saga is one such example. Public funds including donor funds have been abused. This has eroded donor confidence going by the Swedish and Dutch governments suspending of funding to the health sector. It is the ordinary Zambian who will be affected by this decision. Unlike those in the realms of power the majority of citizens only source of health care are the public health facilities. Those in the corridors of power will continue to fly themselves to South Africa when medical needs arise as is the case now.

#### **4.7 Popular Legitimacy of Democracy**

##### **4.7.1 Public evaluations of the state of governance**

A positive evaluation of the state of governance would suggest that democratic systems are well in place, and functioning to the expectations of the population. Therefore generally speaking this could denote satisfaction with 'supply of democracy'<sup>31</sup>. Citizens' evaluations and experiences of democracy provide an essential 'insider or ground-up' assessment of

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<sup>31</sup> Bratton and Mattes (2007:194) define perceived democratic supply as a measure of satisfaction with the way democracy works in a given country plus the recognition of being in a democracy

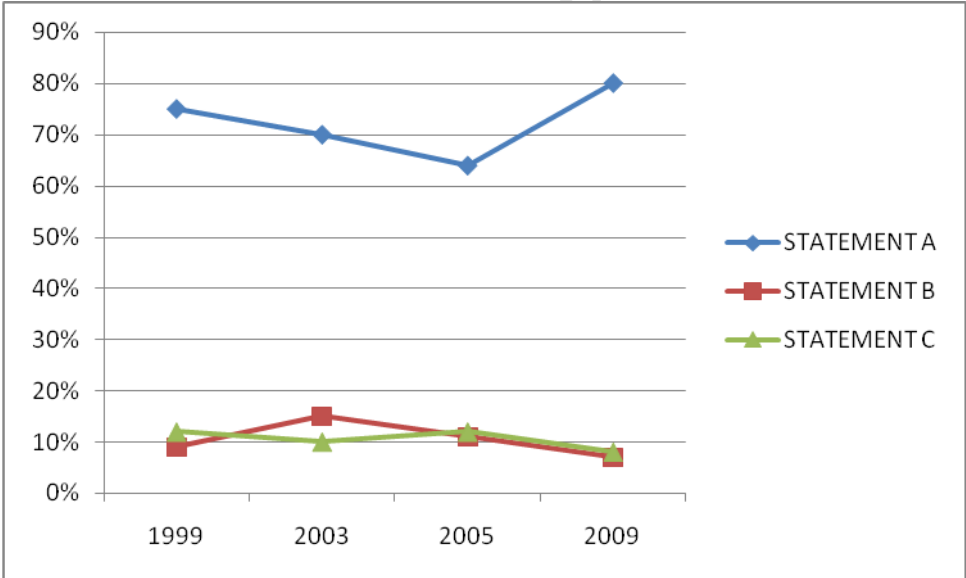
democracy, which may be absent from macro-level data or expert evaluations (Logan & Mattes 2010:5). Below, this study provides descriptive statistics based on Afrobarometer public opinion data on support for democracy, satisfaction with democracy and patience with democracy. A graph summarising the supply and demand for democracy is also provided. This data seeks to present citizens ('insider') perspectives into the supply and demand of democracy as an important requisite in assessing democratic improvements or growth.

5.1.5.1 Support for democracy

Support for democracy was measured by asking the respondent which of the three statements below was closest to their own opinion?

- A: Democracy is preferable to any other kind of government.
- B: In some circumstances, a non-democratic government can be preferable.
- C: For someone like me, it doesn't matter what kind of government we have.

