



SOUTHERN AFRICAN INSTITUTE  
*for* POLICY AND RESEARCH

Discussion Paper Series No. 3

## **UNDERSTANDING ZAMBIA'S BLACK BOX**

Neo Simutanyi and Marja Hinfelaar

31 December 2018

The authors acknowledge funding for this study from Zambia Accountability Program (ZAP) through Kivu International.

## Introduction

Zambia's history of decision-making, like in many African countries, can be described as a combination of formal institutions operating under a dominant informal logic of a myriad informal institutions and practices.<sup>1</sup> To be sure, the informal logic, often defined as 'neopatrimonialism', presupposes formal structures and processes coexisting with informal ones, where informal processes are predominant in shaping key policy decisions. Thus neo-patrimonial patterns of decision-making has characterised Zambian governments since the advent of the Third Republic in 1991.

Established as a constitutional democracy, Zambia's political and constitutional order is based on separation of powers (executive, legislature and judiciary) and checks and balances from non-state actors, such as the media and civil society organisations. Since the democratic transition in 1991 until recently, Zambia has had a competitive political settlement, characterised by; (a) political competition between competing political groups, where the mobilisation of support is organised or influenced by the distribution of patronage, targeting resources to allies and supporters; (b) an absence of a single dominant political organisation over a long period of time, creating competitive clientelist networks; (c) short-termism, as a result of incumbents' political and economic insecurity; (d) a penchant for exclusion of political opponents from access to state power and resources; and (e) an unbridled inclination to use power for personal gain (Bayart, Ellis & Hiboum 2009; Chabal and Daloz, 1999).

While it is widely acknowledged that the Mwanawasa regime attempted to address democratic deficits, especially corruption, the decline in democratic standards took a precipitous turn under Rupiah Banda's (2008-2011). Despite the 2011 elections being regarded as a moment of further democratic consolidation, signs of intolerance towards the opposition and an uneven playing field were already evident. From a competitive democracy, Zambia could now be characterised as a competitive authoritarian state. According to Letvisky and Way (2010) 'competitive authoritarianism' can be defined as: 'civilian regimes in which formal democratic institutions exist and are widely viewed as the primary means of gaining power, but in which the incumbents' abuse of the state places them at a significant advantage vis-à-vis their opponents. Such regimes are competitive in that opposition parties use democratic institutions to contest seriously for power, but they are not democratic because the playing field is heavily skewed in favour of incumbents. Competition is thus real but unfair.'<sup>2</sup> Another new feature of Zambia's political landscape is the demise of Movement for Multiparty Democracy (MMD), the

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<sup>1</sup> Bratton, M and Van de Walle, N (1997), *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*, Cambridge & New York: Cambridge University Press. See also Bayart, J-P (1993), *The State in Africa: The Politics of the Belly*, London & New York: Longman and Chabal, P and Daloz, J-P (1999), *Africa Works: Disorder as Political Instrument*, James Currey Publishers.

<sup>2</sup> Letvisky and Way, 2010, p.6

erstwhile ruling party, which following the 2015 president by-election has disintegrated into factions, leaving only a shell. The factionalization of the MMD into three factions (the Mutati faction which joined forces with UPND, the Rupiah Banda faction which supported PF and the Nevers Mumba faction that contested the elections). Further the cooptation of the MMD into ruling party structures and adoption of many MMD members in the 2016 general elections resulted in a two-horse race in the 2016 elections. This has had a polarising effect, because unlike MMD, UPND and PF have had strong regional bases of support and cannot be said to have been national in character.

Another break with democratic tradition is the renewed centralisation of power and the supremacy of the Party reminiscent of the one-party state, which started under the Michael Sata presidency (2011-2014). When PF got into power in 2011, it gradually implemented its manifesto which set out that ultimately, it is the party that controls the running of the government. The Party's Secretary General and the Central Committee are, in theory, superior to the civil service, while technocrats are tasked to implement the PF manifesto. Officially the status of Secretary General is now third in the line of protocol, after the President and Vice-President.

What has been a constant in Zambia's political development in the last five decades, is the use of state power as an instrument for exclusion of political opponents and reward of supporters through patronage resources. The presidency has always been central to Zambia's political economy. The President is not only the key decision-maker, but has power and influence over all other institutions in the country, including the legislature and judiciary. The President also has constitution-making powers as he initiates legislation and makes laws through pronouncements, orders and decrees. Despite recognising the inappropriateness of these powers by the President in the Zambian constitution, various constitutional reform measures have fallen short of reducing these powers. The latest constitutional reform moment was the 2016 Constitution of Zambia (Amendment) Act number 2 of 2016. Other than introducing some changes in the rules for the election of the president, setting the election date and establishment of the Court of Appeal and Constitutional Court, the new law did little to reduce presidential powers. For example, the President appoints all judges, including those of the Constitutional and Supreme Courts, makes all senior government appointments and has power to create ministries, provinces and even districts. The import of so much power being concentrated in one person is that it circumvents countervailing functions of other institutions, such as the legislature and judiciary.

So how does this play out in practice, under the current presidency? President Edgar Lungu was elected in January 2015 with a very narrow electoral mandate against a background of having been hastily chosen by the ruling PF, in controversial circumstances.<sup>3</sup> His first 18 months in office was meant to build a power base, win

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<sup>3</sup> Lungu obtained 48.3% against Hakainde Hichilema's 46.7%, a vote difference of 2.7% or 27,757 votes. Lungu was elected by acclamation at the PF's national conference in November 2014 in

internal support within the ruling coalition and campaign for re-election in 2016. Following in his predecessor's (Michael Sata) footsteps, President Lungu embarked on building and maintaining an elaborate patronage network ranging from party supporters to business actors. He initiated a process of replacing Sata's appointees with his own and moved closer to the former ruling party, the Movement for Multiparty Democracy (MMD) in an effort to win support of a key constituency – Eastern Province. The aftermath of the controversial August 2016 election, in which President Edgar Lungu won by a razor-thin majority<sup>4</sup> and the subsequent electoral petition by the losing opposition candidate, Hakainde Hichilema, introduced more uncertainty and insecurity on Lungu's hold on power. Thus, the nature of key decisions made since 2016 have, to a large extent, been influenced by the political context of political insecurity occasioned by the opposition's insistence not to recognise Lungu's presidency.<sup>5</sup> While Lungu was elected on a policy platform of continuing with Sata's legacy of patronage politics, he moved to dismantle its key features and to reshape it to suit his own 'vision'.<sup>6</sup> For example, he continued with the policy of creating new districts, but dismissed most of Sata's appointees in his second term of office, replacing them with his own drawn mainly from those who had been sidelined by Sata or new recruits from other parties, especially from the MMD.

It is clear that since the advent of the Edgar Lungu's presidency in January 2015, there is little or no clear understanding of how key decisions are made and the factors which have sometimes led to policy contradictions and reversals. Who really influences key government decisions is a matter of conjuncture. It can be postulated that the political context, power relations between the government and opposition and the desire for political survival and access to economic resources, all have conspired to circumvent formal decision-making structures in favour of informal ones. The President is a kind of gate-keeper, who sits atop of a patronage machine, and is the distributor-in-chief of state patronage resources, a recipient of rents from individuals and groups who wish to access state favours in form of contracts, trade agreements, policy change or key decisions, or legislation in their favour.

There are two distinguishing features between Sata and Lungu. Michael Sata had complete control over the party – PF – and commanded the respect of his colleagues

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circumstances where the party rules were flouted and other aspiring candidates were barred entry to the venue.

<sup>4</sup> Though Edgar Lungu obtained 50.3% against Hakainde Hichilema's 47.6%, he only managed to scrap through the 50% plus one barrier by only 13,033 votes, translating to 0.7% above the threshold.

