

# Donors and Governance in Southern Africa. The Case of Zambia, with Zimbabwe as a Counterpoint - DPRN Seven



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## *Introduction: On donors and governance [1]*

A key change in development policy since the early 1990s has been donors' shift towards a principal concern with governance. Earlier, donors' policy and practice had been mainly focused on filling gaps in knowledge, capital or foreign exchange. This implied that development was fundamentally a mechanical, technical undertaking. Gradually, however, development policy is being seen more and more as a political enterprise. Issues such as the division of power between the elite and society at large, basic freedoms and economic inclusiveness are at least as important for societal and economic development as technical considerations. [2]

This concern with governance has given rise to a considerable body of literature that has a paradoxical tendency to de-politicise the debate. A reason for this is that politics traditionally does not fit into the non-political mandate of international organisations. Also, declaring a political interest seems to clash with the altruistic rhetoric of the development community. Nevertheless, recent evaluations and analyses have begun to explicitly address the political nature of both the environment in which donors intervene as well as the political influence donors have in processes of change. As an example the Swedish development agency (Sida) commissioned explicit political evaluations of conditional lending,

program aid or ownership. [3] The British Department for International Development (DfID) has had a series of studies carried out on 'Drivers of Change' [4] and Netherlands embassies have undertaken Strategic Corruption and Governance Analyses that aim to look 'behind the façade' at what drives political and bureaucratic behaviour. [5] These analyses see aid as an influence on local society that is, in turn, shaped by the local political process. This thus explicitly links aid effectiveness to the quality of governance.

One issue of confusion for policy makers is how to operationalize the realisation that aid effectiveness is linked to the quality of governance. Should governance be seen as a criterion for deciding whether a donor-recipient relationship should be initiated or ended? Should governance be a yardstick for determining the level of aid flowing to a country? Should attention to governance spark a series of discreet projects or comprehensive programmes of reforms? Or is a focus on governance something that is to be mainstreamed into any decision made by donors? In this paper we will not take such questions as a starting point. Rather, we will start by describing empirical cases of donor-government interaction, which in turn might allow us to draw conclusions that are relevant for shaping donor-behaviour.

A more fundamental controversy than donor preoccupations with operationalising governance, arises from concerns about sovereignty: to what extent do recipient countries lose control over their own political process through donor concerns with governance questioning the legitimacy of incumbent governments? Thomas Carothers, a democratisation activist, wrote for example:

*The very act of one society trying to engage itself in the political affairs of another society naturally provokes concerns: what is this really all about? In the past several years, I have encountered a qualitatively greater level of concern - in fact substantial amounts of bewilderment, suspicion and sometimes open hostility and anger - than ever before to this subject. The subject of democracy promotion has become intensely controversial.* [6]

Carothers refers especially to the Middle East - the invasion of Iraq, the refusal to recognise Hamas as an electoral successful movement.

The concern with good governance and aid conditionality is also challenged as being ineffective. The arguments of Nicolas van de Walle about partial reform are particularly influential:

*>Standing between their own societies and their donors, top state elites have*

*sought to use the policy reform process to gain maximum autonomy from both ... With little knowledge of local politics, remarkably little institutional memory, and a bias towards optimism about the course of reform, donors are easily fooled. The big losers are of course to be found among the vast majority of Africans whose welfare continues to decline. [7]*

A third line of thought argues that concerns with good governance are irrelevant. That is especially argued in writing about the rise of East and South-East Asia. David Kang [8] argued for example that corruption in South Korea led to the realisation of private and public goods while in the Philippines it led to the realisation of private goods to the detriment of public goods.

This paper will argue that to rake up the arguments surrounding ownership or sovereignty. Rather, we will start from the premise that donors have the ambition to influence political processes. This is a perfectly logical and legitimate concern: when a private individual wants a loan from a bank then conditions will also have to be met. Many concerns about good governance are also universal public goods; freedom of expression for example is valuable irrespective of a development context. We will address the question to what extent donors are able to exert influence. The question that remains is whether it is effective and/or whether it is relevant. To address this we will examine key experiences of donor-government interaction in Zambia and Zimbabwe.

The major focus of this paper lies on Zambia, a country where recent history cannot be written without taking donor involvement into account. As a counterpoint we will take Zimbabwe, a classical example of confrontation between donors and a recipient government on governance issues. We will show that while there seems to be a confrontation between Zambian government and the donor community, a general convergence on governance issues can be witnessed that is missing in Zimbabwe. Raising governance issues in a development dialogue is therefore in the first place shaped by its salience in the local political culture. The relatively open and democratic nature of Zambian society gives the impression of endemic conflict between government, opposition and donors, but it is the relatively equal playing field that leads to outcomes that are profitable to all. In the Zimbabwean case, it may seem as if donor concerns are unimportant because the government has embarked on a ruthless confrontation with the opposition as well as with the donor community. Donor concerns lack influence because there is no viable opposition. The fundamental

conflict between the Zimbabwean government and the donor community cannot be denied, but from the viewpoint of Zimbabwean society the donor concerns are material.

This paper is not meant primarily as a treatise in the social sciences. It has been written from our personal experiences as an academic and a civil servant dealing with governance issues in southern Africa. The aim of the paper is in the first place to open up a debate that is too often carried out in a stalemate: one side argues against intervening in sovereignty and the other side argues that all aid is wasteful as long as these governance issues are not sorted out. We want to arouse insight in the value of the place of governance on the development policy agenda by looking at the actual practice of policy making and implementation.

