

Zambia's 2001 elections: the tyranny of small decisions, 'non-decisions' and 'not decisions'

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ABSTRACT *The course of the 1990s witnessed deterioration in the quality of elections held across sub-Saharan Africa. Zambia's elections for the presidency, parliament and local government held on 27 December 2001 are no exception. They returned the Movement for Multi-Party Democracy (MMD) to power, but with much reduced popular support and leaving doubts about the legitimacy of the result. A 'tyranny of small decisions', 'non-decisions' and 'not decisions' perpetrated over 12 months or more leading up to these elections combined to influence the outcome. The previous MMD government and the formally autonomous Electoral Commission were primarily but not wholly responsible. For independent analysts as well as for the political opposition, who secured a majority of parliamentary seats while narrowly failing to capture the presidency, identifying the relevant category of 'decisions' to which influences belong and comparing their impact is no straightforward matter. Zambia both illustrates the claim that 'administrative problems are typically the basis of the flawed elections' in new democracies and refines it by showing the difficulty of clearly separating the administrative and political factors. In contrast Zimbabwe's presidential election in March 2002, which had the Zambian experience to learn from, appears a more clear-cut case of deliberate political mischief by the ruling party.*

There is little doubt that in the course of the 1990s the quality of Africa's elections went into decline. Bratton (1998) showed both that the 'late founding' elections, held in 15 countries in 1995–97, were inferior to the founding elections staged in other countries earlier in the decade and that the quality of almost half of the second round of elections held after 1994 compared unfavourably with the period 1990–94, when 30 of the 54 elections were judged free and fair by reputable observers (Bratton, 1998: 53). Among other things Bratton noted opposition boycotts—'a surefire way to call the integrity of an election into question' (Bratton, 1998: 61)—in 11 of the late founding elections and eight of the 23 second round elections, including Zambia's general election of 1996.¹

More recently still there have been some significant variations but the overall pattern is not very encouraging. Ghana in 2000 saw power change hands in what have been called the fairest and most transparent elections since independence in

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1957 (Ayee, 2002: 173). Successful presidential and parliamentary elections in Sierra Leone in May 2002 set the seal on that country's emergence from bloody civil conflict. However, Chad's presidential election in May 2001 was deeply flawed and in Madagascar's presidential ballot, December 2001, a close result—disputed by the loser—created an impasse for several months and the declaration of a state of emergency. And in March 2002 Zimbabwe's flawed presidential election led to its suspension from the Commonwealth for a year, following a highly critical report from the Commonwealth election observers. Zimbabwe, with its accelerating economic decline, its strategic position bordering South Africa and previously a grain exporter to a hungry region, along with its descent into routinised political violence and away from the democratic status it used to enjoy, has attracted considerable attention. The behaviour of President Mugabe, seen by his critics as one of Africa's remaining dictatorial dinosaurs, has made sure of that. His recent re-election, far from improving the political climate in the country, has brought about increased repression of the legitimate political opposition and even greater restrictions on the media.

In contrast Zambia's recent past has been much less eventful: there was no boycott of the December 2001 elections and, although the event was certainly not a great triumph for democracy, the country has remained reasonably peaceful since and the new government has behaved very cautiously. Yet, as this article argues, the elections in Zambia are of interest not simply because they provide a recent example of the wider African trend that Bratton identified earlier, but because they illustrate in depth the problematic issues surrounding how to assess dubious electoral quality. This last concern, which has universal relevance, was well flagged up in Schedler's (2002: 46) observation regarding the 'menu of electoral manipulation', where comparative political analysts do not yet fully understand the conditions under which actors pursue, or stop pursuing, certain strategies or bundles of strategies to secure their desired outcome. The Zambian example shows that trying to make judgements between these strategies and reach firm conclusions can be hazardous, not least where there is imperfect or disputed information—not an uncommon situation.

During Zambia's first Movement for Multiparty Democracy (MMD) administration (1991–96) President Chiluba argued that a 'hung parliament' or something like *cohabitation* were unlikely to occur in Zambia. The reasons he gave were Zambia's 'first-past-the post' electoral system (the MMD government has shown no interest in exploring alternative systems) and the fact that elections for parliament and the directly elected presidency are held on the same day. Most Zambians vote in accordance with their preference for one or other party leader and vote for the party's symbol, which appears on both ballot papers. Because Zambia has no past experience to guide it, 'If the need for *cohabitation* did arise, or if no single party commanded a majority in Parliament, then the qualities of the country's political elite would be severely tested' (Chiluba, 1995: 109). The outcome of the 27 December 2001 elections now looks like putting Chiluba's judgement to the test. Levy Mwanwasa, Chiluba's hand-picked successor as MMD candidate was inaugurated as the new president on 2 January 2002, and was ultimately credited with a winning margin of just 33 997 votes in a turnout close to 1.7 million. Changes to the republican constitution in 1996 inserted a simple

plurality clause for the presidency. But the MMD secured only 69 of the 150 elected seats in parliament. Even after the addition of a further eight nominated seats that are within the president's prerogative, the new MMD government still does not command a majority in the house.