Figure 6: Support for democracy



\*Source: Afrobarometer

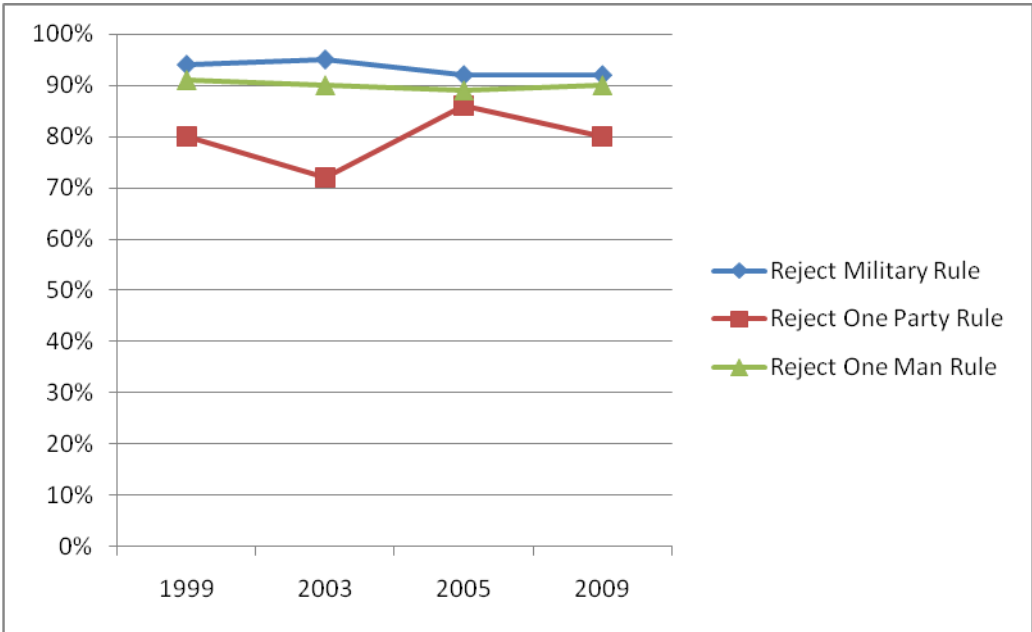
The graph above represents the frequency distribution. Support for democracy was declining steadily between the periods 1999 to 2005. However, in 2009, it rebounded sharply, and in fact rose to the highest level recorded. All in all support for democracy in Zambia has been

fairly high with at least over 64% of respondents overtime (1999, 2003, 2005 and 2009) preferring democracy to any other kind of government.

5.1.5.2 Reject other forms of rule

The rejection of other forms of rule is a cluster of rejection for military rule, of one-party rule and one-man rule. The respondents were asked to strongly approve or approve on one hand and disapprove or strongly disapprove on the other. The graphs below represent the strongly disapprove and disapprove categories merged together. The frequency in percentages is reflected on the vertical axis.

Figure 7: Reject other forms of rule



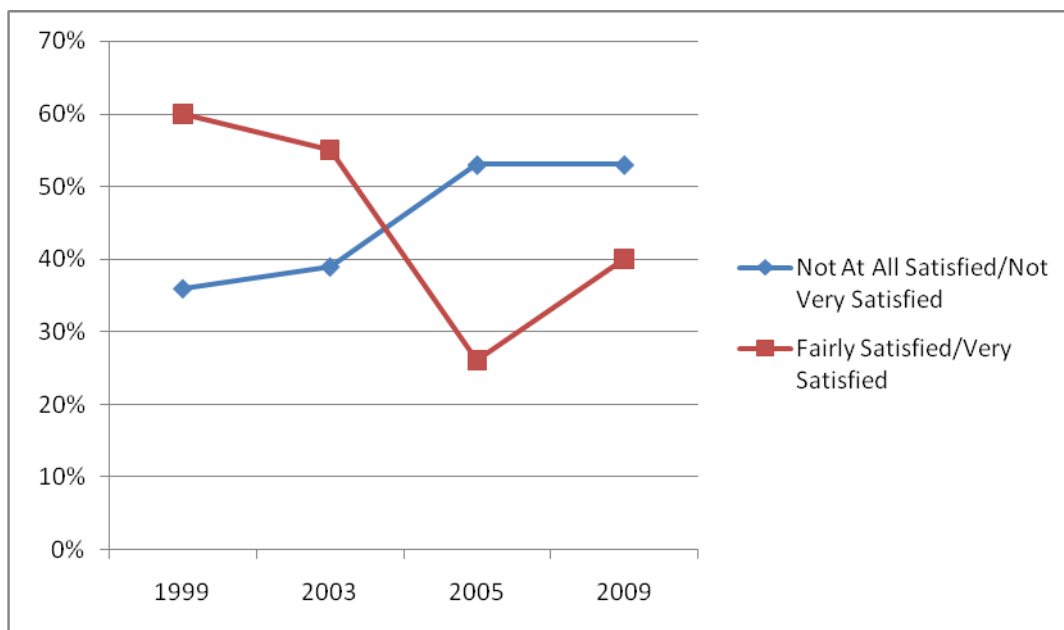
\*Source: Afrobarometer

The graph (Figure 7) above shows that from 1999 to 2009, Zambians have remained strongly committed to the rejection of all forms of authoritarian rule. Military rule is rejected the strongest despite Zambian people not having experienced it. Rejection for one man rule is also strongly rejected which can be explained in terms of the non democratic experience of Kaunda’s 27 year rule.

### 5.1.5.3 Satisfaction with democracy

The graph below shows frequency distribution of overall satisfaction with the way democracy works in Zambia for a ten year period (1999-2009).

**Figure 8: Satisfaction with democracy**



\*Source: Afrobarometer

The graph above shows that satisfaction with democracy has declined in the ten year period. In recent years 2005 and 2009 (over 50%) the majority of Zambians have remained dissatisfied with racy.