<sup>5</sup> It is noteworthy that informal lobbying by PF leaders influenced the decision to arrest and detain UPND leader, Hakainde Hichilema for alleged treason arising from a traffic violation when his entourage allegedly refused to give way to President Lungu's motorcade on the way to a traditional ceremony in Mongu in April 2017. Hichilema served 4 months in jail, at Mukobeko Maximum Prison and was only released after the intervention of the Commonwealth Secretary General Patricia Scotland and appeals from religious leaders, especially the Catholic Bishops led by Archbishop Tresfor Mpundu.

<sup>6</sup> In the run-up to the January 2015 presidential by-election, Edgar Lungu told campaign rallies that he did not have his own vision. Instead he argued he would continue with Michael Sata's legacy.

and significant number of his supporters. If anything, PF electoral fortunes were based on Sata's electoral appeal and charisma. Even if he did not win a significant electoral majority, he commanded a decent following across the country (specifically, from five provinces). However, Lungu came in as a transitional leader, with no real roots in the ruling party, and based on his electoral performance, lacked electoral appeal. The insecurity and paranoia that visited Lungu following the 2016 presidential elections has made him and his political entourage unleash the politics of survival and exclusion. The political application of the Public Order Act to deny the opposition permits to hold meetings, especially in Lusaka, the closure of *The Post* newspaper and harassment of other media and the arrest and detention of United Party for National Development (UPND) leader Hakainde Hichilema in early 2017 on alleged charges of treason for four months were all informed by a decision-making process that did not follow laid-down formal rules, but rather was a response to pronouncements and demands by the ruling party hierarchy<sup>7</sup> to have Hichilema arrested on non-bailable treason charges. Others have suggested the arrest of Hichilema was meant to demonstrate who wielded political authority in the Zambian polity and instil fear in the opposition regarding government's preparedness to clamp on dissent. However, despite lack of evident public remonstrations, outrage by the international community, appeals from organised civil society for Hakainde's release and a palpable political tension in the country forced government to climb down and release the opposition leader on the understanding that contentious issues would be discussed in a 'national dialogue'.<sup>8</sup>

The purpose of this discussion paper is to look into the Lungu presidency by understanding how power is exercised, what explains continuity with the centralised political system and the pervasiveness of informal decision-making processes over formal decision-making structures and processes. It is recognised that informal decision-making tends to be significantly fluid and may be a result of weak institutional structures and capacity. In understanding and unravelling the Lungu presidency, the 'black box' or Zambia's 'deep state'<sup>9</sup>, the study seeks to interrogate the nature of patronage and rent-seeking under the Lungu presidency and demonstrate how it has shaped key policy decisions.

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<sup>7</sup> Prior to Hichilema's arrest there was a chorus of demands from the top PF hierarchy for his arrest for endangering the President's life during the overtaking saga. PF Deputy Secretary General, Mumbi Phiri called a press conference where she castigated the Police for not acting and warning the Inspector-General of Police that he faced dismissal as he was employed by the PF government and he should know where his loyalty lay. The following day, the police stormed Hichilema's house and arrested him several hours later after an initial stand-off.

<sup>8</sup> Following appeals by Catholic Bishops to President Lungu to release Hichilema, Commonwealth Secretary General Patricia Scotland secured Hichilema's release from prison in August 2017 on the understanding that contentious issues would be discussed at a Commonwealth mediated dialogue. However, at the time of writing the proposed national dialogue has still not been convened, as there is no agreement between stakeholders on who would chair the talks between the Zambia Centre for Inter-Party Dialogue and the Church, with the Commonwealth having been relegated into the background as 'unacceptable.'

<sup>9</sup> For a discussion of the concept of 'deep state' see Lofgren, M (2016), *The Deep State: The Fall of the Constitution and the Rise of a Shadow Government*, Penguin Books.

Apart from literature review, the study relied on key informant interviews with insiders and individuals close to decision-makers, former officers who served at State House, retired politicians, serving and retired senior civil servants and representatives of civil society organisations, private sector actors, lawyers and representatives of policy think-tanks.

### **Conceptualising decision-making in the Zambian polity**

Despite the fact that Zambia has a formal constitutional and legal framework<sup>10</sup> that sets out the social contract between state and society and to which all main political actors publicly subscribe, the constitution formally bestows significant powers on the President vis-à-vis other arms of government (i.e. the legislature, judiciary) and other horizontal and social accountability structures. But the constitutional and legal framework is itself highly contested. The Zambian Constitution has been amended, but not been significantly revised since 1973. Several constitutional review processes, (the most recent being between 2003 and 2012), failed to produce a constitution that has the backing of the political elite. As in many African countries, *de facto* political rules are characterised by informal interpretations, personalism, patronage and blurring separation between the public and private spheres. These informal rules have tended to subvert the formal legal and regulatory structures across all spheres of government and society, particularly if they affect those in positions of authority, and rules are applied selectively to members of the ruling party and to political opponents (O'Neil, Simutanyi and Yezi, 2014).

An understanding of Zambia's decision-making structures and processes should consider how informal and formal institutions shape the incentives and actions of the political actors, paying particular attention to changes in rules and behaviour since 2011 and the reasons for these. First, we examine the *de facto* formal rules, that structure the competition for political power, both during and between elections, and which reflect the terms of the informal elite bargain. Second, we briefly examine *de facto* rules that structure the power and capacity of different groups within and across state and society and the relationship between them, including considering the degree to which different state bodies and civic organisations are becoming more or less bound by formal rules, becoming more institutionalised. We conclude with a consideration of the main trends since 2015 and the factors likely to influence the formal rules of the game now and in the near future.

There is need to differentiate between the formal rules, and those *rules that most people follow in practice* (Ostrom et al., 2001). While the rules that people are meant to follow tend to be formal rules, the rules that are actually in use can be either formal or informal (based on convention and established practice). Formal rules are followed when they complement informal conventions. But when they are in conflict, there is a tendency for people to circumvent them, especially if the greatest

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<sup>10</sup> That is, the Constitution of Zambia, 1996; the Penal Code Chapter 87 of the laws of Zambia, and various acts of parliament that make up the body of statutory law.

benefit comes from following informal conventions. Informal rules are unwritten conventions or codes of conduct that have long been acceptable as normal. For example, the idea of tribal or ethnic or regional balancing (i.e. ensuring that significant ethno-regional groups are represented in the cabinet) is a widely held convention in Zambia. Departure from it is considered exclusionary and politically costly to the politicians involved. Further, there is an expectation that once appointed to political office, as President, minister or senior civil servant, such appointees would provide employment, contracts, assistances and other kinds of patronage resources to their immediate family, relatives, friends or region of origin. Providing jobs to political supporters, is an extension of the practice of favouring your own, which is considered acceptable practice. However, a practice of favouring 'one's own' or close associates or allies goes against established formal rules that demand meritocracy and competitive tender processes.

Elite competition in Zambia has taken the form of an elite bargain. That is to say, the political elite accept the political status quo as it is, and hope to use it to access political power and resources and economic opportunities. The law, or formal rules are used in political contestation as a form of elite bargain. This partly explains the tendency by Zambia's political elites to switch parties and policy platforms at will and to be easily co-opted by a ruling coalition. Fraser (2017) describes this as clashing ambitions of a set of 'political chameleons.'<sup>11</sup> To be sure, adherence to formal rules (the constitution, regulations and guidelines) is only helpful to the elite when it serves their interests. If not, rules are by-passed, misrepresented, subverted or simply ignored to maximize access to the state and state resources. Growing impunity, especially under the PF, total disregard for the Public Order Act when it affects the ruling party, all point to the informalisation of power under the PF. There is increasingly a tendency towards impunity (illegal occupation of land and violence against the opposition by PF supporters, and what Fraser refers to as 'hyper-partisanship').<sup>12</sup>

People realise that with power concentrated in the President (who is both head of state and government and party leader) they do not need to follow established protocols to have things done. All they need is to access the President directly or through his advisers, to have things done. Favours can thus be disbursed without regard to formal rules or established tender procedures. As the incentive to use informal processes, rather than formal ones is predicated on maximizing personal gain, to those participating in it, when the gains for using informal procedures far outweigh the formal ones, there will be a tendency to by-pass or ignore formal rules and procedures. But most decisions taken informally need legal force. Thus decisions taken through informal processes need to be formalised to be legitimate and preclude possible challenge. Where these decisions are challenged, for not having followed established formal procedures, representatives of oversight organisations and watchdog groups are silenced through a combination of promotions, threats or co-optation. In fact, those involved in illicit deals are sworn to silence or to rationalising of wrong actions/decisions. In a situation where even the

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<sup>11</sup> Fraser, 2017, p.457.