While this article examines the circumstances that brought about this exceptional result, it is more than just an account of Zambia's first ever tripartite elections. It shows how these elections illustrate Pastor's claim that 'administrative problems' are typically the basis of the 'flawed elections' that seem so common in new democracies.² It also refines that claim by distinguishing between three categories: decisions, non-decisions, and 'not decisions'—technical problems that have not been manufactured for a political purpose. Where the local political culture is prone to suspicion and mistrust,³ it can be difficult to identify the relevant category to which a particular influence belongs and to ascribe the respective weight of the three categories in the overall determination of an election result.

The idea of a tyranny of small decisions, first coined by AE Kahn (1966) states that a cumulation of what might seem like insignificant decisions can over time produce unforeseen, large and possibly adverse consequences. Consensual decisions to defer, or take no action on or postpone a decision until a later date are possible examples of concrete decisions. In contrast 'non-decisions' refer to *potential* issues that are prevented from being brought forward for discussion and resolution: they are intentionally mobilised out of the sphere of debate (Bachrach & Baratz, 1962). The presumption is that power holders whose interests lie with maintaining the status quo benefit by confining the scope of decisions in this way. 'Non-decisions' may include salient issues that are ignored so as to preserve or pursue political advantage, as well as more active suppression of potential issues.

There is a fine line between these phenomena and what can be called 'not decisions'. These are potential issues or decision items that are not actively considered by the principal actors (notwithstanding their significance for, say, political competition and the electoral process) for a variety of reasons such as simple oversight, the limitations of organisational capabilities or management expertise, or financial constraints. The reasons for the shortcomings are relevant to the identification of examples. For instance, the government might be quite calculating in starving an 'independent' Electoral Commission of resources so as to facilitate political manipulation. In contrast 'not decisions' can result from a lack of interest, a poverty of political nous or failure to maintain vigilance. Sheer incompetence, vacillation and general proneness to indecision may also explain why prospective problems do not attain the profile they merit. The existing power holders might still be the main beneficiaries. But what is distinctive is that they are not striving to limit the scope of initiation—which is not to say they would not consider resorting to that tactic if they were alert and felt their interests were threatened.

Identifying the appropriate classification will never be easy when there are multiple actors and the actual relationship between the different actors is not always transparent. Thus in Zambia there is ambiguity over the political standing of the Electoral Commission; even the autonomy of the judiciary has been

questioned (Ng'andu & Chandra 2002). That members of the opposition parties will tend to disagree with the ruling party over whether something is a decision, a non-decision or a 'not decision' and will go on to contest the political significance of particular examples is only to be expected, especially where personal hostility exists among politicians. Furthermore, over time and especially in the long lead up to a crucial election a (non-)issue can undergo a dramatic change in status. Thus something that no-one previously expressed much concern over may come to be perceived as highly significant. The low profile it formerly enjoyed comes to be interpreted in a new, perhaps more sinister light, as efforts are mounted either to bring the issue to the fore or exclude it from the agenda. As happened in Zambia, the opposition came to appreciate rather too late the potential significance of all the many ways that cumulatively were probably decisive for the outcome. To allege that some combination of decisions, non-decisions and 'not decisions' can exercise a kind of 'tyranny' is all the more meaningful if there is evidence to suggest it was planned with mischievous intent in mind.⁴ What makes the term even more apposite is if that effect deliberately undermines democracy's quality or undermines democracy's chances of being sustained—something that is still too early to tell in Zambia.

All the above points could be applied more or less anywhere. In what follows Zambia is used to illustrate them in depth.

Zambia's 27 December 2001 elections

Background

The 2001 elections were never likely to capture the interest shown in the 1991 elections that followed Zambia's return to political pluralism, and which saw Kenneth Kaunda and the United National Independence Party (UNIP) decisively voted out of power. There was much eager anticipation at that time, not least in the international community. Since then there has been a measure of disappointment. In both 1991 and 1996 the Movement for Multiparty Democracy won the presidency with well over two-thirds of the valid votes. It secured 125 and 131 of the 150 elected seats in parliament respectively. The 60% of the parliamentary vote achieved on the second occasion reflected an election boycott by UNIP, the main opposition (see Burnell, 1997). The most recent local elections were in December 1998. The MMD again won just over 60% of the vote and approaching three-quarters of the seats. On that occasion the turnout, around 27% of registered voters, was fewer than half the numbers who voted in 1996 (see Burnell, 2000).