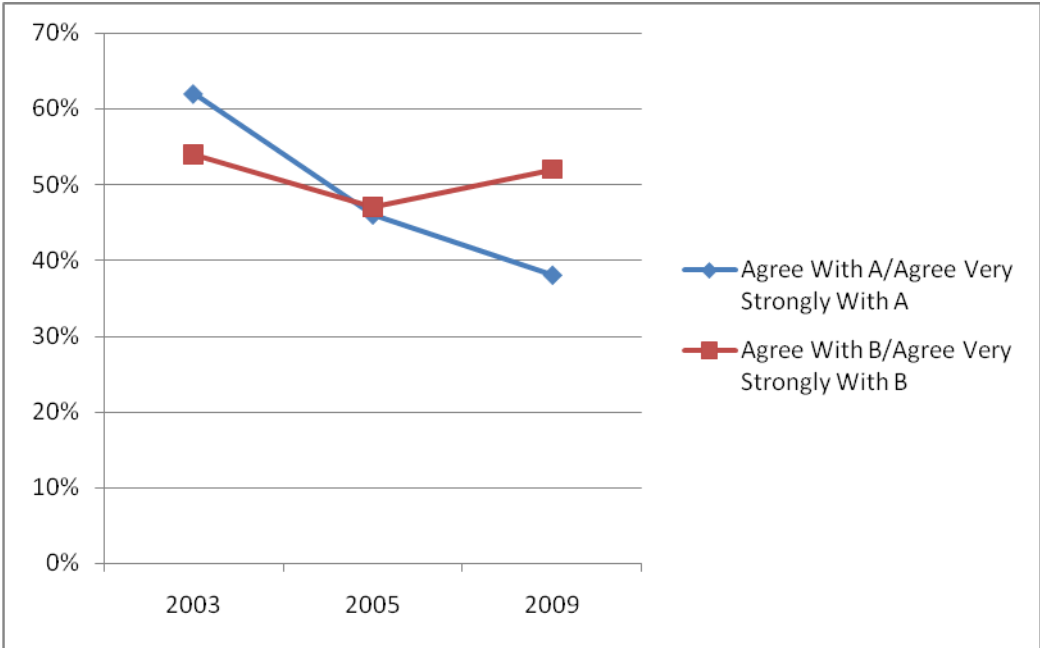
### 5.1.5.4 Patience with democracy

Patience with democracy was measured by asking the respondents which of the following statements was closest to their view? Statement A or Statement B.

A: Our present system of elected government should be given more time to deal with inherited problems.

B: If our present system cannot produce results soon, we should try another form of government.