<sup>12</sup> See Fraser, op. cit, p.457.

judiciary is beholden to the President as the appointing authority, matters taken to the courts that involve the President and State House tend to be dismissed or simply not entertained on account that the President is immune from prosecution or to avoid embarrassing the Head of State.<sup>13</sup> Recently, a case involving a presidential advisor was withdrawn, while the Attorney General intervened in a private matter of contempt of court involving Minister of National Guidance and Religious Affairs.

In September 2018, the Minister of Community Development and Social Welfare, Emerine Kabanshi was dismissed for allegedly mismanaging donor funds meant for the Social Cash Transfer program, without being prosecuted for either abuse of office or corruption.<sup>14</sup> While on the other hand, the Minister of Infrastructure and Housing Ronald Chitotela who was charged by the Anti-Corruption Commission on four counts of corruption remains in his post, with the President saying that he considers him innocent until proven guilty by the courts.<sup>15</sup>

This practice is a kind of continuation of the motif of power already demonstrated by Michael Sata during his reign. For example, when his justice minister was being investigated for corruption, Sata ordered the Anti-Corruption Commission (ACC) to discontinue all investigations as they needed his prior permission to investigate any of his ministers. What that meant was that, members of the executive class can only be investigated or prosecuted for corruption when the President allows them to do so. Consequently, the only corruption cases that get investigated are those that involve the opponents of the President or the ruling party.<sup>16</sup> A corruption investigation against President Lungu's advisor was also discontinued following the President's intervention.

Political behaviour of political elites is shaped by the nature of the rules of the game they find in practice when they ascend to power. The overriding incentive to adopt informal rules of the game, is the desire to access or influence the distribution of power or state resources between different groups in society. How does a politician who is of limited means reward his political supporters? They resort to informal rules to co-opt members of ruling party on government delegations abroad, appoint party cadres to government positions without following the principle of meritocracy, and award contracts to allies and cronies by flouting tender procedures. As one informant noted, the president exercises a lot of discretion, punctuated by impunity.<sup>17</sup> All kinds of people compete for access to the key decision-maker, who sits at the apex of Zambia's power structure and offer 'advice,' in return for jobs, government contracts, favours or other perquisites over particular policy or decision

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<sup>13</sup> Article 98 (1) and (2) provides for immunity of the President from both civil and criminal litigation while in office. See *Constitution of Zambia (Amendment) Act no.2 of 2016*.

<sup>14</sup> See *Lusaka Times*, September 30, 2018.

<sup>15</sup> See *Lusaka Times*, February 7 and 9, 2019 (lusakatimes.com).

<sup>16</sup> Although article 5 of the Anti-Corruption Act no.3 of 2012 provides for the autonomy of the ACC, i.e. the 'Commission shall not in the performance of its functions be subject to the direction or control of any person or authority.' However, in practice the ACC cannot investigate government officials, including members of the ruling party, unless the President allows them to do so. Effectively, graft by members of the political elite connected to the President is allowed to flourish and the investigative agencies, are toothless to enforce the law.

<sup>17</sup> Interview with a former State House advisor, 21 September 2017.



and for backing in trade negotiations. As the President is often not well-informed, he is susceptible to manipulation, especially where there is an incentive to entertain the influencers. Those who offer advice that has the potential to improve either his political survival or economic security are often given a sympathetic hearing, compared to those who simply want jobs. Most importantly, it is the adoption of informal procedures that privilege non-public officials to have access to the President and in some cases, influence policy and public decision-making. This state of affairs is facilitated by gate-keepers, supposedly the President's handlers (advisors) who vet those to see the President and clear only those whose contact with the President will either be beneficial to them personally or the President.

In the exercise of executive power, certain procedures, institutions and structures that are found to be an impediment to the access to state power and resources are changed, modified or reformed. Those institutions which stand in the way for executive disbursement of patronage are abolished. President Michael Sata in 2011 ordered the return of a privatized bank, Finance Bank, to its original owner, allegedly as a reward for his financial and material support in the 2011 presidential election.<sup>18</sup>

But politicians thrive on political support, both real and perceived (imaginary). For politicians informed by a populist logic, such as Michael Sata, adopting policies that elevated their popularity in the eyes of the electorate was considered important, regardless of fiscal implications. The creation of an additional 30 districts by Sata between 2012-2014, while it was meant to purchase political support, was done without due planning and had seriously impact on the budget. The decision was done with little or no consultation with the party's policy making structures and neither was there any prior discussion with Cabinet.<sup>19</sup> It is important to point out that the motivation for the establishment of new districts was related to the need to create new jobs for those who helped bring the PF to power. This is because the new districts went hand in hand with the appointment of a political superstructure, that includes a District Commissioner, Chief Administrative Officer, a cadre of junior civil servants), with matching office infrastructure and financial resources. Seeing the usefulness of this policy measure, Edgar Lungu continued with the policy of creating new districts and has established more than ten districts since his election in January 2015.<sup>20</sup> This policy ignores the challenges of lack of finances to fund local authorities, a perennial problem, which has not been addressed, even with the Equalisation Fund to local authorities provided for in the new Constitution.<sup>21</sup>

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<sup>18</sup> Confidential interview with a former State House official, September 2017.

<sup>19</sup> Confidential interview with a senior government and PF official, September 2017.

<sup>20</sup> During the 2016 presidential campaign, Lungu promised to create at least 6 new districts as a campaign promise to the people of Northern and North-Western Provinces. A promise he has honoured.

<sup>21</sup> Article 163 (1) and (2) of the Constitution of Zambia (Amendment) Act no.2 of 2016 provides for the establishment of the Local Government Equalisation Fund to be disbursed to all councils. Two informants indicated the funding to local councils is erratic and the creation of new districts has not helped matters, as government tries to spread little resources more thinly.

The other related policy has to do with road construction. The Lungu administration continued with large-scale road construction projects from the Michael Sata era. Road construction provides visible achievement of government provision of services. In addition, anecdotal information suggests that, road contracts are a source of handsome rents to the political elite. The Roads Development Agency (RDA) and the National Roads Fund Agency (NRFA) manage large-scale road contracts, and the contracting process, that involves single sourcing of contractors has been found to be a recurring practice. The practice has persisted as the selected contractors are not only obliged to pay bribes to those who facilitate the contracts, but also to make cash donations to the ruling party.<sup>22</sup>

Decision-making tends to be shaped by the overall political context, in particular the configuration of power in the country. President Edgar Lungu was elected to the presidency without any visible power base both in the party (PF) and in the country. He was a rank outsider at the time of his nomination as PF presidential candidate. Since then he has been building a power base within the PF and support base in the country. To achieve this, it was necessary to constitute an alternative power base from that of Michael Sata. As PF secretary general, Lungu began the process of cleansing the PF of Wynter Kabimba's henchmen and replacing them with his own. As party president, he has power to remove and replace several members of the old central committee, bringing his own team, that include, Margaret Mwanakatwe, Joyce Nonde-Simukoko, Dora Siliya, among others. He has also co-opted a number of former MMD members into the PF leadership structures and got many MMD members elected as PF MPs. In doing this he has marginalised or side-lined many Sata loyalists, including former Vice President Guy Scott, Emmanuel Chenda, Wylbur Simuusa and Robert Sichinga. The constitution and reconstitution of a power base is predicated on a perceived desire to contest the party and republican presidency in 2021.