Zambia's constitution sanctions a high concentration of presidential power—not unusual in Africa—and the general view is that the Chiluba-led administrations have not consolidated liberal democracy. Most commentators judge Zambia to be a one-party dominant system, almost a *de facto* one-party state. Yet the approach of general elections in 2001 still offered the promise of an important milestone. For, unlike in 1996, all the main parties (of the 27 registered parties many are just 'briefcase parties') were committed to taking part. A 'big man' in the terms of African politics, namely the president, was due to step down, having

served the constitutionally permitted two terms. This is still fairly unusual in Africa, although more and more examples are starting to accumulate: Jerry Rawlings, who was elected Ghana's president in 1992 and 1996 but bowed out in 2000, offered a notable recent precedent.⁵ Zambia's parliamentary elections would facilitate the rise of a newer generation of politicians, untainted by participation in the *de jure* one-party state of the Second Republic (1973–90). This in a continent where a successful conclusion to democratic transitions is said in large part to depend on change in the composition and attitudes of political elites (Barkan, 2000: 241). For the first time presidential, parliamentary and local government elections were to be held on the same day, for reasons of economy.

The 2001 elections were important for the international community too. Zambia is a haven of political stability in a very troubled region, although, following the death of Jonas Savimbi, the long running civil war in neighbouring Angola seems to be genuinely at an end. As a highly indebted country with severe social and economic problems, Zambia is an obvious candidate for foreign donors to demonstrate their proclaimed commitment to fighting poverty—if it can satisfy their democratic and governance conditionalities. The European Union (EU) demonstrated its keen interest by offering around £7 million of financial and technical support mainly to the Electoral Commission of Zambia (ECZ), and by arranging for an election observer mission totalling 102 observers. There was also some bilateral assistance. The USA's Carter Center, which stayed away in 1996, also accepted an invitation to send observers, as did the Southern African Development Community Parliamentary Forum (SADC-PF).

Finally, there was at least a possibility that the MMD might be removed from office and, as happened in November 1991, a fresh party with untested leaders could come to power, so heralding the chance of yet another new political beginning for the country. In the event, the results of these 2001 elections were to constitute the most definitive evidence yet that Zambia's party politics can be likened to Sartori's (1976) notion of a predominant party system, which challenges the simple 'one party dominant' view (see Burnell, 2001).

The contestants and the results

The narrowness of the presidential result is evident from Table 1. Zambians who voted for Mwanawasa comprise only 19.45% of the registered electorate. He captured under 30% even in the MMD's and the country's political heartland, Copperbelt Province (Zambia has nine provinces). Only in Luapula Province did Mwanawasa secure more than half the votes cast. In the capital, Lusaka, only around 10% of registered voters voted for Mwanawasa; Anderson Mazoka polled almost twice as many votes and Christon Tembo 50% more. Mazoka also secured almost half the votes in Western and North-Western Provinces.

In the local elections logistical failings on election day hampered the compilation of a final and complete set of results but, while the MMD won approaching half of all the seats, it lost control in many councils. In the parliamentary election the official results published on 16 January show a marked polarisation across the country, especially between the two leading parties, MMD and the United Party for National Development (UPND). Sixty of the MMD's 69

TABLE I
Presidential election results 2001

<i>Candidate</i>	<i>Party</i>	<i>Votes</i>	<i>% votes cast</i>
Tilyenji Kaunda	UNIP	175 898	9.96
Gwendoline Koni	SDP	10 253	0.58
Anderson Mazoka	UPND	472 697	26.76
Inonge Mbikusita-Lewanika	AZ	9 882	0.56
Godfrey Miyanda	HP	140 678	7.96
Nevers Mumba	NCC	38 860	2.20
Levy Mwanawasa	MMD	506 694	28.69
Benjamin Mwila	ZRP	85 472	4.84
Michael Sata	PF	59 172	3.35
Yobert Shamapande	NLD	9 481	0.54
Christon Tembo	FDD	228 861	12.96

Note: AZ: Agenda for Zambia; FDD: Forum for Democracy and Development; HP: Heritage Party; MMD: Movement for Multiparty Development; NCC: National Citizens' Coalition; NLD: National Leadership for Development; PF: Patriotic Front; SDP: Social Democratic Party; UNIP: United National Independence Party; UPND: United Party for National Development; ZRP: Zambia Republican Party.