**Figure 9: Patience with democracy**



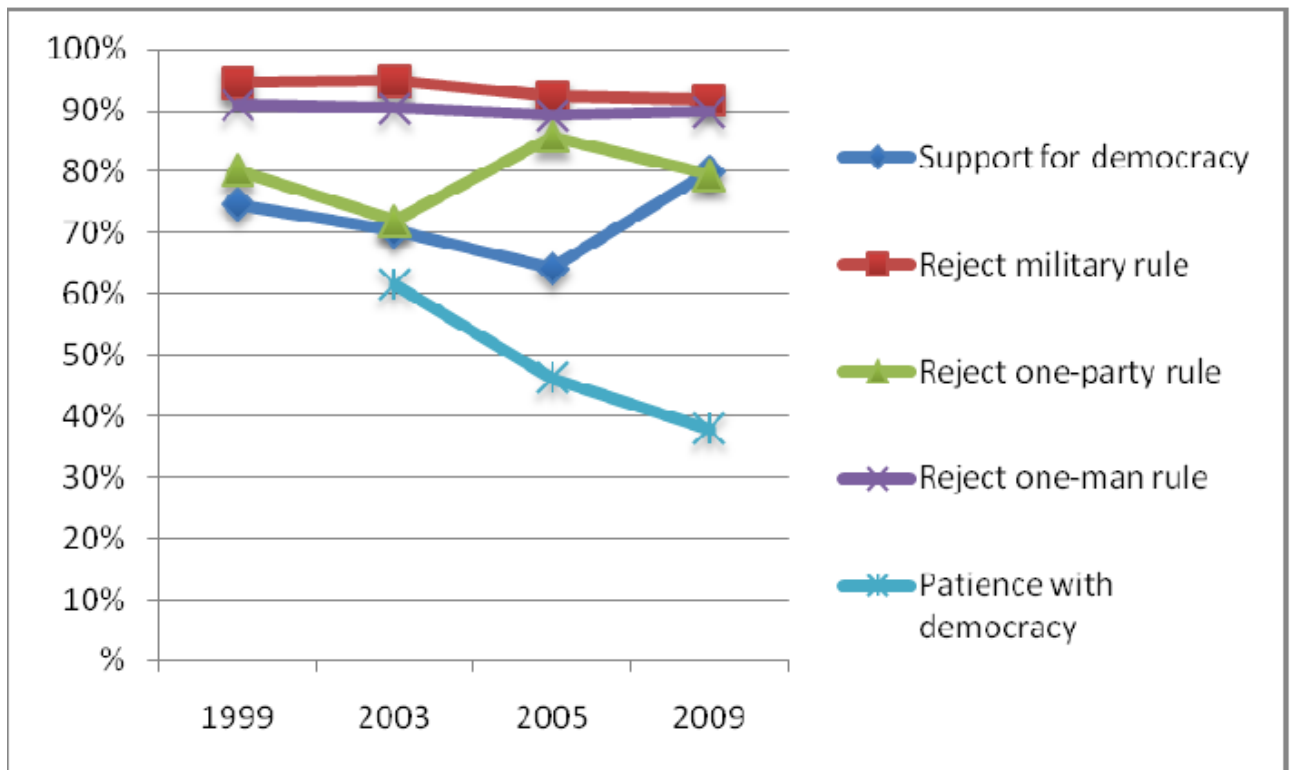
\*Source: Afrobarometer

The Figure above (Figure 10) shows that Patience with democracy has plunged between 2003 and 2009. Zambian people believe that if the present system cannot produce results soon an alternative form of government should be tried.

5.1.5.5 Supply and Demand of democracy

The graph below shows a summary of all the distributions for supply and demand of democracy

**Figure 10: Supply and Demand of democracy**



\*Source: Afrobarometer

As earlier discussed support for democracy, rejection of all non democratic rule remains fairly the same overtime. From about 2003 patience with democracy has steadily declined with Zambia indicating that they were ready to try another form of government if the present system did not produce results soon.

#### 4.7.2 Overtime Analysis of Popular Legitimacy of Democracy

In terms of supply and demand of democracy, support for democracy was declining steadily between the periods 1999 to 2005 (Afrobarometer). However, in 2009, it rebounded sharply, and in fact rose to the highest level recorded. The declining support for democracy could be due to a lack satisfaction with the way democracy works in Zambia. Satisfaction with democracy has declined in the ten year period. In recent years 2005 and 2009 the majority of Zambians have remained dissatisfied with democracy (Afrobarometer). The system therefore seems to be unresponsive to democracy demand and this has lead to

dissatisfaction with the general supply of democracy. With declining support and dissatisfaction with the way that democracy works, one cannot comprehensively conclude that there is democratic growth. Supply of democracy and satisfaction with democracy are critical elements in citizens' evaluations of whether there has been democratic growth.

Zambians remained strongly committed to the rejection of all forms of authoritarian rule. Military rule is rejected the strongest despite Zambian people not having experienced it. Rejection for one man rule is also strongly rejected which can be explained in terms of the non democratic experience of Kaunda's 27 year rule. Patience with democracy on the other hand has plunged between 2003 and 2009. Zambian people believe that if the present system cannot produce results soon an alternative form of government should be tried. It is not clear on what the alternative to the present form of government would be. This could be a desire to change the party in government as opposed to other non democratic forms of rule as Zambians have remained highly opposed to these forms.

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## CHAPTER 5: GENERAL FINDINGS

The study will now provide a general overview of findings, in terms of its main research question, which is, does a within country, over time analysis of Zambia reveal that Zambia is becoming more democratic? Following the presentation of data, discussion and analysis this Chapter provides a summary of findings for each sub-concept. This is done by way of a rating on a scale of major progress, minor progress, no change, minor setback<sup>32</sup>, and major setback. The rating is influenced by the overtime data analysis and discussion provided above on each of indicator. This is presented firstly in form of a table (refer to Table 6 below), thereafter a brief narrative for each sub-concept outlining the motivation for the conclusion made.