Many informed observers argue that Lungu does not qualify to contest the 2021 presidential election on account that he has twice held office as president and under the old Constitution, the remainder of Michael Sata's term (18 months) was deemed a full term. Two small parties took the matter to the Constitutional Court to seek the Court's declaration that he was eligible to contest the 2021 election. It is a curious irony why the PF and Lungu used small parties to fight for his eligibility and not his own party. This notwithstanding, the opposition UPND and the Law Association of Zambia joined to oppose the application to declare Lungu eligible to re-contest the 2021 elections. The case has become complicated, and placed the Constitutional Court under extreme pressure. First, because the PF has already adopted Lungu as its sole presidential candidate for the 2021 elections. Second, Lungu recently threatened Constitutional Court judges with unspecified action and 'chaos' if they ruled against him following the Kenyan Supreme Court decision to annul that country's presidential election in October.<sup>23</sup> It was not surprising, therefore, that in December 2018, the case was decided in Lungu's favour, making him eligible to run for a third term.

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<sup>22</sup> Confidential interview with a PF official, Lusaka, 25 September 2017. See also Raballand, 2013.

<sup>23</sup> 'Don't copy Kenya, Zambian president warns judges,' *Daily Nation*, 3 November 2017.

Thus, his supporters have left no stone unturned in ensuring that he will face no opposition within the PF and have ensured that all likely opposition is cleared. Chishimba Kambwili, who was former Minister of Information and member of the Central Committee was expelled from the PF in June 2017, for expressing ambition to stand for the PF presidency in 2021. He has contested his expulsion in Court and remains a member of parliament. But his expulsion has had a destabilising influence on the PF, as he has challenged Lungu directly and accused him and key members of his government of corruption. He has become a vocal critic of the PF both in parliament and in the media. Paradoxically, many of Kambwili's allegations go unchallenged creating an uneasy impression that there is credence in his accusations. Whenever, State House responded it was to say that Kambwili is being investigated for corruption. But it is over two years since the investigations were instituted and little is known on the progress, let alone when he is expected to appear in court. Paradoxically, despite contesting his expulsion from the PF, Kambwili is the *de facto* leader of the National Democratic Congress (NDC), a party that seems to draw its support from marginalised PF members and significant sections of Bemba-speaking people of Luapula and Northern who feel the PF has been hijacked by Nyanja-speaking new members recently recruited by Lungu from the MMD.<sup>24</sup>

## **Understanding Zambia's Black-box: Anatomy of presidency**

### *(a) Mapping Zambia's power and decision-making structures*

#### *President and State House*

To understand political power in Zambia one has to appreciate the nature of the Zambian presidency. The Zambian president wields enormous power and influence that pervades the whole political system. Thus the pivotal role of the Zambian president informs his decision-making, political behaviour and has a bearing on other institutions' inclination to seek ways of permeating and influencing that particular office.

Undoubtedly, the president is the most powerful and influential structure in the Zambian power map. The president presides over a Cabinet he appoints and that is loyal to him. According to the Constitution of Zambia (Amendment) Act number 2 of 2016, the Cabinet is only advisory and the President makes decisions without due regard to any authority. He may consult other government agencies, but decisions he makes in the exercise of his functions cannot be reversed by any authority. These decisions relate to, but are not limited to appointments of public officers, including

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<sup>24</sup> At the time of writing Kambwili had challenged his expulsion in court and still kept his Roan constituency seat, but his overt involvement in the affairs of the NDC was causing concern that he may have crossed the floor, as he did not hide the fact that he was leader of that political formation. Since there is already a precedent that when a member declares support for another party, they would be deemed to have crossed the floor, the prospect of Kambwili losing his seat is very high. Especially that the PF would want to eliminate the threat he poses on the Copperbelt.

ambassadors, creation and abolishing of ministries and departments, appointment of judges, declaring state of emergency (but subject to ratification by Parliament) and so on. But while indeed the president is the most powerful institution in the land, power and influence is exercised on his behalf by those close to him and operating in his office, at Cabinet Office and State House. This is the reason why State House has come to personify the President, and many of his advisors and staff have acquired enormous power and influence on his account. Access to State House is used as currency or passport to the acquisition of all sorts favours, from appointments to government projects. In Zambia those who have access to State House and command the ear of the President, as a rule circumvent established formal rules, often by-pass ministers and ministries and deal with policy and decision-making outside government channels. Often discussions involving large scale projects, requiring government commitments, tend to avoid the bureaucracy, debate, close scrutiny and transparency that established channels entail. This is an essential avenue by which elites seek to establish themselves by being purveyors of state contracts and by definition act in their own economic interests, often sacrificing the national interest and interest of the country in pursuit of their individual interests and that of their close allies.<sup>25</sup>

#### *Vice President*

The Vice President deputises the President and only assumes functions of that office in the president's absence. Technically, the vice president lacks real power and authority. Under the Sata presidency, Guy Scott was a ceremonial Vice President, who never acted as President, until Sata's death. This was a complete misreading of the Constitution, which provides clearly that in the President's absence, the Vice President would act. The provisions of the Constitution were only evoked when Sata died allowing Scott to act as President for three months and overseeing the presidential transition. Others believe the role of Vice President is that of advisor and key confidant to the President. Importantly, the Vice President should be someone who does not pose any challenge to the President's hold on power. The incumbent, Vice President, Inonge Wina, has faced challenges in her role. Some PF senior members argue that her selection was misplaced as she does not have a constituency of support in the country. In her home district of Nalolo, President Lungu was defeated by Hakainde Hichilema, while the area has an independent member of parliament and the PF parliamentary candidate came third in the polls behind UPND.

The restlessness over the Vice President came about because it is alleged that President Lungu had promised the position to a Bemba speaker. Prof Nkandu Luo is said to have been promised the position of running mate, but this was not honoured. While Harry Kalaba also alleges he was promised the position based on the good results of Luapula province, where PF recorded its highest record in the last elections. It is not known what criteria Lungu used in selecting Inonge Wina as his Vice President. But it would appear that, she poses no threat to his hold on power

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<sup>25</sup> Confidential interview with a former presidential advisor, Lusaka, October 2017.

given her advanced age (78 years) and lacks a discernible power base. But efforts to initiate a debate to remove her based on the fact that she was undeserving, having failed to deliver the Western Province to the PF in the last elections were frustrated, when Lungu declared his support for her and curtailed the debate on her removal, by way of forcing her resignation.

### *Cabinet*

The cabinet is a collective of ministers, including the President and Vice President. It is chaired by the President and in his absence the Vice President. The main function of cabinet is to approve legislative bills, government policies and decisions. Since last year, some key cabinet decisions are announced to the public. However, controversial decisions and background to certain decisions remains the preserve of the President. In a general atmosphere of fear of losing positions, little criticism is expressed by civil servants, including those at Cabinet Office.<sup>26</sup>

### *Ministers and Ministries*

Since the 2016 general elections, the number of ministers has been restricted by the Constitution to 30. While there was no requirement to increase the number of ministers from 24 to 30, the imperative appears to have been necessitated by the abolishing of the position of Deputy Minister from the Constitution. Under the new constitutional dispensation six new ministries were established to accommodate the allocation of the spoils of office. Notable among the new ministries are: National Development Planning, National Guidance and Religious Affairs, Water Development, Sanitation and Environmental Protection and Housing and Infrastructural Development. The rationale for establishing these formerly government departments into stand-alone ministries, many believe was to provide jobs to political allies.<sup>27</sup> Other than exerting pressure on the government fiscus, the new ministries do not appear to have any visible role in policy-making and implementation.

