

Chapter 10: Governance issues and poverty reduction

Introduction

One of the directive principles of state policy in the constitution of Zambia is that the state shall be based on democratic principles (Article 112). For practical purposes this refers to liberal democracy, which has been defined as “a political system characterised by regular and free elections in which politicians organised into parties compete to form the government, by the right of virtually all adults to vote, and by guarantee of a range of familiar political and civil rights” (R. Sandbrook, cited in Diouf, 1998:8).

In the post-cold war era, donors have been insisting not only on democracy but “good governance” as well, as conditions for aid. According to Kisa (1991: 4), elements of good governance include:

- political accountability facilitated by elections;
- freedom of association and participation;
- freedom of information and expression;
- a good judicial system;
- bureaucratic accountability;
- competent public agencies.

Zambia is highly dependent on external aid. For example, about 51% of the 2001 budget is accounted for by external assistance. The country’s macroeconomic policies are to a large extent predicated on attracting foreign investment. Foreign investors also take into account political risk and the state of governance when making investment decisions. Hence bad or undemocratic governance would have a negative impact on resource inflows into the country, thereby undermining poverty reduction efforts.

Zambia’s transition to the multi-party system in 1991 was mainly a product of the campaign for change by a broad-based movement of civil society organisations. The movement wanted Zambia to be transformed into a liberal-democratic state, with a robust economy and the wellbeing of citizens assured. It espoused the values of transparency, accountability, the rule of law, respect for human rights, regular free and fair elections and a free market system, among other things. Democracy was considered to be necessary for economic development. The Movement for Multi-party Democracy, which came to power in 1991 was mooted by this coalition of forces. The new MMD government pledged to work towards consolidating liberal democracy and transforming the economy into a private-sector driven one. This chapter undertakes an analysis of the governance situation in Zambia, dealing with political and economic governance, and ending with recommendations.

Political governance

Central government

Central government institutions: Zambia has a presidential system of government with three branches - the Executive, the Legislature and Judiciary. Their relationship is supposed to be based on checking and balancing each other. The Executive is also supposed to be accountable to the

Legislature for its actions. Women have continued to be under-represented in central government institutions.

The Executive: The Republican President, who is directly elected by voters every five years, is the Chief Executive. The President is eligible to serve a maximum of two terms of office after which he does not qualify for election to the office. [Art 35 (2) of the constitution]. He appoints Cabinet Ministers and chairs meetings of Cabinet. The Executive in general, and the President, in particular, tends to dominate the other two branches of government. Executive dominance can partly be seen in the large number of officers who are appointed by the President. These include the holders of constitutional offices, permanent secretaries, district administrators, and service chiefs. The people appointed in this way are likely to feel that they owe allegiance to the appointing authority, and this may undermine professionalism and politicise even the services and offices that are supposed to be politically neutral. Consequently, public service and resources may be distributed in a partisan manner. Furthermore, the Executive initiates legislation, which is usually passed by Parliament without amendment. The Executive also formulates the national budget, which the Legislature adopts without changing anything, and it passes subsidiary legislation (statutory instruments).

Statutory instruments constitute a major part of the regulatory framework, because a large body of governmental rules is in the form of such instruments. The power to make statutory instruments is granted to the Executive by Parliament, usually in connection with Acts that are passed by the Legislature. Statutory instruments go into effect at the time that they are promulgated, but they are supposed to be gazetted within twenty-eight days of being made. Thus the public are not afforded an opportunity to scrutinise them before they become effective.

Executive dominance over the Legislature is also a result of weak opposition parties. Since independence, ruling parties have tended to hold overwhelming majorities in Parliament; consequently there is no pressing need to compromise with the opposition over proposed legislation. The system of caucus meetings and the appointment of Cabinet Ministers from among MPs from the ruling party also reinforce the dominance of the Executive over the Legislature. Executive dominance over the Legislature tends to impair the accountability of the Executive and the checks and balances.

Provincial Deputy Ministers

In the provinces, the President appoints Deputy Ministers as political heads and his representatives. Their role is to basically co-ordinate the activities of local offices of government ministries and departments, and to provide political leadership for implementing government policies and programmes. They are supported by provincial permanent secretaries, who are civil servants and head the provincial administration.

District Administrators

The position of provincial Deputy Minister has not been subject to controversy as has been the case with that of District Administrator (DA), created in December 1999. District Administrators are supposed to report to Deputy Ministers and permanent secretaries in charge of provinces. They are supported by district administrative officers. The functions of District Administrators are supposed to include:

- co-ordinating activities of government departments and semi-autonomous bodies;
- undertaking political and social mobilisation of the people;
- taking care of chiefs affairs;
- ensuring harmony between law enforcement agencies and civil society. (*The Post*, 2nd December 1999).