## **The emergence of governance as an issue in Zambia**

### *Structural adjustment and macro-economic stability*



Zambia was a frontrunner in the democratisation processes that affected many parts of post-cold war Africa in the early 1990s. Broad popular protest led to the abolition of the one-party state in Zambia and multi-party elections ended the rule of Kenneth Kaunda and the United National Independence Party in 1991. It has not been generally noted that this protest was also directed at state intervention in the economy. The Movement for Multi-party

Democracy (MMD) led by Frederick Chiluba was thus elected on a reformist platform. In the early days of the first MMD government macro-economic reform was pursued with vigour. In a short span of time Zambia had moved to a floating exchange rate and raised interest rates to levels above the inflation rate. In the early Chiluba years there was also a considerable amount of privatisation of industries and agricultural marketing and the trade in food were liberalised.

This reformist drive tied in well with the donor community's structural adjustment agenda driven by the World Bank and IMF. Donors therefore supported these reforms by providing technical assistance, by supporting relevant project units and by providing programme aid: balance of payments or budget support. As such they became deeply involved in financing recurrent expenditure of the Zambian government. In this situation of high confidence between government and donors in specific sectors, a change in aid-modalities took place. Whereas donors had previously mainly been involved in projects, they now moved towards various forms of basket financing and what was to become known as sector wide

approaches. This new extent of involvement with government understandably gave donors a particular stake in government's behaviour.

In later years however, a new tenor appeared in donor discourse about Zambia. Whereas relatively simple reforms that did not directly challenge powerful interests had been rather swiftly implemented, the so-called second generation of reforms such as cutting government employment and privatisation of the copper mines were more problematic. Donors began to place the blame on government for blocking these reforms. Nevertheless, it can be maintained that over the period 1991-2001 there was a relatively harmonious relationship between the donor community and Zambia, regarding economic issues. Eventually, the mines were privatised in 2001 and what happened to government employment in Zambia was not very different from what happened elsewhere in Africa. One could conclude that with respect to macro-economic stabilization and structural adjustment there has been more cooperation than conflict between Zambia and the donor community since 1991. Governance became an issue over the course of time, but this was especially pertinent and contested in political matters. **[9]**

### *The 1996 elections*

The elections of 1991 were seen as exemplary for Africa: a peaceful transition and the re-establishment of a multi-party system. This was universally seen as progress. Relations between donors and the Zambian government had however strongly deteriorated in the run-up to the elections of 1996. The so-called Kaunda clause was crucial to this. The new constitution of 1991 contained an article stating that the president was not allowed to serve more than two five-year terms, consecutively. Therefore, the previous president, Kenneth Kaunda, argued that he was allowed to stand again in 1996 as presidential candidate. The MMD, then amended the constitution so that only people whose grandparents were born in what now was Zambia could qualify. Kenneth Kaunda's father originated from what would later become Malawi and went to work at Lubwa mission in Chinsali in Zambia's Northern Province. Chiluba defied protests from the donor community as well as from influential African friends of Kaunda. Mandela sent a prominent constitutional lawyer, Judge Goldsmith, who concluded that the elections of 1996 could only be postponed if a state of emergency would be declared. Chiluba argued that there was no reason for this as the country was in a peaceful state.

Kaunda called for a boycott, but this was followed up only by a minority of the

staunchest supporters of his UNIP-party. Donors refused to send observers or to support the electoral process. However, Chiluba won a landslide victory and even if one assumed dirty tricks at play, this election result could not be ignored.

Donor pressure had thus proven to be irrelevant in the face of a verdict of the Zambian people. Ironically, it was at the time suggested in the fiercely independent *Post* newspaper, that Chiluba had not wanted to insert the Kaunda clause into the constitution. In fact, his own parentage was being challenged as it appeared that his origins lay in Zaire, while he attempted to trace a Zambian lineage. In any case, the 1996 election demonstrated the limits of donor intervention. The Zambian population voted in relatively large numbers despite disapproval about the electoral provisions by the donors. Attempted influence by donors had thus openly manifested itself in these elections, but certainly not as a determinant factor. **[10]**

## **The end of the Chiluba era**

### *The third term debates*

Towards the end of Chiluba's second term in office, the MMD had become so entrenched in the political centre of power that it seemed unavoidable that Zambia would remain a dominant party state. The MMD, however, needed to select a new candidate, as Chiluba was constitutionally limited to two terms. Chiluba forbade campaigning among aspirant candidates and wanted the successor to emerge in the way that Mbeki for example had emerged as a successor to Mandela. Nevertheless there were more and more stage-managed calls from within the party asking for a third term of Chilujba, who managed through a ruthless campaign to be selected as leader for the party in a third term. He then needed to be elected as presidential candidate. This would require the support of the MMD's parliamentary caucus to push the needed constitutional amendment.



In the meantime, there was a broad mass-movement protesting against a third term for Chiluba. Civil society organisations, to a significant extent operating on donor funds, coordinated a vocal campaign. Donors expressed their positions in no uncertain terms. Undoubtedly the impact of this lapse in confidence influenced donors' allocation decisions or certainly had the potential to do so. On the local political scene it became clear that a parliamentary candidate who supported Chiluba would have little chance of

being elected. The MMD parliamentarians voted against the third term amendment. Chiluba thus had little choice but to select what he hoped would become a strawman, while trying to retain the reins on power as party president. Essentially, this episode characterises that donor support played a role, but in support of a widely based popular Zambian movement rather than in dialogue with the government. The third term issue is an example where donor support could have a beneficial impact, because it was aligned with a genuine, widely felt concern in Zambian society.

### *2001 elections*

The third term issue had created disarray in the Zambian political scene. There had been a split from MMD and MMD had to select a presidential candidate. The latter was Levy Mwanawasa, a lawyer who had been prominent in MMD. He had stood against Chiluba in the leadership contest running up to the 1996 elections and lost bitterly. He had resigned from party posts and his health had suffered badly from a car accident. Surprisingly, he was said to be handpicked by Chiluba as a 'safe' successor.