There are four ministries that have some influence over policy-making and decision-making. These are: Finance, Commerce, Trade and Industry, Agriculture and Housing and Infrastructural Development. The importance of the Ministry of Finance is its role in allocating financial resources to ministries and it is central to the patronage machine (disbursing funds to political supporters) – it finances the President's petty projects, such as the Presidential Market Empowerment Initiative, the Youth Empowerment Funds and many other obscure financial initiatives. The Minister of Finance commands considerable influence in the government. Other ministers have always wanted to be in good books with the Minister of Finance, lest he reduces their ministerial allocation. The previous Minister of Finance, Alexander Chikwanda commanded considerable influence, acted as president, whenever Sata was out of the country and tried to push policy changes, especially over VAT

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<sup>26</sup> Pronouncement by Dr. Roland Msiska at a recent event organised by British Chamber of Commerce, adding that this has been a feature of Zambian politics since the UNIP days.

<sup>27</sup> Interview with a senior civil servant at Cabinet Office, November 2017.

refunds.<sup>28</sup> But Chikwanda's successor as Minister of Finance, Felix Mutati was not a member of the PF. He leads the other faction of the MMD. His position as an outsider in such a key position was contested, by loyal PF members and leaders. They wondered how Mutati could show loyalty to President Lungu, when he was not a member of his party. PF-orchestrated demonstrations demanding Mutati's removal led to his demotion to the Ministry of Works and Supply in March 2018 and consequently fired in November 2018. The current Minister of Finance, Margaret Mwanakatwe, a former banker is believed to wield considerable influence over policy and decision-making and is one of the key ministers close to the President.<sup>29</sup>

#### *Ministry of Agriculture*

The Ministry of Agriculture plays an important role in Zambia, it represents almost two-thirds of the population (65% of the population) who earn their living from agriculture. The ministry is involved in the distribution of agricultural inputs through the Farmer Input Support Programme (FISP). As the majority of farmers in Zambia are small-holders, the function of the Ministry in ensuring timely delivery of inputs and purchase of agricultural products (especially maize) through the Food Reserve Agency (FRA) has political significance. But despite the importance of the ministry in Zambia's political economy, its influence is predicated on who the minister is. When the ministry was under Given Lubinda it had quite some influence and the President supported its programmes, such as the roll-out of the e-voucher system. Lubinda currently heads the PF's Committee on Agriculture and as such is still seen as having influence on agricultural policies.

#### *Ministry of Housing and Infrastructural Development*

This ministry, led by Ronald Chitotela, is relatively new in its new format. Previously, housing was a department in the ministry of local government and infrastructural development fell under the Ministry of Works and Supply. Under the new ministry all large-scale infrastructural development fall under its remit. The importance of this ministry is its role in coordinating road contracts. It is a source of rents to government ministers and State House officials. In July 2017, two senior officials at RDA were dismissed on the intervention of Ronald Chitotela. They were accused of having been whistle-blowers by reporting that Minister Chitotela was involved in a road contract without having followed laid down tender procedures.<sup>30</sup> The matter has not been investigated by the Anti-Corruption Commission (ACC). The involvement of gate-keepers at State House in facilitating road contracts makes it difficult for the ACC to investigate and bring culprits to book.

#### *(b) Key actors under Lungu's presidency*

Policy and decision-making in Zambia is conducted by individuals or groups pursuing particular interests. The policy-making process itself is a contested terrain, involving negotiation, persuasion and in some cases coercion or threats. Formally,

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<sup>28</sup> Interview with former advisor at State House, October 2017.

<sup>29</sup> Interview with a key informant close to State House, October 2017.

<sup>30</sup> Interview with a key informant, Lusaka, 22 September 2017.

actors operate within a defined policy and decision-making structure. For example, a policy is first proposed by a government ministry, it is then discussed by civil servants, refined and then possibly subjected to public consultation, where public comments are incorporated and then refined by ministerial officials. Thereafter, a Cabinet Memorandum is prepared for discussion by Cabinet, where a final decision is made to adopt the policy. This formal process does not involve all important government decisions. For example, government will not exhaust all these procedures to contain a cholera outbreak or the outbreak of East Coast Fever. In such cases, consultation takes place between few key decision-makers, the Permanent Secretary in the affected ministry, the Minister, Secretary to the Cabinet, State House advisors and the President. In some cases, the consultation is directly between the Minister and State House, through advisors.

There are five key actors that influence decisions under the Lungu presidency. These are: State house aides, certain ministers, religious leaders, business-people and donors or representatives of international organisations.

#### *State House*

Given the centrality of the President in decision-making in the country and the need to avoid bureaucratic red tape or inertia many people who require things to be done have resorted to accessing State House directly. To access State House directly, one needs to be close to the President or his advisors or have the kind of influence that association with the President will create a good press. However, State House has gate-keepers who block and vet individuals or groups seeking appointment with the President. These gate-keepers, can be advisors or officials whose job it is to arrange the President's diary. Depending on the subject matter and the individual concerned, they may help facilitate meetings. However, as most of those people who seek to see the President often come over issues of personal favours, such as jobs or government contracts, many are denied access and the President is not even made aware of them

The position of Special Assistant to the President for Press and Public Relations is so visible given its importance in projecting and reporting on behalf of the President. Under first president Kenneth Kaunda and third president Levy Mwanawasa, the position was occupied by very senior and seasoned professional journalists, who did not seek public attention or favours. But under Frederick Chiluba, Rupiah Banda and Michael Sata, the position was occupied by junior journalists who sought attention to themselves. According, to a former special advisor at State House, one former Special Assistant to the President for Press and Public Relations turned himself into the president's *chola-boy* and spent a lot of time at the president's residence, playing with his children and gossiping about ministers and government officials. According to him, Special Advisors are supposed to assist the President govern, by providing sound advice, 'not hero-worshipping him and cleaning his shoes.' As Zambian presidents like to be praised, anyone who sings their praises is elevated to the position of a confidant and errand boy, thus they attain the status of gatekeepers, acting and issuing instructions, including making decisions in the president's name. Because of the influence some of these advisors wield, some

decisions are made in the President's name without his knowledge. For example, one informant narrates a case where former minister of Finance, Alexander Chikwanda authored a letter purporting to have been written by President Sata reversing the decision on VAT refunds to the mines. A decision had been made earlier that government was not in a position to pay VAT refunds as there was no money. Instead, the payments would be staggered over time. Alex Chikwanda, acting on behalf of mining companies assured them he would have the policy reversed as he had influence. A statutory instrument was issued to reverse the earlier decision, but before it could be published, Sata was informed that his earlier decision had been changed and wanted confirmation as to whether that was the position. Sata vehemently denied ever having reversed the earlier decision over VAT refunds. The statutory instrument was cancelled, but Chikwanda was never publicly reprimanded.<sup>31</sup>

Under Lungu, **Amos Chanda**, Special Assistant for Press and Public Relations at State House, remains a key and influential figure. Amos Chanda is very close to the President, attends all meetings, including private and confidential ones. He is the President's confidant and a key gate-keeper. Nothing gets done, without Chanda's involvement. He does not only issue statements, but drafts speeches, renders advice on key policy issues and represents the President at private and highly sensitive meetings abroad. He is a spin-doctor, who also plays the role of private secretary and has at times issued instructions to permanent secretaries and even defence and security chiefs. Those seeking to see the President have to go through Amos Chanda, regardless of the area of expertise, it be economic or legal. This is despite the fact that, there are other special advisors, such as political, legal and project implementation. As a result of his visible role, contractors and business-people and all manner of individuals have to deal with him and seek his indulgence to see the President.