In practice, however, they spend a great deal of time on party matters, especially mobilising support for the ruling party. Their activities have predominantly been partisan, therefore. One of the main reasons for this is that all of them are party cadres. Their role has turned out to be very similar to that of the District Governors of the Second Republic – a position abolished by the MMD government itself after it came to power. The position can be described as a waste of public resources. The Mwanakatwe Constitutional Review Commission had recommended the appointment of a District Commissioner, who would be a civil servant, appointed by the Public Service Commission, to be responsible for co-ordinating activities of government departments in the district. Government rejected the recommendation. The President opted for a political functionary appointed by himself – the DA.

The Legislature is constitutionally the supreme law making body. But as we have already indicated above, legislation is initiated by the Executive and the law making body does little to alter it generally. No private member's bill has been introduced in the Legislature. Legislators do not have personal support staff to help them research issues for them to effectively play their role. This implies that the legislators are in fact not effectively representing the interests of their constituents. The public has no access to the committees of Parliament and the reports of these committees are generally not accessible to the public. People have no knowledge of the contents of the reports of committees until they are tabled in Parliament, and committee reports rejected by Parliament are not made public. The resulting lack of information on the part of constituents prevents them from effectively articulating demands and monitoring the performance of legislators. At the same time many legislators do not visit their constituencies after they have been elected. Thus they remain basically out of touch with their constituents. Members of the National Assembly as well as Cabinet Ministers are subject to a code of conduct under the *Parliamentary and Ministerial Code of Conduct Act, 1994*.

Women have continued to be under-represented, as pointed out earlier. In 1996, out of the 150 elected Members of Parliament only 13 were women. Pre-election efforts by non-governmental organisations to campaign for and assist women candidates did not yield the desired results. The first-past-the-post electoral system also tends to favour big parties at the expense of small ones in terms of electoral outcomes. In 1991, the MMD received 75.3% of valid votes cast in the parliamentary elections and received 84% of the seats (126 out of 150), compared to UNIP's 24.7% of votes and 16% share of seats. In 1996, with UNIP, the strongest opposition party boycotting the elections, the MMD received 87.33% of seats (131 out of 150) for the 61% of the valid votes cast that it received.

The Judiciary is an important arm of the government to which citizens are supposed to turn for the protection of their rights and for settling disputes. Although Parliament passed the *Judiciary Autonomy Act* in 1994, which de-linked the Judiciary from the Ministry of Legal Affairs, in practice

autonomy is limited. It depends on the Executive for funds and the Chief Justice, Deputy Chief Justice, and Supreme Court Judges are appointed by the President, subject to ratification by the National Assembly. High Court Judges, and the Chairman and Deputy Chairman of the Industrial Relations Court are appointed by the President, on the advice of the Judicial Service Commission. Lack of resources generally hampers the work of the Judiciary with the result that there is a considerable backlog of cases. Justice is, therefore, delayed. Many people, especially the poor, do not have access to the courts for human rights and civil litigation because of the prohibitive costs. The legal aid system is crippled by lack of human resources, finances and other resources. NGOs that provide legal assistance do not have adequate resources to cope with the demand. Customary law, administered by local courts, tends to perpetuate prejudices against women and the youth.

The Director of Public Prosecutions (DPP) is one of the constitutional officers appointed by the President, subject to ratification by the National Assembly. He reviews cases to be brought before the courts of law and decides whether to prosecute or not. He also has authority to discontinue cases that are already in court without any obligation to give reasons for the *nolle prosequi*. The police arrest as well as prosecute suspected offenders. There have been controversial cases where members of the public have perceived that the DPP has protected high profile citizens from prosecution and that, conversely, the *nolle prosequi* has been used to discontinue cases that should not have been brought to the courts in the first instance, for lack of evidence.

Local government

Local authorities, being close to the community, can play an important role in bringing development to the people and in the poverty reduction effort through a participatory approach. The system of local government comprises popularly elected councils throughout the country. Councils are charged with providing services to communities in their areas. These include education, public health, infrastructure and drainage works. They also run markets and allocate plots of land. Usually local politicians, including some councillors, usurp the powers of councils and allocate plots and market stalls illegally or along partisan lines. Most council markets are health hazards due to poor drainage and sanitation, erratic refuse collection, and poor unapproved structures.