As the elections were delayed to allow the MMD to prepare to face a hostile political scene, a strong opposition party emerged. The United Party for National Development (UPND) was formed under the leadership of Anderson Mazoka. This resulted in a tight race for the leadership between Mwanawasa and Mazoka which was narrowly won by Mwanawasa. Donors were heavily involved in these elections and there were various international and local observer teams. The most prominent among them was the European Union election observation mission. This mission especially queried the election results and narrowly avoided issuing an outright accusation of fraud. This meshed in with the local political scene in which concern was aired about the closeness of the election results. Mazoka was convinced that he had been robbed of his victory and supported a long winding petition. At his inauguration, Mwanawasa accused donors in the audience of intervening in the elections. This prompted EU ambassadors, preceded by the Dutch ambassador to leave demonstratively. In short, the impotence of donors was demonstrated in the events surrounding the 2001 elections. They moved themselves into a position where the charge could be made that Zambian sovereignty was undermined.**[11]**

## **Dealing with the New Deal Government: Fighting the kleptocracy**

### *The fight against corruption*

After Levy Mwanawasa's New Deal government came to power in 2001 there was a strong call for a break with the past. During his election campaign, corruption did not feature as one of the priorities. In the background, there was concern about Chiluba being succeeded by a puppet of his making. Towards the end of Chiluba's rule, donors had funded a big accountants survey into the mining sector, which found massive disappearances of resources, particularly of cobalt. These concerns were also widely expressed in popular opinion and some MPs ventured to call Chiluba a thief. Chiluba brought a libel case to court, which he later came to regret bitterly. After the elections, one of the MPs involved used his parliamentary privilege to ask for the records of Zambia's bank accounts in London. This revealed massive theft of Zambian money and Mwanawasa, the new president, was approached with this information.

The independent *Post* newspaper vigorously gave publicity to this major corruption case involving the so-called ZAMTROP-account, an account of the Zambian Security Intelligence Service in London, which was used by president Chiluba as a slush fund. This case, involving various members of the political elite, was also referred to as the Zambian Money Matrix and led to an outcry amongst civil society<sup>[12]</sup> and in the *Post's* editorials.<sup>[13]</sup> These revelations came in the wake of public denouncement of the fact that two tainted politicians from the previous administration were appointed to senior positions in the New Deal government.<sup>[14]</sup>

In this atmosphere, facing an opposition majority in parliament and in need of restoring donor confidence, which had been dashed by Chiluba's alleged kleptocracy, the third-term debate and the irregular 2001 elections, Mwanawasa declared zero tolerance on corruption. In July 2002 the president made a dramatic address before the National Assembly, exposing Chiluba's 'matrix of corruption' and calling for the removal of his immunity from prosecution, as was called for by civil society. Soon afterwards the Task Force on Corruption was established to investigate and prosecute cases of plunder under Chiluba's ten years in government.

This Task Force was put together from staff on secondment from the Anti-Corruption Commission (ACC), the Drug Enforcement Commission (DEC), the police, the Zambian Security Intelligence Service (ZSIS) and the Director of Public Prosecutions (DPP). It also outsourced much of its work. The Task force had its own private prosecutors, the Nchito brothers. Donors broadly offered their support under a joint memorandum of understanding signed by the UK, the



Netherlands, Denmark, Norway, Sweden and Ireland. The Task Force subsequently set to work investigating cases, arresting various politicians and civil servants including ex-president Chiluba. [15]

### *Chiluba's London court case*

Early in Mwanawasa's second term, Chiluba was yet to be convicted of the theft he is alleged to have perpetrated. Whereas millions of dollars were gradually recovered and various cases were started it took until October 2006 for the first successful conviction to be secured. Chiluba's trials barely inched ahead. One of the reasons for this was that he was flying up and down to South Africa because of health reasons. While the status quo persisted, so did claims that the case against Chiluba was merely a witch-hunt or alternatively that the pyramid of patronage prevented swift actual legal action. A lack of convictions also impeded the process of impounding stolen goods and money. A civil case was therefore opened at the London High Court by the Zambian government against Chiluba and others on the charge of defrauding the Zambian government. It was opened specifically against the London-based legal representatives in order to have a respondent. [16] Chiluba refused to testify as it was in his view an infringement of Zambian sovereignty.

The London judgement [17] did not only lead to the order to repay huge amounts of money, but it also gave abundant information about the practices that the accused indulged in. The judgement was beamed directly to Zambia and was reported on elaborately. Therefore it in no small measure dented Chiluba's prospects and reputation in Zambia. The progress in registering the English verdict in Zambia and the advancement of the criminal trials remained slow. But Chiluba's denials lost credibility. It is questionable whether these arguments especially hurled by Chiluba himself managed to make much of an impression beyond his closest supporters. Chiluba considered the judgment racist and talked of imperialist plots by the donors funding the government, especially the former colonial power. It is true that this court case was funded by donors, [18] but it was brought on by the Zambian government. This case could thus be seen as an example of the possible efficacy of donors supporting and catalysing a process emanating from genuine Zambian concerns.

### *Show me the money*

Donor involvement in the name of good governance does not only deal with spectacular cases such as the one mentioned above. Early 2007 the Zambian

newspapers reflected a vibrant public debate dealing with the management of public resources. This was preceded by the publication of a book by the Zambian chapter of Transparency International (TIZ) called *Show Me the Money* which, following the report of the Auditor General, explored public spending and accounting. This book made such issues understandable for a broader public than merely those experts normally dealing with technical issues of public finance management. When launched, TIZ explicitly targeted parliamentarians with the book and sold over a hundred copies amongst the 158 members of Parliament [19].