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<sup>32</sup> Democratic growth is expected to be incremental or at least should stay steady with repeated elections. Therefore setbacks (minor and major) are viewed as any movements in the opposite direction or a negation

## 5.1 Summary of Findings

Table 7: Summary of Findings

| Sub Concept                            | Indicator                                     | Evaluation     |
|--|---|----------------|
| <b>PARTICIPATION</b>                   | Freedom of association                        | Major Setback  |
|  | Freedom of assembly                           | Major Setback  |
|  | Civic Participation                           | Minor Setback  |
|  | Political Participation                       | Minor progress |
| <b>PARTICIPATION OVERTIME</b>          |   | Major Setback  |
|  | Electoral Competition                         | No Change      |
| <b>COMPETITION</b>                     |   |                |
| <b>JUDICIAL AUTONOMY</b>               | Judiciary                                     | No Change      |
| <b>LEGISLATIVE AUTONOMY</b>            | Legislature                                   | Minor Setback  |
| <b>EXECUTIVE POWER</b>                 | Constitutionalism                             | No Change      |
| <b>OPENNESS</b>                        | Freedom of speech and information (Media)     | Minor Setback  |
|  | Transparency and corruption                   | Minor Setback  |
| <b>OPENNESS OVERTIME</b>               |   | Minor Setback  |
| <b>POPULAR LEGITIMACY OF DEMOCRACY</b> | Public evaluations of the state of governance | Minor Setback  |

### 5.1.1 Participation

The overall conclusion is that there has been a major setback with regards to participation. This conclusion was arrived at after an overtime assessment of each of the indicators of participation. As indicated in Table 6, both freedom of association and freedom of assembly suffered major setbacks. This is because despite domestic, regional and international objection the government has still proceeded and imposed tighter regulation through the NGO Act of 2009, thereby limiting freedom of association. This is a direct infringement of human rights as provided for by international human rights instruments and in conflict with democratic values. With regard to freedom of assembly the law is again being used to deny citizens this right. The guarantee of freedom of assembly remains a selective process which is determined by the police aided by colonial legislation. It is difficult to assemble freely in Zambia and more so if the cause motivating the gathering is not supported by the government. As observed by the Supreme Court justices the Public Order Act 'has no place in a democratic society'

Civic Participation experienced a minor setback because community participation declined for much of the period under review. The rating is minor because community participation rebounded in 2009 (from 54% in 2005 to 62%) but it waits to be seen whether it will be restored to its previous best (1999-72%). This may be related to the strict regulations that the government has imposed regarding freedom of assembly and freedom of association. Added to this the majority of Zambians have consistently not contacted elected officials overtime. The only progress recorded was with Political Participation. There were overall fluctuations with regard to interest in discussing politics with the highest number of respondents (about 40%) in 2003 reported to having discussed politics. The reason for the minor progress indicated is because voting turnout as a proportion of population of registered voters has slowly been increasing from 1996 to 2006 (55.2%-70.77%) though a slump was recorded in 2008 to 45.43%. Turnout as proportion of population of voting age also, increased from 28.18% in 1996 to 55.75% in 2006 but also recorded a slump in 2008. This as explained could be due to the fact that the by elections following the death of

Mwanawasa was unexpected leaving most voters unprepared. Involvement in elections is an essential indicator of participation in the political process and voter turn-out is used to indicate the level of actual participation hence the rating of minor improvement.

### **5.1.2 Competition**

The overall conclusion is that there has been no change with regards to competition. This is because there has not been any alternation in power Zambia from the second republic. The MMD has presided over the affairs of the country from 1991 to date (2011) representing 20 years of rule. Coupled with this the quality of elections has not improved overtime and an alternation in power is difficult to attain as the playing field has not been levelled. This is reinforced by peoples' evaluations of elections which reveal that almost half of the respondents in the Afrobarometer's recent studies (2005 and 2009) feel that elections are not free and fair.

Opposition political parties also remain divided and their voting constituents are split on the lines of ethnicity. Since the opposition is divided and Zambia uses the first past the post system, the president can assume office with as little as 28.7% of the vote. Zambia continues to have minority Presidents and the government remains opposed to changing the system as the status quo works in their favour. Electoral laws are fraudulent and do not provide for equal campaigning opportunities. The state has repeatedly used public resources when running for election which are not available to the opposition. Besides this there are also legislative barriers to political competition aside from the freedom of assembly explained in Chapter 4. Recent changes to the Electoral Act No 12 of 2006, empowers the president and not the electoral commission to set the election date. This gives undue advantage to the ruling party.

### **5.1.3 Judicial Autonomy**

The overall conclusion is that there has not been change with regards to judicial autonomy. This is because overtime, the Judiciary has failed to issue judgements against the state when it matters most. No improvement has thus been recorded. The rule of law has not been upheld as the law has been exclusively applied in most cases. The courts rarely issue judgments against the state or senior government official when it matters. It appears as if the outcome of judicial cases is a factor of who holds the realms of power. The changing of approach with regards to Chiluba's corruption cases owing to a change of government illustrates this point. The judiciary has fallen short of providing horizontal accountability due to its lack of independence. There have been several instances of the executive arm of government exerting influence on the judiciary. Former Permanent Secretary (PS) in the Ministry of Health Kashiwa Bulaya was one such case of attempted state influence. It is difficult to establish when the state is interfering with judicial processes because these acts are done away from the public eye. Despite this the people have an expectation of justice and transparency to prevail in all instances including high profile cases.