For a number of years, councils have been in crisis due to poor funding and are not able to adequately provide services. The sale of houses, from which they used to derive rental income, and the termination of agency arrangements with central government for collecting various fees under which they retained a portion of funds collected, have reduced the financial base of the councils. In addition, councils themselves have not been vigilant enough to collect money due to them. For example, there are many trading establishments that operate without licences. Likewise, a large number of buildings are not subject to rates. Billing systems are non-existent for many charges. Furthermore, granting autonomy to councils has not been matched by fiscal decentralisation. The budgets of councils must be approved by the Minister of Local Government and in the absence of other viable sources of income, councils are dependent almost entirely on grants from central government, which are inadequate. Moreover, although councils are elected by the people, the law gives the Minister power to suspend them and appoint administrators to perform their functions.

Fundamental rights and freedoms

Human rights: As already pointed out, respect for human rights was espoused by civil society as

one of the ideals to undergird the new democratic dispensation to be constructed after the transition from one-party rule. Civil society organisations have continued with advocacy work intended to see this ideal translated into practice. Respect for human rights has also become a major international concern. Countries that do not respect the human rights of citizens run the risk not only of being isolated internationally but losing foreign aid as well.

The Bill of Rights: Zambia's post-independence constitutions have all contained a justiciable Bill of Rights with guarantees of Fundamental Rights and Freedoms of the individual. In the current constitution (as amended in 1996) the Bill of Rights forms Part III. Article 11 states:

“It is recognised and declared that every person in Zambia has been and shall continue to be entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed, sex or marital status, but subject to the limitations contained in this part, to each and all of the following, namely:

- a) life, liberty, security of the person and the protection of the law;
- b) freedom of conscience, expression, assembly, movement and association;
- c) protection of young persons from exploitation;
- d) protection for the privacy of his home and other property and from deprivation of property without compensation.”

The limitations of the Bill of Rights include:

- it has many savings and derogations;
- the high cost of litigation, coupled with an ineffective legal aid system, means that many people, especially the poor, are not able to avail themselves of redress through the courts of law;
- many people lack awareness of their constitutional rights and freedoms because of illiteracy and ignorance, among other factors;
- there are gaps that require attention. These include absence of specific reference to press freedom, economic and social rights and political rights.

Economic and social rights are incorporated in the directive principles of state policy, which are not justiciable. Zambia has maintained that it cannot make the rights justiciable because it does not have resources (Cabinet Office, 1999: 11). When the Mwanakatwe Commission was set up, efforts were made to make the Bill of Rights more comprehensive than before. However, government rejected recommendations to amend the Bill of Rights or gave excuses to avoid amending the Bill, which would have required a referendum. New provisions recommended by the commission included:

- equality before the law;
- freedom of press and media;

- the right of journalists not to be compelled to divulge sources of information;
- access to information;
- academic and intellectual freedom;
- political rights;
- the rights of women.

International Conventions: Zambia is a signatory to a number of international conventions. These include:

- the *Convention on the Rights of the Child*;
- the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (ratified in 1998);
- the *International Covenant on Economic, Social and Cultural Rights*;
- the *International Covenant on Civil and Political Rights*;
- the *International Convention on the Elimination of All Forms of Racial Discrimination*;
- the *African Charter on Human Rights and People's Rights*;
- the *International Convention on the Elimination of All Forms of Discrimination Against Women*;
- the *International Convention on the Rights of the Child*.

The *Convention on the Reduction of Statelessness*, and the *Slavery Convention of 1926*, are among those that have not been ratified. The *Second Optional Protocol to the International Covenant on Civil and Political Rights*, which aims at abolishing the death penalty, has also not been ratified. The provisions of the conventions that have been ratified have not been fully incorporated in domestic law, however. Having social and economic rights in the Bill of Rights would provide a firm legal backing to the fight against poverty.

The Human Rights Commission was established in 1996 when the *Human Rights Commission Act, no. 39* was passed. The five-member commission is appointed by the President. The main function of the Commission, basically, is to investigate cases of alleged abuse of human rights and to make appropriate recommendations to the government. A major weakness is that the commission does not have power to enforce its findings and to prosecute alleged offenders. The Commission also does not have sufficient human and other resources to reach all parts of the country effectively.

Civil society organisations: Civil society organisations have been actively involved in performing their watchdog role *vis-à-vis* the government, publicising problem areas and proposing remedies. One approach has been to lobby donors to continue to include governance benchmarks in aid packages. As a result of this, relations between human rights organisations and the government are

not always cordial. There have been cases of threats and intimidation.