Shortly thereafter the Auditor General published its annual report which was considered more critical and timelier than earlier reports. When the report was discussed in the Parliamentary Accounts Committee considerable controversy emerged, particularly over the audit of the Ministry of Health. The Auditor General complained over the lack of cooperation in the ministry and the Permanent Secretary was sent away from the hearing for failing to give satisfactory answers to the committee. All three major newspapers in Zambia explicitly reported the event. [20] While the Permanent Secretary kept his position, the minister was soon replaced by a former minister, allegedly to resolve the situation.

Arguably the fall-out of these debates extends beyond this particular case. In the perspective of an official of the Office of Auditor General this episode enhanced the credibility of the Auditor General. Reportedly, after reading about this controversy one accounting officer refused to cooperate with the OAG as it could cause problems. Subsequently he was suspended. Conversely other departments and authorities became more forthcoming to the OAG and stricter towards contractors, so as to avoid problems. [21]

Donors, while being enthusiastic observers, do not seem to be central in such debates. They either lack the capacity to substantiate hard claims in these excessively complex cases or they are apprehensive of rocking the boat and damaging donor-government relations with unsubstantiated allegations. Equally they can be argued to duly observe the respect for government ownership that they profess in policy rhetoric. Nevertheless, donors do provide support to some of the protagonists in this arena. They support watch-dog organisations such as TIZ and the OAG. Under the Public Expenditure Management and Financial Accountability (PEMFA) reform programme donors such as Norway and the

Netherlands have supported the OAG to expand its coverage and effectiveness, by allowing for the training of auditors, the procurement of vehicles and the building of provincial offices. Also under the same programme the Parliamentary Accounts Committee has been supported in its institutional strengthening. In short, supporting processes important to donors' governance concerns need not imply that donors actually take up visible roles on stage. Rather they can be indirectly instrumental in catalysing processes aimed at addressing legitimate Zambian concerns.

### *The Bulaya incident*

Donor concerns can also go immediately against government interests. That was the case when George Kunda, the attorney general gave instruction to the Director of Public Prosecutions not to proceed in preparing a case against dr. Bulaya, the ex-permanent secretary of health. He had been accused of manipulating the tender procedure for the delivery of nutritional supplements in favour of a certain Bulgarian company. He was found to have brought this case to a regular procurement meeting, which he chaired in august 2001 without supplying the proper documents. The nutritional supplements, which were controversially seen as part of aids treatment, were delivered to the government's medical stores. Subsequently, some of these drugs were delivered to a private clinic owned by Bulaya, from which it was sold. Other parts of this shipment were reportedly going to waste in government storage, as the drugs were not registered for use in Zambia. For services rendered, Bulaya was paid hefty a commission of roughly a billion Kwacha (€ 180,000) by the company that had delivered the nutritional supplements. [22] The case had been prepared by Utembo Nchito, one of the prosecutors of the Task Force.



Photo: en.wikipedia.org

This led to a protest of the Law Association of Zambia. Firstly they were

concerned about political interference. The decision to proceed with a case or not should be based on legal arguments. It was widely assumed that Mwanawasa himself had intervened. The constitutional position of the task force to enquire into the Chiluba cases was also problematic: what was their relation to the Director of Public Prosecutions? [23] There was indignation in the press as well for the simple reason that somebody could get away with corrupt behaviour.

An additional complication was that the Finnish and Swedish ambassadors spoke on the issue: it was better for all parties involved if the case would go to court. This was no matter for an administrative or political decision. Mwanawasa was hurt and replied that these issues were within the sovereignty of the Zambian state. The ex-minister of foreign affairs considered this a matter for disciplinary action by the dean of the diplomatic corps, the Libyan ambassador. Zambia may be poor, but it had its dignity. This exchange was followed up by the French ambassador. He reminded the Zambian government that they had signed a treaty against corruption. Also, Zambia received large amounts of money from the international community and donor governments were responsible to their taxpayers. [24]

In the course of this dispute it also became clear that there the dispute was not primarily one between the task force prosecutor and the ministry of legal affairs. It appeared that the then acting DPP, Mrs. Zulu-Sokoni, had refused to follow up the order from above. Subsequently the *nolle prosequi* was dropped, the law took its course again and Bulaya was sentenced. Bulaya was prosecuted and it resulted in a conviction to five years imprisonment with hard labour. [25] The Bulaya case shows donor pressure in alignment with the independent press and a professional organisation in support of good governance opposed to the government of the day.

### *Electoral and constitutional reform* [26]

To the outside observer it may seem that issues of electoral and constitutional reform provide the first and foremost concern in Zambian politics. The donor community plays an obvious role in this. They support NGOs who are advocating constitutional reform, back up a government sponsored commission of enquiry into constitutional reform and above all they are expected to pay for the expensive process of a constitutional conference. There are two distinct narratives about the process of constitutional reform: one that is exemplified by a coalition of NGOs under the name of OASIS and one of the Mwanawasa government.

Constitutional reform has been on the governance agenda for a long time. The Constitutional Commission of Enquiry is the favourite instrument that Zambian governments have used in these matters. These reported after their hearings to the President, who thereafter formulated a bill that was submitted to parliament for approval and amendment. There is a recurrent pattern in that the green paper usually contains provisions to strengthen parliament and to weaken the powers of the president. These are rejected in the proposals to parliament with one exception. The proposal to limit the number of presidential terms to two was maintained. That achievement was however under attack when Chiluba wanted to push through an amendment which would have allowed him to stand for a third term. It is therefore not surprising that the issue of constitutional reform re-emerged after Chiluba's attempt was thwarted. A coalition of NGOs under the name of OASIS had been especially instrumental to stop Chiluba's third term and this name was adopted by a coalition of NGOs that wanted a constitutional revision.

Their main point of contention was that the usual constitutional procedures to amend the constitution can never lead to a curtailment of the powers of the executive. The previous procedures entailed a commission of enquiry into the desirability of constitutional reform that can only recommend to the President, after which the President has the freedom to choose which recommendations to pass on for approval to a parliament that is dominated by the ruling party. The president will in such a procedure not propose reforms that will limit his powers and neither will a parliament dominated by the ruling party do so. The only way out of this conundrum is through a Constitutional Assembly that is composed outside the power structure of the ruling party. As OASIS stressed tirelessly: they wanted a people-driven constitution.