#### **5.1.4 Legislative Autonomy**

The overall conclusion is that there has been a minor setback with regards to legislative autonomy. This is because the gains made by the electorate when they elect the majority of members of parliament from the opposition, to ensure checks and balances have been overturned due to floor crossing. The Legislature has not ensured an effective system of checks and balances on the exercise of government authority. Zambian legislators have put self, before service and engaged in floor crossing. The sole aim of such activities is personal benefit at the expense of national interest. The government has not been made accountable to the electorate for periods in between elections owing to an inadequate legislature. Over the years parliament has been a rubber stamp of the government. Parliamentarians have voted based on personal needs and not to represent the voice of the electorate. An illustration is the Anti Corruption Bill which was passed despite public outcry.

### **5.1.5 Executive Power**

The executive maintains substantial powers. Therefore there has not been an overtime change with regards to limiting the power of the Executive. The Executive as provided for by the Constitution of the Republic of Zambia is granted immense powers and authority within the Zambian political system (Polity Country Report on Zambia of 2008). Laws from colonial rule that give unwarranted power to the Executive continue to exist within a democracy. Attempts to change the constitution have yielded no results as procedures to change the Constitution do not favour meaningful change. Zambia needs a new constitution adopted through broad consensus such as the constituent assembly method. Unless Zambia adopts a constitution through broad based consensus which should include putting more rigorous procedures for amending the constitution, the populace will continue to be manipulated by those in the corridors of power. The executive power needs to be limited or at least put in check if aspects of good governance are to be upheld.

### **5.1.6 Openness**

The overall conclusion is that there has been a minor setback with regards Openness. This is because freedom of speech and information (Media) has been hampered. The media legislative framework in Zambia has not entirely promoted the existence of free media. This is because aspects within the law still remain unchanged from that which was inherited from colonial rule. These pieces of legislation have been used by the state to intimidate privately owned media. The government has made several attempts to try and restrict the independent media and these attempts have sometimes focussed on using state organs such as the police and courts to harass private media. As such Zambia presently has the highest number of media violations in the SADC region (MISA Zambia Report 2009).

From a legislative perspective, the country has retrogressed as it seems laws are continuously made to strengthen already existing controls on the media as opposed to advancing a free media. This is evident from the Electoral Act of 2006 which prohibits the reporting of 'speculative analysis, unsourced opinion polls, and predictions of the result

before the official announcement' (Amnesty International Report 2008). Furthermore the Freedom of Information, Broadcasting, and Independent broadcasting Authority draft laws of 2003, which were supposed to facilitate easier access to information held by government official organs, was abruptly withdrawn citing national security reasons. Coverage at state-owned media outlets is generally supportive of the government, and as a result of prepublication review at government-controlled newspapers, journalists commonly practice self-censorship.

Added to the above there has been a mixed approach to the fight against corruption in Zambia from sporadic efforts targeted at fixing political opponents to window dressing for the donor community. There is no real attempt to rid the vice of corruption whose roots in some cases are culturally embedded to a point where corruption is now perceived to be means of efficiency. It is common for government officials and civil servants to openly demand a bribe in order that they render a service in good time. Zambia Ranks 99 of 180 countries in the world rankings on corruption provided by Transparency International's Corruption Perceptions 2010 Index. Corruption has also flourished due to lack of institutional capacity. Investigative units lack authority and personnel. The fight against corruption seems to be driven by the good will of the incumbent and not properly laid down laws of good governance. The current President, Rupiah Banda has abandoned the cases against former president Frederick Chiluba. The government has continued to engage in miscellaneous dealings as evidenced from the sale of irregular sale of Zamtel. There have also been revelations of abuse of public funds within the health sector resulting in the Swedish and Dutch governments both suspended funding to the health sector.

#### **5.1.7 Popular Legitimacy of Democracy**

Popular legitimacy of democracy experienced a minor setback. This is because the democratic system has not been responsive. The assessment is minor because the rejection of all forms of authoritarian rule remained strong. None the less support for democracy on the other hand was declining steadily between the periods 1999 to 2005. However, in 2009,

it rebounded sharply, and in fact rose to the highest level recorded. The declining support for democracy is coupled with a decline in satisfaction with democracy overtime. In recent years 2005 and 2009 the majority of Zambians have remained dissatisfied with democracy. The system therefore seems to be unresponsive to democracy demand and this has led to dissatisfaction with the general supply of democracy. With declining support and dissatisfaction with the way that democracy works, one cannot comprehensively conclude that there is democratic growth. Supply of democracy and satisfaction with democracy are critical elements in citizens' evaluations of whether there has been democratic growth.