Infringements: In spite of the government's declared commitment to respecting human rights and the rule of law, and various institutional safeguards, there are still problem areas that require looking into, including:

- a) **Torture:** Inflicting torture or cruel and inhuman treatment is a contravention of Article 15 of the constitution, which prohibits, without any reservation, subjecting any one "to torture, or to inhuman or degrading punishment or other like treatment". Yet, inflicting torture on suspects by the police has continued unabated. Periods when the state of emergency is in force have particularly witnessed high numbers of cases of torture, as documented by the *Human Rights (Munyama) Commission* report and by local and international human rights groups. Similar observations have been made by the Japhet Banda Commission, which looked into allegations of torture, by persons detained in connection with the October 1997 failed coup attempt.
- b) **Detention without trial:** The law allows detention of persons without trial when the state of emergency (under Article 30) is in force. Emergency powers have been used by ruling parties as a political weapon for dealing with the opposition and political opponents. The discretion given to the detaining authority (the President) by the law makes it difficult for detainees to successfully challenge their detentions in court. In the aftermath of the 1997 coup attempt, up to 104 people were detained, among them former President Kaunda, Zambia Democratic Congress leader, Dean Mung'omba and MMD women's chairperson and Member of Parliament, Princess Nakatindi Wina. About fourteen of the detainees were tortured. (Human Rights Watch and AFRONET, 2000). In 1993, 17 UNIP members were detained in connection with an alleged plot to overthrow the government under the so-called "Zero Option Plan" (Report of the Human Rights Commission, 1995). None of them was found guilty by the courts.
- c) **Freedom of assembly:** A major obstacle has been the *Public Order Act*, which requires the people to give notice to the police in order to assemble or hold processions. First, the period of notice is long (7 days); second, the police are biased against opposition parties and other organisations perceived to be anti-government when enforcing the law.
- d) **Freedom of information:** The foundation for press freedom continues to be weak. Independent media, notably *The Post* newspaper, have experienced searches of their premises, and frequent litigation. The government also avoids advertising in privately owned media, thereby depriving them of a vital source of income. Access to information in the possession of the government is problematic. Government officials are generally reluctant to release information even when such information has not been classified as secret. It remains to be seen if the proposed Freedom of Information Bill (*Times of Zambia*, 28th February 2001) will make a difference after it becomes law.

Reports of commissions of inquiry: As pointed out earlier, government from time to time appoints commissions of inquiry under the *Inquiries Act* to investigate human rights abuses. And members of

the public make submissions after which reports are compiled and submitted to government. The practice of the government has been to use discretion under the act to reject recommendations that it does not approve of and vice versa. In addition, it takes long to release such reports and this is usually done under pressure. This attitude suggests lack of political will to seriously tackle problems of human rights violations.

The electoral process

Participation: Zambia has a universal adult franchise. However, the level of participation by eligible voters is low. For example, out of 4 million eligible voters, 2,267,382 registered as voters for the 1996 presidential and parliamentary elections, and 1,331,047 (58.7%) cast their votes (Electoral Commission, 1996: 25). Voter turn out in 1991 was 43.4% (Andreassen, *et al.*, 1992: 79). Clearly, for many people the right to vote has no meaning. There are a number of reasons for the low level of participation. One of them is apathy, partly as a result of frustration because for some voting has lost meaning in the context of poverty. Another one is the failure by the Department of National Registration to meet the demand for national registration cards, which eligible voters are required to produce before they can be registered as voters. Mostly in rural areas, people have to travel long distances to and from National Registration offices to get their cards. Because of the shortage of materials, due to under-funding, potential voters have to bear the brunt of making several trips to the offices and waiting for long periods. The system of national registration is not computerised, while that of voter registration is. This has partly resulted in errors in capturing data for voter registration. Likewise, for the most part, registration centres and polling centres are not conveniently located in rural areas, forcing many people to shun participating. The UNIP boycott of the 1996 elections because its leader, former President Kaunda was not permitted by the constitution to stand, also contributed to the low voter turn out that year.

Malpractices: The electoral acts prohibit such malpractices as corruption, treating, etc., and provide for punishing offenders. In addition the Electoral Commission promulgated the *Electoral (Conduct) Regulations* in 1996. These set out a code of conduct to be adhered to by actors. In spite of these safeguards, the incidence of corrupt practices, and other malpractices is a cause for concern. The problems are basically two-fold. First, there is a weakness in the laws. It is not only sufficient to show that malpractices took place for a person to be disqualified. It has to be shown that such misdeeds were done with the knowledge of the candidate or his or her consent or the knowledge and consent of his or her agents. Petitioners must also prove that such misdeeds resulted in or would have resulted in the majority of voters not voting for a candidate of their choice (for example, Section 18, *Local Government Elections Act*).