The other influential figure at State House, is **Kaiser Zulu**, Special Advisor Political Affairs. Kaiser Zulu, who served briefly as Michael Sata's first political advisor until he was fired, is of humble education, worked as a taxi driver prior to PF coming to power. He was Sata's driver and body-guard during the 2011 election campaign. Zulu is believed to be a political strategist. He is believed to be the organiser of violent mobs who attack opposition supporters, pays individuals to make calls to radio stations defending the PF or to attack guests of radio shows that are perceived to be critical of government. He is also known to pay journalists and civil society activists to report and say positive things about the PF. He is responsible for the PF's violent culture, as he maintains a militant cadre ready to be unleashed at any time. Prominent PF cadres have been actively working to undermine Kaiser Zulu's powerful position, so far with little success.

**Freedom Sikazwe:** Presidential Affairs minister based at State House is another influential individual at State House. Sikazwe coordinates party activities, plays a

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<sup>31</sup> Interview with a key informant, Lusaka, 22 September 2017.



key role in public appointments and is one of the gate-keepers. He plays an important role in policy issues and he has the President's ear on matters relating to government, relations with opposition parties, key interest groups and internal PF matters. President Lungu at his 2017 press conference announced that those who wish to see him should approach either Amos Chanda or Freedom Sikazwe. It is surprising that matters which would ordinarily be handled by Cabinet Office or civil servants at State House, such as the Principal Private Secretary and other private secretaries are being handled by officials whose job description is advising the President.

### *Religious leaders*

President Lungu is not known to have been a practising Christian, prior to his election as President. But since his election he has courted the church, who have worked hard to present him as a 'humble' and devout Christian. The groups, that campaigned for him during the 2016 presidential elections, such as Christians for Lungu, have been rewarded with government appointments. One of the committee members, **Godfridah Sumaili** was appointed to the position of Minister of National Guidance and Religious Affairs. The clergy have been instrumental in shaping Lungu's policy stance towards state-church relations. When there was a stand-off between the Catholic Church (Bishops Conference) over Hichilema's detention, it was influential members of the clergy who helped formulate messages to reconcile them. This influential clergy played significant roles in the establishment of National House of Prayer and Tabernacle (to be built in Woodlands) and the declaration of October 18, as the National Day of Prayer, Fasting and Reconciliation. Bishop Joshua Banda of the Assemblies of God Church and Rev. Pukuta Mwanza, secretary general of the Evangelical Fellowship of Zambia (EFZ) are the key religious actors with some influence over President Lungu. The flirtation of the church with the President may explain a policy orientation that privileges protestant denominations over mainstream churches. For example, the declaration of Zambia as a Christian nation in the Constitution came as a result of heavy lobbying from the protestant faction of the Christian church, as it was opposed by the Catholic, Anglican, Reformed and other established churches as divisive.<sup>32</sup> Recently, this faction of Christian church managed to insert in the Seventh National Development Plan references to Christian ethos.<sup>33</sup> This does not only go against the spirit of the Constitution which guarantees the right of religion, but also encourages a Christian fundamentalism targeted at non-Christians, especially adherents of minority religions. While at present there may be co-existence between different religions, the state capture by this faction of the Christian faith may have long-term destabilising consequences on the Zambian polity.

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<sup>32</sup> Zambia's constitution allows other religions, but the insertion of the declaration of Zambia as a Christian nation in the Preamble during Chiluba's presidency was sponsored by a protestant, born-again group of Christians motivated by a desire to be close to the state to access state patronage. This protestant clergy tends to be flashy, and business-minded. Some of the leaders of ministries are said to be among Zambia's richest pastors. For example, Joe Imakando of the Bread of life Church and Bishop Joshua Banda are believed to own several businesses in the capital.

<sup>33</sup> *7 National Development Plan 2017-2021*, Ministry of National Development Plan, Lusaka, p.30.

### *Business people*

It is difficult to discern the influence of business interests on the presidency. However, business people access State House, to discuss with the President their business and investment plans, to make donations to the PF party or Esther Lungu Foundation, to seek and negotiate government contracts, especially in road and housing constructions. Some of these business-people are represented by 'tenderpreneurs.' Some of the players include **Valden Findlay**, a big financial supporter of PF who is often part of Lungu's delegations abroad and is also believed to be the main financier of Lungu's market empowerment programme. The tenderpreneurs act as middle-men with State House and negotiate how much would be given to the gate-keepers at State House, the president or his family and donations to the party, if a contract was to be awarded.

Overall, international companies remain the most influential, especially where it involves big capital, like the mining and infrastructure (AVIC). Zambia's economic dependency, gives those companies high leverage. Representatives of multinational companies, including owners of the large mining firms, such as KCM, NFMC, MCM and Barrick Lumwana, seek direct audience with the President to seek policy and tax exemptions and other concessions.

The Industrial Development Corporation (IDC) has become a vehicle for State House to control State Owned Enterprises. As per the IDC Articles of Association and statutory instruments establishing it, the IDC is headed by President Lungu, and its board members are mostly drawn from cabinet. As a result of the shifts in investment bodies, ZDA has lost most of its functions. After the general elections, membership of boards of most of the SOEs and regulatory authorities (ZESCO, Zamtel, ERB, etc.) have been given to PF loyalists/mobilizers/financiers. IDC is also actively acquiring private companies (beyond the SOEs), including Zampalm and Professional Insurance.<sup>34</sup>

### *Donors and international organisations*

Compared to the 1990s and 2000s, donors no longer have leverage over Zambia. The donor portfolio has dropped significantly and many donors have withdrawn from Zambia altogether. But this notwithstanding, donors have withheld aid whenever it has been found that the government was not adhering to its own policy commitments. Even if the government has displayed some grand-standing whenever there is criticism from donors, government has taken donor concerns very seriously when it comes to service delivery. For example, donors contribute more than 70 percent of the budget for HIV/AIDS. The PEPFAR and Global Fund provides most of the funds for HIV/AIDS, with government contribution being less than 20 percent. Further, donors have had some leverage over government in the health sector, by withholding aid to the sector due to concerns over poor governance (corruption). Though some donors, such as Sweden and the United Kingdom have

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<sup>34</sup> Interview with an informant close to State House, Cabinet Office and IDC, November 2017.

resumed aid to the sector, the vulnerabilities to foreign aid exposed government's continued external dependence.

In September 2018, donors (including UK, Ireland, Finland and Sweden) withheld financial aid to the Social Cash Transfer program under the Ministry of Community Development and Social Welfare following allegations that \$4.3 million meant for beneficiaries of the scheme had been misappropriated. The UK's Department for International Development (DFID) noted that it takes a 'zero-tolerance approach to fraud and corruption.'<sup>35</sup> This resulted in the dismissal of the Minister of Community Development Emerine Kabanshi. But some informants close to State House argue that Kabanshi's dismissal was simply a smokescreen or meant to save face, as the alleged misappropriated funds were diverted to election campaign activities at the direction or with the full knowledge of State House.<sup>36</sup>

One external donor that has had some bearing on Zambia's policy-making is the International Monetary Fund (IMF). In the 1980s and 1990s the IMF and the World Bank was said to literally dictate the country's economic policy direction. Though this has significantly reduced, Zambia's efforts to obtain a fresh IMF loan has been placed in jeopardy by failure to agree on a number of governance and economic fundamentals. Negotiations for a fresh line of credit have been on-going since 2016 and it is believed that the IMF is reluctant to extend a loan facility as it has serious concerns over governance issues and the country's growing foreign debt. Zambia is seeking a \$1.3 billion bailout from the IMF. But the IMF has indicated that Zambia should disclose the full extent of its foreign loan portfolio,<sup>37</sup> as it is believed that the country's loan portfolio could be in excess of the official \$10 billion, with some sources putting it at over \$18 billion.<sup>38</sup> Even if government officials do not publicly admit it, there is desperation to meet IMF conditions in order to access the \$1.3 billion loan bailout. Without the bailout the country faces a high risk of debt distress and may be plunged into an economic and financial crisis for an unimaginable proportion.