## **5.2 Cross-Cutting Findings**

There are cross cutting observations which summarise the finding from the analysis of sub-concepts. These include a lack of good governance, deteriorating supply of democracy, compromised vertical and horizontal accountability and quality of elections. These are discussed and summarized below.

### **5.2.1 Lack of Good Governance**

The general political landscape does not depict democratic growth. The government in Zambia have perpetuated acts that do not reflect good governance. Laws have been changed to limit freedom as opposed to granting it. Furthermore laws that are un-conducive to a free and democratic rule remain unchanged from that which was inherited from colonial rule. The government has intentionally allowed laws such as Section 53 of the penal code that empowers the President to ban a publication in his absolute discretion. The Official Secrets Act of 1923 which criminalises access and possession of public information with a minimum sentence of 25years and Section 69 of the penal code which also provides that it is a criminal offence for any media outlet to defame the president. Civil liberties are hampered by the lack of commitment from government.

Government has changed the law at every opportunity to impose more control as opposed to freeing institutions that promote the growth of civil liberties. The media is far from being free as the state continues to harass media outlets that are critical of its rule. This perhaps is what Levisky and Way (2002:8) observed in their analysis of 'stalled transitions' which pointed to the fact that in these countries civil liberties are frequently violated. According to Levisky and Way (2002:8) opposition politicians, independent judges, journalists, human rights activists, and other government critics are subject to harassment, arrest, and in some cases, violent attacks.

Freedom of assembly leaves much to be desired and is equally limited by the Public Order Act. Political parties, individuals and CSOs are harassed under the disguise of the law. CSOs have generally been viewed as a threat to the state and therefore these manoeuvres are not surprising. What is unfortunate is that the very CSOs that the government is antagonising were a key success factor in overcoming the one party state. Carothers (2002:12) points to the fact that hope for aspiring democracies lies in civil society's effective opposition to the regime. This will surely be more difficult to achieve given the current efforts aimed at limiting CSOs.

The rule of law has not been upheld as the law has been exclusively applied in most cases. The courts rarely issue judgments against the state or senior government official when it matters. Corruption remains high and the fight against corruption seems to have been included for the sole purpose of attracting donor support rather than out of realization that the problem needs attention. The government has continued to engage in corrupt activities such as the Zambia Telecommunications Company (Zamtel) saga. Public funds including donors' funds have been abused. This has eroded donor confidence going by the Swedish and Dutch governments suspending of funding to the health sector.

### **5.2.2 Deteriorating supply of Democracy**

There has been a decline in public opinion of supply of democracy due to the fact that the majority of Zambians do not subscribe to these non-democratic tendencies that are being

exhibited by the state. Support for democracy and satisfaction with democracy has declined between the periods 1999 to 2009. The system seems to be unresponsive to democracy demand and this has led to dissatisfaction with the general supply of democracy. Furthermore patience with democracy has plunged between 2003 and 2009. Zambian people believe that if the present system cannot produce results soon an alternative form of government should be tried.

It is not clear on what the alternative to the present form of government would be as Zambians remained strongly committed to the rejection of all forms of authoritarian rule. Military rule is rejected the strongest despite Zambian people not having experienced it. Rejection for one man rule is also strongly rejected which can be explained in terms of the non democratic experience of Kaunda's 27 year rule. What is interesting to note is that community participation in meetings was slowly declining from 1999 until recently (2009). Community engagement is important in enhancing civic knowledge and allows for greater participation in the democratic process and should therefore be encouraged. Voter turn-out which as proportion of both registered voters and voting age has slowly been increasing from 1996 to 2006 (55.2%-70.77%). A slump was recorded in 2008 to 45.43% which could be due to the fact that the by elections following the death of Mwanawasa were unexpected leaving most voters unprepared.

### **5.2.3 Compromised vertical and Horizontal Accountability**

At face value Zambia seems to have most of the institutions required of a functioning democracy. The Problem is that the institutions that are supposed to provide oversight on government are compromised. The Anti Corruption Commission (ACC), Judiciary and legislature are not totally independent of government influence. Thus their functions are compromised and they are therefore unable to live up to the people's expectations. The legislature has failed to provide effective system of checks and balances on the exercise of government authority. Zambian legislators have put self, before service and engaged in floor crossing. The sole aim of such activities is personal benefit at the expense of national interest. The government has not been made accountable to the electorate for periods in

between elections owing to an inadequate legislature. Over the years parliament has been a rubber stamp of the government as parliamentarians have voted based on personal needs and not to represent the voice of the electorate. Institutions like the ACC lack the expertise or resources to fight corruption which is wide spread. The powers of the executive need to be checked and these institutions strengthened if democracy is to flourish in Zambia.