Second, enforcement mechanisms are weak. The electoral provisions in the republican constitution and electoral acts and regulations permit aggrieved parties to petition the election or candidature of a person where they have reason to believe that the law was not complied with. In 1996, at least 17 parliamentary election results were petitioned. This was in addition to the landmark petitioning by several opposition parties of the election of Chiluba as President. A major problem with the petition process is that cases take very long to be cleared by the courts. Another one is that, in the case of presidential elections, petitions are dealt with after elections have been held, even where the complaint is about the qualifications of the candidate [*Electoral (Amendment) Act, 1996*]. This is a classic case of justice delayed, is justice denied.

The Electoral Commission itself has been a focus of criticism for allegedly being unrepresentative.

Government has rejected recommendations to enlarge the Commission, arguing that size is not a problem and that most Commissions elsewhere in Africa are small. The Commission has, however, started to establish committees, whose members include people from civil society. It has also started restructuring according to a structure adopted with the participation of NGOs. In the short-term, it will not be able to extend its structure to the provincial level, in line with the plan, due to lack of resources. The commission does not set election dates. This is a prerogative of the President who may also be a candidate for election.

Economic governance

The budget: Good economic governance is extremely important for effective utilisation of resources to achieve desired developmental objectives. This section will deal mainly with the budgetary process and procurement. The national budget is an important instrument of policy which, among other things, is used as a mechanism of resource allocation.

The country has in place guidelines for managing finances covered by the budget. These include constitutional provisions, Acts of Parliament and regulations, among others. For example, the constitution stipulates in Part X, Article 115, that no money shall be spent from the revenue of the Republic, unless the expenditure is authorised by warrant issued by the President and is charged by law to the revenue of the Republic. It further states that the President may not issue a warrant authorising expenditure unless the expenditure is authorised by an Appropriations Act. The Ministry of Finance and Economic Development has overall responsibility for managing the finances of the country. It performs this function partly through controlling officers in government units. The Executive prepares the budget, which must then be approved by Parliament. In this way the latter is expected to act as a check against the Executive. Parliament also reviews audit reports through the Public Accounts Committee. Experience has shown, however, that Parliament has not played its role very effectively. Its tendency has been to debate the estimates contained in the proposed budget, without changing anything.

The Auditor-General's reports every year catalogue cases of unauthorised expenditure, lax controls, unaccounted for funds, and so on. Payroll records do not reconcile with establishment records, creating possibilities for ghost employees. Generally, allocations among various budget heads do not show clear priorities, and initial allocations are subsequently distorted by supplementary outlays. In 1993, excess expenditure amounting to K17.8 billion was incurred, for which Parliament passed the *Excess Expenditure Appropriation (1993) Act, 1997 (no. 22, 1997)* four years later. Much of this money was spent by the Office of the President, the Ministry of Finance and Economic Development, the Ministry of Local Government and Housing, the Roads Department and the National Assembly. In 1996, supplementary expenditure amounted to a record K57.5 billion (*Supplementary Appropriation (1996) Act no. 16, 1998*). Almost half of this amount (K27 billion) was spent by the Ministry of Finance and Economic Development. Others included Cabinet Office headquarters (K12 billion), Office of the President, Special Division (K3 billion), and State House (K253 million).

Article 115 (2) (d) of the constitution allows the President to issue warrants of expenditure without the prior approval of the National Assembly in special cases deemed to be in the public interest, and for which provision has not been made in the budget. Such expenditure is approved by the National Assembly as supplementary expenditure **after** it has been incurred. Article 117 (5) makes provision for the National Assembly to approve expenditure which has already been incurred without its authority. The Minister of Finance and Economic Development is supposed to table the excess

expenditure bill in the house within thirty months after the end of the financial year in which it was incurred. These provisions facilitate fiscal indiscipline, distortion of initial budget priorities, and serve to weaken the National Assembly's power of scrutiny.

There has also been a tendency to release funds to units without adhering to the approved budget. The result is that some receive bigger amounts while others receive less than budgeted for. For example, the 2000 budget allocated K423 billion to repayment of ZCCM debts, but only K418 billion was released, leaving a shortfall of K5 billion. This renders budgeting meaningless. Parliament and the public are not offered an opportunity to scrutinise the proposed budget. The document is published after it is presented to Parliament by the Minister of Finance and Economic Development.