### *Intra-party politics and public policy*

Under the one-party state era the distinction between party and state was almost non-existent, as it was argued the two were almost one and the same thing - the party and its government (PIG). Multiparty democracy presupposes separation between party and state. However, under the PF government the distinction

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<sup>35</sup> 'President Lungu Fires Kabanshi in Aide Scandal Clean-up', Zambia Reports, 19 September 2018 [<http://zambiareports.com>].

<sup>36</sup> Confidential interviews with two informants from Cabinet Office and from State House, Lusaka, November 2018.

<sup>37</sup> The country is believed to have contracted more than \$5 billion from China, which is not reflected in its foreign loan portfolio. See Zambia's Unknown debt face Scrutiny after Mozambique Scandal, *Bloomberg*, April 6, 2018.

<sup>38</sup> Interviews with an official at the Ministry of Finance, November 2017. In July 2017, then Finance Minister Felix Mutati told Parliament that Zambia's foreign debt was \$17.2 billion. But was forced to reverse correct the figure downwards to \$7.2 billion later following pressure from State House and the party hierarchy. See also 'Zambia slumps towards debt crisis', *The Economist*, 13 September 2018.

between party (PF) and government is blurred. This is more in terms of intrusions of PF officials in the realm of public policy. Civil servants have become accustomed to receiving instructions from PF officials. PF secretary general Davies Mwila, his deputy Mumbi Phiri and media director Sunday Chanda routinely make pronouncements on public policy in ways that suggest they are part of government. Senior civil servants are afraid to do things the right way as they risk their jobs. They live in constant fear of dismissal or reprisals for challenging instructions from party leaders. At Cabinet Office, the PF secretary general is represented in policy discussions and sits in cabinet meetings. According to one informant, it would appear committees of the PF have more say in policy-making than government officials. The economic policy committee of the PF was instrumental in lobbying for an increase in the producer price of maize and have also lobbied government to reduce the price of fuel and maize meal at other times. They have used extortionist strategies to compel state companies, such as ZESCO, Zambia State Insurance Corporation, NAPSA, to make financial and material contributions to the ruling party, and sometimes to senior party figures. It is also believed that some party officials on government delegations have their foreign travel paid for by these state owned companies.

It is understandable for the ruling party to have influence over policy, but what incentive do they have to do so? While it can be argued that the PF has a *locus standi* to participate in policy-making and influence policy change, this is not done in an organised and predictable way. Often influence-peddling is conducted informally, either by threatening particular policy positions with the potential to reduce public confidence in the government and the party's popularity or some key party officials having vested interest in policy change. Many senior PF officials are business people or represent powerful business interests that make frequent contributions to the party. When economic policies harm that constituency, they tend to lobby government to change policy or adopt measures that are favourable.

However, PF is not a homogenous political organisation. It represents diverse interests and sometimes these interests are contradictory. The factional fights within the PF for leadership, which started during Sata's tenure were partly due to fights over access to spoils of office (Fraser, 2017). While the fight between Wynter Kabimba and Geoffrey Bwalya Mwamba was understood to be for the party leadership, its main origin was over differences in getting contracts from the mines.<sup>39</sup> This is because both leaders and their allies were involved in the transport business and were competing to provide services to the mining companies. A perceived competitor for access to state resources or economic opportunities is considered a political opponent. This is because political power is used as a vehicle for access to economic opportunities.

Edgar Lungu's control of the ruling PF is increasingly tenuous as he begins his second term office. Having ascended to power as a rank outsider, his selection was a

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<sup>39</sup> Confidential interview with a former State House advisor under late president Michael Sata, October 2017.

highly divisive affair. He was challenged by no less than nine candidates that included Sata's widow, Christine and son, Mulenga. While he side-lined most of them, apart from Chishimba Kambwili, he has always been worried of the threat they pose to his hold on power both within the PF and in the country. To be sure, as things stand, the PF is highly divided. Factions have formed around several issues and agendas. But there are at least three visible factions within the ruling party. The first and most dominant faction is the one allied to Lungu and one that played a role both in his selection as presidential candidate and his election both in 2015 and 2016. This faction comprise mainly individuals who had been sidelined or dismissed by Michael Sata.

The second faction is of individuals who consider themselves as founder members, the so-called 'true green.' This group feels marginalised by Lungu and accuse him of having abandoned PF's founding principles and Sata's vision. The last faction is composed of former MMD members who joined the PF following former president Rupiah Banda's decision to back the PF in 2015. This faction is increasingly influential and has been rewarded with senior appointments in the party, at provincial and central committee level. The faction has also been rewarded with cabinet appointments, which include Finance, Agriculture, Commerce, Industry and Trade, National Development Planning<sup>40</sup> and Local Government. Thus policy formulation is highly contested between these three factions, but most importantly each group seek to use its access to the President to extract maximum benefits. Those who feel excluded have either left the party voluntarily or have been expelled. Some have gone away to form their own parties. The National Democratic Congress (NDC), is a new political formation, active on the Copperbelt, formed by individuals unhappy with Lungu's leadership; his desire for a third term of office and for having gone against Sata's legacy. Currently, the new political party is led by former Copperbelt province minister and PF provincial chairperson, Mwenye Musenge. Sata's allies, such as former Vice President Guy Scott and Chishimba Kambwili are believed to be closely associated with this party. It is believed that it has support from some members of Lungu's cabinet, and some prominent Bemba politicians.

### *Policy coordination*

The Ministry of Finance has always played a supervisory and coordinating role. However, since the establishment of the Ministry of National Development Planning the relationship between the two ministries remains unclear. There is an emerging struggle for control and relevance between the two ministries. It should be recalled that the planning function which was abolished under president Frederick Chiluba was re-introduced by president Mwanawasa, but as a department under the Ministry of Finance. President Edgar Lungu removed the Department of Development Planning from the Ministry of Finance by placing it under the Vice President's office in 2015 and in 2016 created a stand-alone Ministry to reward his friend and ally, Lucky Mulusa's work as Special Assistant for Policy

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<sup>40</sup> Lucky Mulusa who originated from the MMD was appointed Minister of National Development Planning in November 2016; but replaced by Alexander Chiteme, MP for Nkana.

Implementation. Because of the centrality of the Ministry of Finance in providing funds for plan implementation, it is expected that even coordination and monitoring of the execution of the development plan will have to be done by the Ministry of Finance. These operational bottlenecks will need to be resolved to ensure that the two ministries are not used for political purposes. One example, of lack of coordination between the two ministries is the development of the Seventh National Development Plan, 2017-2021 (SNDP) and the Zambia Plus (Economic Stabilisation and Growth Programme (ESGP) dubbed “Zambia Plus” (2017-2019), and the different ways in which they were launched. Full fanfare for SNDP and no public launch of Zambia Plus (it suddenly appeared on the Ministry of Finance website). There was no coordination in terms of content. There are fears that the implementation plan of SNDP might not be feasible once it comes to the Ministry of Finance. Also, the role of political interests intervening in economic plans, such as inserting religion in the SNDP are troubling. There will be contestation between various interests over development priorities and it remains to be seen how political sensitivities will be handled. As things stand, the SNDP is a political document, which is really meant as a propaganda tool for the PF government of its policy intentions. Its practical realisation is only possible, if there is harmonization with Zambia Plus and implementation modalities are spelt out. Mulusa lost his position following his public criticism over the fire tenders.

### *Clientelism and patronage – politics of corruption control*

According to Zambia Corruption Report 2017, Zambia's business environment is hindered by corruption and a weak institutional framework. Companies encounter red tape and rampant bribery in all business operations, including company registration, obtaining a construction permit, setting up utilities, and paying taxes. Corruption risks are high in Zambia's judiciary. Bribes and irregular payments in return for favorable judicial decisions are common. A third of Zambians believe that most or all judges are corrupt (Global Corruption Barometer, 2015). The judiciary lacks independence and people have insufficient confidence in the efficiency of the legal framework to settle disputes and challenge government regulations. Many prosecutions and court decisions are perceived to be politically motivated. Allegations of corruption involving members of the judiciary have called into questions the judgments in a variety of important cases. Many attempts at reforming the constitution and the judiciary have all ended in failure.