Mwanawasa reacted to the demand for constitutional reform by installing another Commission of Enquiry into the desirability of such reform under the chairmanship of a highly respected lawyer: Willie Mung'omba. One could reasonably ask for a rationale for this as there had been a similar commission during the second term of Chiluba under the chairmanship of the veteran politician John Mwanakatwe. The OASIS network called for a boycott of the Mung'omba commission. On previous occasions there had also been calls for such boycotts, but the hearings of these commissions got a momentum that made them into a significant forum. These boycotts were then forgotten and the opposition testified as well. In the case of the Mung'omba commission testimonies went in

the direction wished for by OASIS. Mung'omba reported therefore on the desirability of a Constitutional Assembly.

Mwanawasa accepted the idea of a Constitutional Assembly, but with many reservations. Mwanawasa's main argument against a Constitutional Assembly was from the beginning that it was too expensive. Money would be needed for selection of a Constitutional Assembly and for their meeting. But the need for money was wider than that and this was a result of the issues of constitutional law raised by a Constitutional Assembly. For the same reason of constitutional law, the government argued that changing the constitution by a special assembly was a long process. The reason is that it involves not merely a constitutional change but a change in the procedure to change the constitution.

In the Zambian independence constitution there was a clause calling for a referendum in case the procedure to change the constitution was to be changed. Kaunda organised in 1968 a referendum to allow parliament to remove that clause from the constitution. This constitutionally opened the way for Kaunda to embark on the one party state and to ignore during the following years human rights provisions incorporated in the independence constitution. It is thus not surprising that the need for a referendum was inserted in the 1991 Zambian constitution that reintroduced multi-party democracy. Mwanawasa argued therefore that the establishment of a Constitutional Assembly involved a change in the procedure to change the constitution and therefore required a referendum. According to him a national census was needed in order to prepare for a genuine referendum. Voting cards should not only be distributed to registered voters but to all eligible citizens. Parliament should after the referendum pass a law establishing a Constitutional Assembly. Thereafter a constitutional Assembly could be elected and start its work. According to Mwanawasa, the obviously large expense and the length of time involved are necessary to stay within the law.

Mwanawasa restated his opposition to a Constitutional Assembly many times and the argument was developed more and more in legal terms. The idea of a Constitutional Assembly had already been raised in 1991. Then president Kaunda refused on the grounds that this was only necessary if the present government would lose legitimacy. Its historical roots are in post-revolutionary situations and that was not the case in Zambia. That was not explicitly stated in the recent conflicts, but the establishment of a Constitutional Assembly could be interpreted as a denial of the legitimacy of the present government. Essential in the argument is that the present selection of president and parliament is not legitimate. It could

be a stepping stone to grab power. The selection of delegates to the Constitutional conference would be in the opposition's proposal in the hands of civil society and that in OASIS' interpretation was virtually synonymous with the NGO community.

It would be wrong, however, to present Mwanawasa's position as one that was only determined by reason, since he proved to be capable of authoritarian behaviour on this issue. At one point he threatened to arrest the people involved and denied the legitimacy of the registration of the NGOs involved. He argued that these were not NGOs but political parties and that this was especially objectionable as they accepted foreign funding. Therefore these were illegal organisations. The NGO community reacted swiftly by establishing a new coalition under the name of 'Citizen coalition'. Mwanawasa retracted quietly from his opposition to the NGOs. A big demonstration on the constitution that went ahead despite lack of police permission was however brutally disbanded by the police.

On the other hand, there seemed to be less popular support for the OASIS position than was claimed. The OASIS movement managed to organize one mass event at the opening of parliament in 2006. They carried on the name OASIS from the mass movement against a third term for Chiluba. OASIS however, failed to get appeal for the protest tactics that were used at the time: wearing armbands that signified opposition or hooting concerts of cars at assigned moments. UPND, the biggest opposition party, organised the demonstration that was violently broken up. The opposition political parties have been ambivalent on this score. The suggestion is that they object far more to the present constitution if their chances to gain power are slim. When UPND organized this demonstration, they were doing badly. The Patriotic Front and its leader Michael Sata became more and more hopeful during Mwanawasa's first term. He considered constitutional reform a non-issue in his campaign for the presidency.

In the background there was always the issue of donor involvement. Con. OASIS appealed for resources to participate in the elections of 2006. They did not want to field their own candidates, but they intended to 'decampaign' candidates who did not endorse their position on constitutional reform. This 'decampaigning' did not materialize. The reason was, according to OASIS, the lack of support from donors, but there was also little political mileage for the NGO community to be had from 'decampaigning'. Election research indicated that constitutional reform was not an issue in these elections:

Zambians are mostly concerned with agriculture. Slightly over a third of the electorate (33.6%) consider agriculture as an important issue of concern in this election year. This was followed by general living conditions (19.5%), education and unemployment (14.1%) and health (10%). The constitution is not of much concern to the electorate as only an insignificant 0.1% considered it an issue. While 6.5% of the electorate either did not know or expressed no opinion at all on this question.

It appeared that constitutional reform was only an issue for a minority of the population: mainly educated urban people. The NGO community appeared to have little roots in the community.

This narrative continues after the election, but the relevant points for our topic can be made from this truncated version. It is clear that one cannot locate unambiguously a cause of good governance among some authorities and movements and not among others. There are many contradictory processes in the quest for good governance: a vocal civic community can express merely elite interests; a government that can react in an authoritarian way against proponents of constitutional reform may do that from a legally well argued position of defense of human rights. The donor community is a player in these fields to whom insights emerge in the political process as is the case with other actors. It is however obvious that the donor community was in these issues not in a position to dictate.