The presidential discretionary fund has been a matter of controversy because the criteria used to make donations do not seem to be objective, and due to lack of transparency in budgeting and accounting for the funds. The constituency development funds have also not been properly accounted for and their disbursement has tended to be politicised (*The Monitor*, 20th-26th August 1999).

Auditor-General: The office has overall responsibility for auditing the accounts of central government institutions, parastatals and local government institutions. However, it is not properly equipped to effectively perform its functions. It does not receive sufficient funding from the government and its establishment is too small compared to the task and the area of the country that has to be covered. Co-operating partners have been providing training assistance, but more still needs to be done. The reports of the Auditor-General are usually about two years behind, which does not allow quick action to be taken in reaction to findings published in the report. Furthermore, no action is taken against those found to have been involved in financial irregularities.

Procurement: The system of procurement plays a critical role in securing the resources required for the operation of government and for developmental purposes. If the system is not properly put in place, wastage of scarce resources would result. Here, transparency is critical in order to check leakage through corruption, theft, etc. The government operates a public tender system through the National Tender Board, and tender committees have been established in ministries and other institutions. Like other similar institutions, the Tender Board lacks the capacity to perform its functions effectively. While it is supposed to cover the entire country, its small complement of staff is based in Lusaka. The inspectorate unit is poorly equipped and does not have the human resources to undertake inspections throughout the country. The board itself is dominated by senior government employees, most of whom are appointees of the President. Out of the twelve members of the Central Tender Committee, seven are permanent secretaries. Others are the director and secretary of the National Tender Board, the Deputy Governor of the Bank of Zambia, the Director-General of the Central Board of Health, and the Commissioner-General of the Zambia Revenue Authority [*The Tender (Amendment) Regulations, 1997: Statutory Instrument no. 116, 1997*].

From time to time there have been reports of irregularities in the award of tenders by central government as well as local governments. Strengthening the tender system will be critical to avoid loss and wastage of resources. The Tender Board could also play an important role in poverty reduction by adopting tender policies designed to achieve this objective.

Donors: The role of donors is critical to the success of poverty reduction efforts. Their co-operation is necessary to secure debt relief and continued financial assistance. As pointed out earlier, good governance is one of the conditions of the donors. Yet it continues to be one of the problem

areas in their relationship with the Zambian Government. From 1996, Germany withheld US\$10.5 million intended for debt relief for three years because of governance concerns, among other things. Denmark withheld balance of payments support for two years. In 1997 the Contact Group meeting on Zambia was postponed over governance concerns (Human Rights Watch and AFRONET, 1999; Rakner, *et al.*, 1999: 42-44). Local and international human rights groups have continued to lobby donors to sustain their insistence on good governance as a condition for aid.

Corruption is another serious problem requiring urgent attention. Transparency International's Corruption Perceptions Index for 1999 places Zambia at number 56 rank out of 99. While the efforts of the Anti-Corruption Commission (ACC) are commendable, the capacity of the organisation does not measure up to the task. The staff turnover is high, and government funding is inadequate. Consequently there is a long backlog of cases. Staff who prosecute alleged offenders generally do not have sound legal training, resulting in a large number of acquittals. In a small number of high profile cases, the Director of Public Prosecutions exercises his power to refuse consent to prosecute. This frustrates the work of the ACC and gives the impression that the state protects people in high places from its reach.

Poverty Reduction Strategies: At a general level, the country's expectation has been that once its broad policies of economic liberalisation, privatisation, and attracting foreign investment yield economic growth, poverty would be reduced. Hence, what were required were short to medium-term strategies for poverty reduction - to cushion vulnerable groups from the harsh effects of the structural adjustment programme. These programmes included various "safety nets", public welfare assistance, and so on.

Increasing poverty in the face of these measures led to rethinking the strategy. This culminated in the conception of the National Poverty Reduction Action Plan, with the assistance of UNDP and consultations with donors and civil society organisations. The underlying strategy is to focus efforts at both the root causes as well as the actual manifestations of poverty. In the *Policy Framework Paper, 1999-2001*, government set the target of reducing the incidence of poverty from about 80% to 50% of the population by the year 2004. The strategy to be pursued would be rural development, increased investment in infrastructure development, human resource development and targeted poverty reduction strategies. Investment into the social sectors would be increased to 36% of the discretionary budget. Government's priorities may be gleaned from the planned expenditure of HIPC funds under the 2001 budget as shown below:

Table 10.1: 2001 Budget: planned expenditure of HIPC funds

Description	Amount (K billion)
Rural development programmes	124.4
Education and health	117.3
HIV/AIDS programmes	31.4
Water and sanitation grants to Councils; water projects in rural and peri-urban areas	33.5
Social safety nets and micro-finance programmes	30.2
Good governance programmes	10.0
Low cost housing	5.1
Total	351.9

Source: 2001 Budget Speech by the Minister of Finance and Economic Development.