Corruption is most pervasive in Zambian government procurement, presenting companies operating in the sector with high risks. Businesses report that bribes and irregular payments are common when bidding for public contracts. Almost a third of companies indicate they expect to give gifts to secure government contracts. Both the diversion of public funds and favoritism in decisions of government officials are common. Fraud in the tendering process for government bids is widespread and often occurs during vendor selection, contracting and maintenance. Transparency and accountability is particularly lacking in the last stages of the procurement

process, which leaves significant room for manipulation (Global Economic Crime Survey, 2014).

Another area with high risks of procurement fraud is road construction; a government minister was allegedly fired over his role in a corruption case involving road construction contracts worth USD30 million (*The Citizen*, Nov. 2016). In another instance, suspicions were raised about a ballot paper printing contract granted to a company based in the United Arab Emirates, which printed the ballots for the August 2016 general elections. The company was not the lowest bidder and no other reason was given for picking a bidder whose price was higher than the firm which printed ballots for the previous elections. Recently, there have been widespread concerns with the procurement of 42 fire tenders at a staggering amount of US\$42 million, through a company which was not the lowest bidder. Though the commissioning of the fire tenders was met with fan-fare, President Lungu who launched the fire tenders has distanced himself from the scandal and ordered that investigations be launched.<sup>41</sup> But the Anti-Corruption Commission (ACC) cannot act, if senior government officials are named, without the President's approval. The ACC lacks clout when it comes to politically-connected people. Investigations into former Information Minister Chishimba Kambwili's alleged corruption seem to have stalled. It would appear that his threat to reveal more of what is going on in government has brought the investigations to an abrupt stop. Under the Lungu presidency there is a widespread perception that corruption has increased. Many people believe that there is more impunity than was the case under Sata and his predecessor. One informant said, 'the problem with these guys is that they just don't fear; they do what they want with impunity. They steal in broad daylight and know that there is just nothing that can be done to them'.<sup>42</sup>

Despite Zambia's legislation guaranteeing freedom of the media, the government frequently harasses independent news outlets and uses defamation laws to restrain these freedoms. The government has prosecuted critics on charges of incitement of public disorder and hate speech. Self-censorship has increased. The Zambian media is politically polarized; state-owned media are generally supportive of the government, while a number of private news outlets have taken a critical stand. The government targets and threatens unfavorable online publications. In 2017 Freedom House classified Zambia's media environment as 'partly free'.<sup>43</sup>

While the Zambia's Constitution guarantees freedoms of assembly and of association, the government does not respect these rights in practice. Demonstrations by opposition parties and civil society have been forcefully broken up and political parties are denied the right to peaceful assembly or demonstration. Recently, a small group of protestors against the purchase of fire tenders was

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<sup>41</sup> The actual cost of the fire tenders is known by Bank of Zambia and the Financial Intelligence Centre. Both are afraid to share the information publicly.

<sup>42</sup> Confidential interview with an insider at State House, 30 September 2017.

<sup>43</sup> *Freedom in the World 2017: Populists and Autocrats: The Dual Threat to Global Democracy*. New York: Freedom House [www.freedomhouse.org].

arrested for causing a public nuisance, after PF cadres ordered the police to arrest them. Civil society organizations (CSOs) have little influence in the decision-making procedures of the government. The ability of CSOs to mobilize society is limited, particularly outside the capital of Lusaka. Zambia's NGO Act is said to have increased the government's influence over NGOs; registration fees and disclosure requirements have created obstacles for newcomers and have led to the dissolution of some NGOs. Currently, less than 600 NGOs are officially registered and government is currently revising the Act.

The fight against corruption is highly politicized. Whenever, there are corruption allegations against a public official, government calls for evidence. When a public official has fallen out of favour, or perceived as a threat, the ACC is allowed to prosecute such an individual. In a context where corruption is tolerated, or very selectively prosecuted, and members of the political class are highly involved in the vice, it is not expected that corruption control measures will yield any result. The fact that the main motivation for state power is to maximize access to state resources, including extraction of rents and extortion from business interests, makes it difficult for the current political leadership to consider an orderly transition.

## **Conclusion**

It is not easy untangling the political maze to understand the inner workings of government. This task requires participatory research and closeness to the main political actors. What this study can confirm is that a focus on formal institutions provides only a partial answer to the crisis of leadership and policy failure. A study of institutions alone, leave us uninformed about why decision-making does not follow a predictable path. Instead, we endeavoured to understand the working of government and conducted a mapping exercise of who wields influence on the key decision-maker – the President – in the Zambian political system. By all accounts, from the literature and our interviews, influence peddling in Zambia is motivated by rent-seeking behaviour. Under the Lungu presidency, rent-seeking stands out by its scale and the impunity by which it is carried out. This is not unexpected given the circumstances that propelled Edgar Lungu to political prominence in November 2014.

President Edgar Lungu ascended to the presidency without any political vision of his own nor did he spend considerable time preparing his bid for power. Following Michael Sata's death, a faction within the PF selected him to carry forward Sata's mantle on the assumption that, since he had been left acting president he will find favour with the Zambian electorate. But the election results revealed he was an unknown politician and who did not excite the imagination of the majority of Zambians. The low voter turnout, perhaps the lowest since independence was instructive. Faced by an obvious rejection by the electorate and factional struggles in his own party and an insecure tenure, President Lungu moved to consolidate his power and build alliances of support. The group that nominated him to be the PF flag-bearer and those that bank-rolled his campaign were to become important



players in his government. Those who were unable to enter government were to be rewarded in kind. Thus, it can be argued that Lungu's political entourage is dominated by a group who had fallen out of favour with Sata, whose main aim was to restore their links to business deals and wealth through their access to the state.

The uncertainty created by Lungu's narrow electoral mandate and the transitory nature of his regime led to collective insecurities within the ruling elite. This in part may explain the fragility of political institutions and ineffectiveness of institutions under Lungu's watch. The last four years of Lungu's presidency may be characterised by four factors. First, a continuation of relationships based on personal loyalty, regionalism and ethnic identity. This is exemplified by the nature of appointments made by Lungu, especially at Permanent Secretary level where most of the appointees are either former allies, friends or hail from Eastern Province. Second, the executive's reliance on partisanship or what Fraser (2017) has described as 'hyper-partisanship'. This is to say, there is a total exclusion from key policy-making and decisions of people or groups that are not aligned to the ruling PF. A politics of belonging, defines access to perks and perquisites or spoils of office. Third, the existence of a patrimonial and coercive political and institutional system, which encourages corruption and rent-seeking behaviour. There is a pervasive rent-seeking behaviour in the political system, to the extent that the presidency appears 'captured' by powerful economic interests. This rent-seeking behaviour is associated with privileged access to the President, extortion strategies by State House gatekeepers, especially presidential advisors, who seek bribes to arrange meetings with the President involving powerful economic interests. Fourth, uncertainty occasioned by Lungu's narrow mandate and the associated legal challenges to his election, have heightened the pursuit of wealth in the shortest possible time. Party sponsors are lining-up for pay-back and seek to maximise their returns while Lungu is still in State House. It is not surprising therefore that Edgar Lungu who had little or nothing to his name when he was first elected in January 2015, is today believed to be one of the wealthiest men in Zambia, boasting of several millions of dollars in his bank account and several properties all over the place. Lastly, mismanagement of public resources, is made possible by the availability of vast resources (often from loans, e.g. Eurobonds) and lack of effective accountability mechanisms, which has enabled the powerful political and economic elite to seek government contracts, with the associated kick-backs that this entails. To ensure the distribution of patronage to the vast number of individuals who seek the President's or state attention, rules have to be bent or/and circumvented and accountability mechanisms over-ridden by executive fiat.

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