### **Zimbabwe as a counterpoint**

In Zimbabwe, recent relations between international donors and government have gradually become characterised by a breach in trust. Initially, from the early 1980s onward, Zimbabwe was seen as a potential success story; an African country endowed with relatively well-developed infrastructure, a productive agricultural and commercial sector and a state that was capable of providing reasonable education to large parts of the population. Early events in post-colonial history, that would spark serious governance concerns such as the Matabeleland massacres, the elimination of ZAPU by repression and the cooptation and the centralisation of power by the establishment of an executive president, did not rupture the relations. Perhaps this was due to diplomatic/political correctness, ambivalence or cold-war interests. Gradually, however, donor-government relations began to deteriorate, in part in reaction to western public opinion.





Harare - Photo:  
nl.wikipedia.org

In 1995 at the annual Harare Book Fair president Mugabe publicly held a tirade against homosexuals, proclaiming them to be 'worse than dogs and pigs'. This led to public outrage in much of Northern Europe. Then in 1998, while the economy was suffering from the effects of the economic crisis then prevalent in many parts of Africa, Zimbabwe embarked on a costly campaign into the Congo, in support of president Kabila senior. Relations with the international financial institutions which had been strained over defaulting on loans and bad performance under structural adjustment programmes reached a low point. In 1999 the government severed ties with the IMF over claimed interference in domestic policies and complaints about Harare's Congo campaign. [27] While the IMF later that year offered a \$200 mln. standby loan [28] the terms were never met and to this day there is no regular working relationship between IMF and the Zimbabwean government.

As relations with the multilateral agencies became tense, bilateral donors were also losing confidence in the Zimbabwean government. As issues of good governance had become more prominent, concerns over governance were also beginning to influence donor's decisions. This is best illustrated by the decision of the Dutch government in 1999 to abandon its government to government development cooperation programme. While this was part of a broader reduction of the list of partner countries, in the case of Zimbabwe concerns of human rights and governance justified the decision to end cooperation. [29]

A serious factor in the rupture in confidence between donors and government emerged after a change in government in the UK in 1997. Since independence, the UK had been funding a land-reform programme based on the willing buyer, willing seller principle. According to the UK Foreign and Commonwealth office a total of £44 mln. has been spent on land reform. [30] The new Labour Government declared it would only continue to fund land reform if it were in line

with a broader poverty reduction programme and adhered to certain good-governance principles.**[31]** The Mugabe government saw this as a British refusal of its historic responsibilities.

This issue became mixed up with internal political unrest stemming from disappointed war veterans in the guerrilla campaign that brought Zimbabwe independence. Initially, disaffected Zimbabweans, many claiming to be 'war vets', had spontaneously occupied parts of white-owned farms. This put pressure on the government to deal with the land issue.**[32]** After a 1998 land reform conference the government embarked on a phased land reform programme that initially aimed to resettle poor rural families to government land and subsequently would compensate white farmers for land confiscated. Various donors pledged support for the resettlement of these rural families, including the World Bank, which pledged \$ 5 million.**[33]** The pace and impact of this process, however, were not sufficient to satisfy the call for land redistribution. In June 2002, after controversial elections kept Mugabe in power, but with shattered popularity and legitimacy, Zimbabwe embarked on a 'fast-track land reform programme'.**[34]** In a violent campaign farms were appropriated without compensation. The rule of law was maintained less and less and Zimbabwe became more and more ruled by rogue vigilante groups. This led to the collapse of the white-dominated commercial farming sector, exacerbating the economic crisis.

Moreover, the major beneficiaries of this government-sanctioned land grabbing were the ZANU-PF: ministers and military officers**[35]** rather than the intended rural poor.

Various factors stemming from Zimbabwe's political context can be identified as factors leading to the decision to undertake these land reforms. The economic downturn, combined with the negative socio-economic effects of structural adjustment had led to a new opposition movement. Trade union forces had aligned with parts of civil society and representatives of the white minority to form the MDC, the first credible opposition party since the demise of ZAPU.**[36]** A campaign against a new constitution to replace the Lancaster House Constitution, led president Mugabe to experience a political defeat, something he had grown unused to. At the same time, the ZANU government felt pressure from former combatants, whose pensions had been cut due to structural adjustments and who felt they were yet to experience the economic dividend of independence. By employing nationalist rhetoric, unleashing war veterans and ignoring human rights abuses, the regime tried to maintain its base of power.

Then in the 2002 presidential elections president Mugabe barely survived the most serious challenge to his grasp of power in decades. Many international and civil society observers claimed widespread manipulation and violent intimidation of the opposition. And based on an extremely critical report from the EU Electoral Observation Mission the EU decided to implement 'targeted measures'. These banned members of the regime from travelling to the EU, froze their assets and put into place an arms embargo. Also, under article 96 of the Cotonou treaty, the European Commission and Member States mostly stopped its development cooperation with government. Instead support was sourced to international organisations and NGOs providing humanitarian relief and fighting HIV/Aids, as well as to various human rights and other civil society organisations. As many non-EU donors adopted similar policies, the government of Zimbabwe essentially became isolated from the international donor community.

The government of Zimbabwe and international donors have thus become locked into uneasy trench-warfare in which rhetoric, propaganda and megaphone diplomacy are hurled from one side to the other. Whenever the discussion is taken to multi-lateral forums such as the UN Security Council, the human rights council or the Bretton Woods institutions, it risks being perverted into a battle between the 'West' and the 'non-aligned' movement. Depending on the division of power, voting and veto arrangements in the respective organisations this has differing effects. For UN institutions this has meant that, notwithstanding the humanitarian assistance flowing to Zimbabwe, problems in the country are extremely difficult to address. Human rights or security issues rarely make it to the table and credible UN action has never been mandated as it can be in various other socio-political crises. [37] Within IMF and the World Bank, conversely, de facto a similar line is followed as is pursued by most donor countries. As such Zimbabwe is isolated from institutional lending or any credible programmes aimed to support prudent macro-economic policy.