Government has indicated that non-governmental organisations would be involved in implementing programmes to provide grants and credit to small-scale farmers. However, the institutional framework and modalities for this are not articulated. Handling HIPC funds through the central government budget may pose problems of monitoring to ensure that funds reach the intended target groups. There is also a risk that government may politicise the disbursement of the funds.

The success of the HIPC Initiative in reducing poverty is not easy to foresee. The World Bank and IMF have set as one of the conditions for qualifying for assistance, pursuing adjustment programmes supported by them. This may undermine efforts to reduce poverty since adjustment programmes have failed to reduce poverty in the past. It may not also automatically follow that at the end of the life of the Initiative, Highly Indebted Poor Countries will reduce debt to sustainable levels. For this to be achieved appropriate strategies and prudent debt management are required.

The government's objective is to reduce external debt to sustainable levels. According to the draft *Interim PRSP*, to achieve this objective the strategy is to:

- seek concessional rescheduling of debt;
- abstain from borrowing on non-concessional terms;
- reach HIPC decision and completion points.

This strategy does not address the management of the overall debt stock. Debt could be rescheduled and borrowing on concessional terms could be pursued, but one might still end up with unsustainable debt if a huge amount of concessional debt is accumulated. It is, therefore, necessary to put a ceiling on the amount of debt to be accumulated.

Recommendations

Political governance

The following are the recommendations arising from the presentation:

Central government

- Reduce the President's powers of appointment:
 - the Vice-President should be nominated by political parties as a running mate; s/he should have the same qualifications as those required of presidential candidates by the constitution, and the tenure of office should be tied to the President's;
 - members of the Public Service Commission should be appointed by the President subject to ratification by the National Assembly;
 - Permanent Secretaries should be appointed by the Public Service Commission;
 - the Inspector-General of Police should be appointed by the Public Service Commission, subject to ratification by the National Assembly.
- Reports of commissions of inquiries should be made public within a month of their completion, and government should be obliged to implement the recommendations of commissions.
- New constitutions should be adopted by a broadly representative constituent assembly before being passed by Parliament.
- Representation in Parliament should be widened by:
 - reserving 30% of seats for women to be filled by election and nomination from ruling and opposition parties;
 - filling two-thirds of the seats by election using the first-past-the-post system and single-member constituencies, and allocating one-third by proportional representation based on votes received by parties and independents in the election.
- MPs' offices should be established in constituencies to facilitate continuous contact with constituents.
- Reports of parliamentary committees should be published before they are tabled in Parliament.
- Non-members of Parliament should be included on parliamentary committees.

Local government

- Local government should be revitalised by:
 - increasing central government grants to levels required for normal council operations;
 - allocating 10% of the funds for the social sector in the national budget to councils;
 - granting fiscal autonomy by allowing councils to adopt their own budgets without the

Minister's approval.

The Judiciary

- The Chief Justice, the Deputy Chief Justice and the Supreme and High Court Judges should be appointed by the Judicial Service Commission, subject to ratification by the National Assembly.
- Magistrates should be appointed by the Judicial Service Commission, without being subject to ratification by the National Assembly.
- Adequate funding should be provided to the Department of Legal Aid for assisting the poor, and grants to legal aid NGOs assisting the poor.

Director of Public Prosecutions

- The Director of Public Prosecutions should be appointed by the Judicial Service Commission, subject to ratification by the National Assembly.
- An autonomous Directorate of Public Prosecutions should be established, independent of the Police Service.
- The DPP's power to discontinue cases in court should be subject to application to the courts.
- The DPP's power to give consent to prosecute should be subject to petition by interested parties.

Human Rights

- The scope of the Bill of Rights should be widened to include:
 - freedom of press and media;
 - the right to information;
 - academic and intellectual freedom;
 - political rights;
 - the rights of women;
 - the rights of children;
 - social and cultural rights.
- The *Convention on the Reduction of Statelessness* should be ratified.
- The Human Rights Commission should be granted the powers to prosecute offenders and to award compensation to aggrieved parties, and be provided with adequate funding.
- The President's power to detain people without trial during states of emergency should be withdrawn.