#### **5.2.4 Quality of Elections**

Elections have not been competitive enough as opposition political parties remain divided and their voting constituents are split on the lines of ethnicity. The president using the first past the post has been allowed public office with as little as 28.7% of the vote. The ruling party has been opposed to changing to a 50% plus 1 system as they do not have majority support. Parliamentary elections have no bearing in the long run due to constant Floor crossing. Electoral laws are fraudulent and do not provide for equal campaigning opportunities. The state has repeatedly used public resources when running for election which are not available to the opposition. Besides this there are also legislative barriers to political competition aside from the freedom of assembly explained in chapter 4. Recent changes to the Electoral Act No 12 of 2006, empowers the president and not the electoral commission to set the election date. This gives undue advantage to the ruling party.

## CHAPTER 6: CONCLUSION

The within country, over time analysis of democratic quality in Zambia reveals that Zambia is not becoming more democratic. The overall quality of democracy in Zambia has not improved overtime. Of the seven (7) sub-concepts used to measure democratic quality namely participation, competition, judicial autonomy, legislative autonomy, executive power, openness, and popular legitimacy of democracy. Only the indicator of political participation under the broader concept of participation showed signs of minor progress. Although a major setback with the overall assessment of the sub concept of Participation was revealed. There has not been any progress and therefore no change with regards competition, judicial autonomy and executive power. Minor setbacks were experienced with regard to openness, legislative autonomy, and popular legitimacy of democracy.

There are a lot of irregular practices on the part of the state that ideally should not be part of a democratic dispensation. One cannot say with the evidence provided that Zambia is democratic or that there has been democratic growth. This is despite holding a series of five elections. One cannot also conclude that democracy has generally been improving overtime. It is difficult to ascertain what aspects of the democratic process elections have re-enforced. This said Lindberg's theory is still a useful tool in understanding democratic growth within emerging democracies. The only problem with the theory is that it relies on cross national data that in some cases have methodological biases. This in my view makes the theory susceptible to methodological biases that are a product of the sources of the original data. For instance Freedom House data does not give a methodological stipulation on how the changes in ranking occur. Instead it makes use of observations that might in themselves be the subject of the observer's biases. An example from the data on Zambia is the improvement that was noticed with regard to civil liberties owing to what was termed as free and fair election of 2008. The question that arises is whether the election was free and fair and if so whether that development constitutes reason enough to indicate an improvement in civil liberties.

There is also need for comparative political scientists to find a methodological comprise and integrate insider evaluations of democracy within the aggregated measures of democracy

provided by experts, which form the basis of large comparative studies. Otherwise we will persist in calling non democracies, democracies. Logan and Mattes (2010:5) observe that it is difficult to assess who provides an accurate assessment of democracy between the ordinary citizen and the expert but that both are essential to fully understanding democracy today. The ordinary citizen cannot be alienated from democracy assessment yet at the same time be expected to contribute and exist within this environment. Democracy is a people centred approach which is supposed to be responsive to people's needs. Zambia will continue to aspire towards democracy but will need to improve its supply of democracy.

My analysis and subsequent finding based on the assessment above of the Zambian case study strongly implies that Lindberg's theory does not hold. What would be important to note is that there is need to try and analyse democratic growth, within countries more closely taking note of the structures and function that are at play within these states. A critical interrogation of Lindberg's findings in other country case studies would also prove to be a test on how applicable his theory is. As Zambia continues to aspire to develop, it is hoped that a more inclusive approach centred on democratic values will be embraced by those who hold the corridors of power.

## POST SCRIPT

Subsequent to the cut-off date for my data collection, and after I had finished writing this thesis, the 2011 election finally produced an opposition victory. The Patriotic Front led by Michael Chilufya Sata was voted into power in the elections held on the 20<sup>th</sup> of September 2011. This development does not largely affect my conclusion as the overall quality of democracy needs improvement as well as other areas of concern outlined above. Though the development is a welcome set in the nation's strides towards a democratic state. The election of Michael Sata will not change the constitutional imbalances that promote enormous executive power that has provided the basis for dictatorial tendencies by past presidents. Neither will it change the high levels of corruption, strict media controls as well as other aspects requiring attention outlined above. What awaits to be seen is whether this will provide impetus for citizens to pressure the government to change the non democratic elements that have been a feature of the nation post 1991 elections. The newly elected government, civil society, citizens and international community should continue to work towards promoting institutions and structures that will allow a more democratic Zambia. Most indicators on perceived supply of democracy have continued to decline in recent years and it is hoped that the quality of democracy will improve.

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