But the breach of confidence between the government and donors is also felt beyond macro-economic policy. Any dialogue on governance and human rights in Zimbabwe is impossible. Rather, donors provide support to the civil and political opposition in the context of their governance and human rights programmes. This certainly empowers the reform-minded elite to articulate a vision of a democratic, prosperous Zimbabwe and to denounce any step government might take that counters that vision. On the other hand, such support also fuels Mugabe's claims

that his detractors are merely the lackeys of the West, part of a conspiracy scheming for regime change. Consequently, the goals of civil and political advocates for change are effectively de-legitimised and Mugabe's siege mentality and its associated repression are reinforced.**[38]** This arguably further entrenches the political impasse in the country.

The government of Zimbabwe blames the 'illegal sanctions' imposed by donors for the economic decline the country has faced in recent years. Gideon Gono, the Governor of the Reserve Bank of Zimbabwe points out that the fact that balance of payments support has been withheld from Zimbabwe since 1998 and that foreign investments have been discouraged by donors' stances.**[39]** As such donors are accused of deliberately sabotaging the Zimbabwean economy in their quest for regime change, in revenge for taking land away from white farmers. In short the West is starving poor Zimbabweans to induce revolt.

Northern governments on the other hand largely attribute Zimbabwe's socio-economic problems to bad policies and bad governance. Patronage spending is draining coffers already empty due to the costly adventure in the Congo. Money is printed to plug up budgetary debts and to pay off loyalists with jobs and seats. The commercial farming sector has been gutted as the result of the 'fast track land reform' policies of the government. Small-scale agriculture has suffered the collapse of the government's grain and input marketing system. These have been debilitated by excessive use or abuse for political goals, while government's ability to fund them is limited at best. Moreover, in its elusive quest to lower skyrocketing inflation rates the government has criminalised the most banal economic deeds, setting sale prices above cost price and buying produce in rural parts and selling them in town.

In our view, the truth of the matter combines both perspectives. It cannot be denied that the economic and social policies of the current government in Zimbabwe are in no way conducive to economic stability or the country's productive capacity. On the other hand a point may be made that sanctions have worsened the economic situation in Zimbabwe that is rooted in bad governance. A breach of confidence felt by donors expressed by means of targeted measure will certainly have a knock on effects on investor and lender confidence. Also, withholding aid, in the form of loans, balance of payment support or programme aid must have a debilitating effect on the public finance management or public service delivery. Despite the current impasse between donors and Mugabe's

revolutionary government, no attempt at recovery of the situation in Zimbabwe is conceivable without considerable balance of payment support. Also foreign investment[40] would be essential for turning around the current situation. Investor confidence would be boosted if donors re-declared their trust. So is there any merit in Mugabe's rants about the impact of 'illegal sanctions'? Equally, is it legitimate that donors do not put their money into a government in which they have no trust?

Meanwhile, the wait is on for the elusive day when the socio-economic situation has become so dire that the regime's power-base cracks, the masses (and the powerbrokers) revolt and a transition (to democracy?) arrives. Unfortunately however the humanitarian and economic cost of this process of *Verelendung* is tremendous further consuming Zimbabwe's assets. Equally, it is far from certain when, or even if, at the end of the day the new dawn associated with this implicit paradigm of revolutionary change will come to pass. Can the controversial elections of 2008 be seen as the masses' revolt and are the protracted negotiations between government and the opposition part of a transition back to normality? Only time will tell.



### **On influence and effectiveness, relevance and legitimacy**

#### *Discussion and conclusions*

We have presented narratives of the interaction between donors and recipient countries with the aim to get more insight in the effectiveness and legitimacy of donor concerns with governance. Below we enumerate the main features of this interaction and our main conclusion is that in the case of Zambia donors are undoubtedly actors on the political scene, but that they are not necessarily influential or dominating actors. On the contrary, donor influence on governance issues is only effective if it fits into dominant local political processes. Donor involvement in the Zambian political scene can therefore not merely be seen as undermining sovereignty.

When looking at the Zambian case, the issue of relevance, effectiveness and legitimacy does not arise. Donors are a factor in the local political scene and are only effective and relevant if they connect to broad political movements or sentiments that are widely felt. Legitimacy is given or denied.

The interaction between donors and the Zambian government has often been characterised as full of conflicts. However, there is as much consensus as conflict to be found. There have been conflicts about economic conditionality, but with respect to macro economic stabilization and structural adjustment there has been much more cooperation than conflict between Zambia and the donor community since 1991.

The zeal with which Zambia confronts economic mismanagement and theft dating from the Chiluba time is exceptional among African countries. Donor financing is essential in this campaign. It automatically involves supporting one particular faction on the political scene, but this is the party in government and as such supporting legitimate government.

Donors do not always support the party in government. The opposition to Chiluba's campaign for a third term is the clearest example of donor support joining a broad popular opposition movement. The actual set of alliances is also often much more complicated than a mere categorisation in donor and opposition or donor and government. Donor support for an NGO-initiative led to influence through parliament and the revival of the National Audit Office.

The democratic vibrancy of the Zambian political system militates against both the authoritarian government - as in the third term campaign - and against donors imposing their political preferences. That can be clearly seen in the 1996 elections when a landslide victory of Chiluba made a mockery of international concern about the elections.

The interactions surrounding constitutional reform bring to light how the donors are a factor but not a determining factor in Zambian political life. Mwanawasa sees donors here unambiguously as interfering in Zambian politics. The NGOs concerned are in his opinion political organisations financed from abroad. The NGOs themselves got a shock in the last election when their concerns appeared to be irrelevant to the general electorate. Yet, the government continues to negotiate with these NGOs and donors remain part of the political scene.