- The Public Order Act should be amended to require holders of meetings/processions only to give an unconditional 24 hours notice to the police.

Electoral Process

- Electoral participation should be increased by:
 - voter and civic education;
 - introducing mobile and continuous registration;
 - enhancing the capacity of the Department of National Registration to issue national registration cards by providing adequate funding; or
 - introducing a voter's card-cum-National Registration Card with a picture.
- The Electoral Commission should be restructured so as to have a presence in all the districts to be able to manage the electoral process effectively.
- Election tribunals should be established to deal with petitions before and after elections.
- A mechanism to enforce the electoral conduct regulations should be introduced.
- Specialised committees of the electoral commission, with members from civil society, should be established.

Economic governance

Fiscal management, transparency and accountability

- The constitution should be amended, to withdraw the President's authority to authorise supplementary expenditure without the prior approval of the National Assembly.
- The presidential discretionary fund should be abolished.
- The constituency development fund should be abolished.
- Officers involved in financial irregularities should be punished.
- Accounting units should be adequately funded and equipped, and the personnel adequately motivated.
- The Auditor-General's Office should be decentralised to establish a presence throughout the country.
- The Auditor-General should be empowered to prosecute erring officers revealed by audits.
- The Auditor-General's Report should be published within six months after each financial year.

- The composition of the National Tender Board should be changed to include a cross-section of people from society; the Board should also be provided with adequate funding to enhance its capacity.
- The Anti-Corruption Commission should be strengthened by adequate funding and decentralisation to establish a presence throughout the country.
- There should be a ceiling established for external debt accumulation.
- A Poverty Eradication Fund should be established for anti-poverty programmes by government and non-governmental organisations.
- A Zambia Poverty Reduction Council (ZPRC) should be established, composed of civil society and government representatives with a Secretariat and an accounting unit.
- Donors should continue demanding good governance as a condition for aid, but should de-link structural adjustment programmes from the HIPC Initiative.
- Government and NGOs should continue to lobby donors to cancel debt.

Table 10.2: Governance reform priorities in the poverty reduction strategy

Priority	Objective/Purpose	Strategy	Responsibility
1. Poverty reduction funds management.	<ul style="list-style-type: none"> ▪ Ensure prudent management of resources. ▪ Allocate resources to target groups. ▪ Monitor flow of resources. ▪ Evaluate impact of programmes on poverty. 		<ul style="list-style-type: none"> ▪ To be undertaken by the proposed Zambia Poverty Reduction Council. ▪ MoFED
2. Debt management.	<ul style="list-style-type: none"> ▪ Reduce the stock of external debt to sustainable levels. 	<ul style="list-style-type: none"> ▪ Establish ceiling of external debt stock. ▪ Abstain from non-concessional borrowing. ▪ Be current on debt service. 	<ul style="list-style-type: none"> ▪ MoFED
3. National Budget management.	<ul style="list-style-type: none"> ▪ Reduce wastage of resources. ▪ Improve financial control. ▪ Improve fiscal discipline. 	<ul style="list-style-type: none"> ▪ All supplementary expenditure to be authorised by the National Assembly. ▪ Stop constituency fund allocations. ▪ Stop discretionary presidential fund allocation. 	<ul style="list-style-type: none"> ▪ MoFED ▪ National Assembly
4. Constitutional amendment.	<ul style="list-style-type: none"> ▪ Widen the scope of protection of rights and freedoms in the Bill of Rights. ▪ Deconcentrate presidential powers. ▪ Broaden participation in presidential elections by candidates. 	<ul style="list-style-type: none"> ▪ Facilitate consultation with citizens. ▪ Conduct referendum. ▪ Convene constituent assembly to adopt constitution. 	<ul style="list-style-type: none"> ▪ Cabinet ▪ National Assembly ▪ Non-governmental organisations
5. Parliamentary reform.	<ul style="list-style-type: none"> ▪ Make MPs responsive to the electorate. ▪ Broaden representation. 	<ul style="list-style-type: none"> ▪ Use combination of first-past-the-post and proportional representation electoral systems. ▪ Reserve 30% of seats in Parliament for women. ▪ Establish MPs' offices in constituencies. 	

6. Local government reform.	<ul style="list-style-type: none"> ▪ Restore adequate service provision. ▪ Enhance community participation. 	<ul style="list-style-type: none"> ▪ Increase central government grant to local authorities. ▪ Provide funds from the social sector allocation of the national budget. ▪ Provide funds from HIPC resources. 	<ul style="list-style-type: none"> ▪ Central government ▪ Proposed Zambia Poverty Reduction Council
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