Whereas donors North of the Zambezi can be argued to have a catalysing influence on political and civil society processes through connecting to the democratic processes in society, the same cannot be said in Zimbabwe.

A major difference in donor-government interaction is that in Zimbabwe there is no agreement on macro-economic stabilisation and economic reform. The detrimental effect is felt in hyper-inflation that hits harder if one has less assets. The poor are thus hit hardest. Hyper-inflation leads to destabilization of economic

life especially if parallel markets are suppressed. A simple comparison with a country where there is donor interaction to bring macro-economic stability shows the broad benefits of this.

Political life in Zimbabwe is stultified through government repression. All outside political influence is seen as an intrusion on national sovereignty. International human rights NGOs have no or little access.

In the case of Zimbabwe national sovereignty in economic as well as in political terms is absolutized. There is little benefit to be seen in this. On the contrary donor influence in African political and economic systems make these more vibrant. Allowing for donor influence will not logically lead to donor dominance; if there is a vibrant political and economic life, government cannot dominate in an absolute sense and neither can donors.

## Notes

1 This paper reflects the personal views of the authors. It does not necessarily reflect the official position of the Ministry of Foreign Affairs.

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12 Including Transparency International Zambia

13 Some *Post* editorials that team up with protests in society: 'Chilujba and the Theft Money Matrix', *The Post*, 27 June 2008; 'Zambia: Web of deceit', *The Post*, 15 July 2002; 'Zambia: we salute you all', *The Post*, 17 July 2002.

14 V.J. Mwaanga, a political dinosaur who had been minister of Foreign Affairs and minister for Broadcasting and Services under President Chiluba, but who was later fired under donor pressure on account of drug-smuggling, had been appointed as Minister for Information Services. Katele Kalumba, former minister of Finance, who was implicated in corruption scandals, had been appointed minister of Foreign Affairs. IRIN, 8 January 2002: 'New President unveils cabinet team, policies'.

15 Donge, J.K. van (2008) The plundering of Zambian resources by Frederick Chiluba and his friends; A case study of the interaction between national politics and the international drive towards good governance, *African Affairs*, 107(429).

16 The lawyers Iqbal Meer and his partner Naynesh Desai were ordered to pay back US\$ 11 million in the London trial of Chiluba and his co-accused. On appeal, the court decided that they had been negligent.

17 Neutral Citation Number: [2007] EWHC 952 (Ch) Case No: HC04C03129 IN THE HIGH COURT OF JUSTICE CHANCERY DIVISION Royal Courts of Justice



Strand, London, WC2A 2LL 04/05/2007 Before: MR JUSTICE PETER SMITH  
Between: Attorney General of Zambia for and on behalf of the Republic of Zambia  
Claimant - and - Meer Care & Desai (a firm) & Ors Defendants.

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29 BBC news website, 29 September 1999, <http://news.bbc.co.uk/2/hi/africa/460759.stm>, accessed on 30 September 2008.

30 UK High Commission in South Africa website, <http://ukinsouthafrica.fco.gov.uk/en/working-with-south-africa/uk-policy-zimbabwe/land-reform>, accessed on 4 October 2008.

31 Clare Short, 'One bad letter with long lasting consequences', New African, May 2007.

32 'Zimbabwean land reform: Mugabe's bid for land reform', The Economist, 13 November 1997, <http://www.economist.com/world/mideast-africa>.

33 Copson, R.W. (2001) Zimbabwe: Current issues, Washington: Congress Research Service.

34 Africa Confidential, 43(13), 28 June 2002.

35 Africa Confidential, 44(4), 21 February 2003.

36 Africa Confidential, 40(6), 19 March 1999.

37 With the possible exception of Anna Tibaijuka's mission following Operation Murambatvina, in which informal urban settlements harbouring opposition supporters were rigorously 'cleaned up'.

38 Paradoxically, by financing the civil and political opposition to Mugabe, donors are essentially funding the lobbying they themselves undergo. Civil and political activists regularly tour the world calling for further sanctions against government and tougher condemnations of the regime. This leads one to wonder who in fact is walking on whose leash.

39 Gono, G. (2007) 'Zimbabwe will not die', New African, September.

40 With the exception of the predatory buying up of productive assets.

### **About The Authors**

*Melle Leenstra* studied rural development in Wageningen. Even while attaining a degree in development economics, he was driven by a strong interest in socio-political and institutional issues. Following an internship at the poverty reduction and institutional development division and a temporary contract at the NGO division of the Netherlands Ministry of Foreign Affairs, he formally joined the Ministry in 2004. In combination with a posting as desk officer for Zambia and Zimbabwe, and now Uganda, Melle Leenstra has developed a PhD-project on the Zambian Health Sector, from a political science/public administration perspective. This research is being made possible by the IS-Academy partnership between the African Studies Centre of Leiden University and the Africa Department of the Ministry of Foreign Affairs. Currently, Melle Leenstra is seconded to the African Studies Centre under the PhD-facility of the Ministry, so as to allow him to finalize his dissertation.

*Jan Kees van Donge* taught for a total of twenty years at three African universities, the University of Zambia, the University of Dar es Salaam, Tanzania and the University of Malawi. In the Netherlands he started as a teaching assistant at VU University Amsterdam, where he obtained his first degrees in political science. Since 1997 he has taught, with an interruption of three years as an independent consultant, at the Institute of Social Studies in The Hague, recently combined with teaching stints at the University of Namibia. Van Donge obtained his PhD in 1993 at Wageningen University on a sociological analysis of

economic life in the Uluguru Mountains Tanzania. He has not only published on rural sociology, but also on African politics and public management type subjects.