Source: Electoral Commission of Zambia, Lusaka, Provisional Results, 16 January 2002.

nine seats were won in just four provinces—it captured all 14 seats in Luapula except one gained by an Independent, 20 of the 21 seats in Northern Province, 20 of the 22 seats in Copperbelt, and half the seats (seven) in Central.⁶ In all these provinces UPND won only five seats—all of them in Central. UPND secured 40 out of its total of 49 seats in just three provinces—Southern (winning 18 of the 19 seats), Western (13 out of 17) and North-Western (nine of the 12 seats). In these provinces MMD secured just seven seats. Twelve of UNIP's 13 seats came from Eastern Province, where MMD secured just one seat and UPND none. The Forum for Democracy and Development secured half (six) of the seats in Lusaka, and five of its other six seats were won in Eastern Province. In Lusaka UPND managed to gain four seats and MMD one.

Mazoka secured three percentage points more of the vote for the presidency than his party's parliamentary candidates achieved. All in all the results bear out the expectations of many local observers. There was a strong mood for change in the country, a desire to dispatch an MMD government that since 1991 had initiated neoliberal economic reforms and privatised most state enterprises but failed to improve living standards. The majority of Zambians were significantly worse off than before 1991; most other African countries have not fared quite as badly, except those consumed by violent conflict. The MMD actually based its campaign on the need for a renewed mandate to complete the job of turning the country's fortunes around. But corruption and concerns about the MMD government's lack of accountability had tarnished its image. Nevertheless, it still enjoyed the advantages of being the incumbent party; and Mwanawasa was a shrewd choice of candidate, for he had resigned from the first MMD administration after initially serving as republican Vice President. Also the MMD had the strongest organisa-

tional presence. Populist items in the party's manifesto included promised new arrangements to channel financial support to small farmers, so reversing its previous policies. The MMD government had increasingly come to be seen as Bemba-dominated (Bemba-speakers form the single largest group among Zambia's 73 ethnic groups), which occasioned some resentment. The Bembas are historically associated with Northern, Luapula and Copperbelt Provinces, although the last, like Lusaka, is now a melting pot. Mwanawasa hails from Central Province and is not from the Bemba-speaking groups.

UPND in its campaign emphasised better economic management of the country (trading on Mazoka's reputation as a former manager for the large mining conglomerate Anglo America) and promised to restore free education and health care. Although only registered in December 1998 UPND came to crystallise the growing opposition in the country to MMD at a time when none of the other parties, not even UNIP seemed able to fill that role. Throughout the 1990s MMD's competitors and especially UNIP were consumed by intra-party wrangles over the leadership. They proved unable to negotiate viable inter-party coalitions or mergers. Personal ambitions, not differences of ideology or contradictory programmes, were the main obstacle. Even UPND shares these weaknesses. As a southerner Mazoka secured nearly 71% of the presidential vote in Southern Province. And the Tonga peoples of that area together with the Lozis to the west have long cherished greater political representation at the centre. Thus, just like the pattern of constituency representation achieved by MMD, so UPND's distribution of votes, which is almost a mirror image, is fairly easy to understand.

In much of the country UNIP never recovered from the 1991 defeat, having gone from being dominant since independence to retaining only around a quarter of the vote and 25 seats. The 1996 boycott marginalised UNIP even further. But it continued to maintain a presence in Eastern Province. The recent return of a Kaunda to lead the party probably helped it there, although it ended up sharing the spoils with the Forum for Democracy and Development (FDD), whose leader, Christon Tembo, also hails from Eastern Province. Apart from the Kaunda name, UNIP like UPND promised to reintroduce free schooling and medical care.

FDD, whose origins date from the campaign to change the MMD and republican constitutions to enable President Chiluba to run for a third term of office (see below), occupied an ambiguous place in the political spectrum, which helps explain its mixed fortunes. Formed only in May 2001, it comprised several high profile figures previously associated with the MMD government. Substantial private resources were committed to the campaign. Of all the main contenders FDD emphasised most prominently the need for institutional reforms in government to reduce the presidential powers and strengthen parliament and horizontal checks like the Anti-Corruption Commission. It promised to review the constitution. For many Zambians, however, food shortages are a much more pressing political issue (becoming even more acute by mid-2002 as a result of widespread failure of the maize crop in Zambia, Malawi and Zimbabwe). And the FDD's credibility suffered from the fact that the leaders had so recently been part of the very government they now criticised so strongly. Allegations that Tembo 'purchased' his election as party president in the party's electoral college did not improve FDD's reputation.

The relatively poor performance of Miyanda, Mwila, Sata and their respective parties is also worth noting, as is Mbikusita's-Lewanika's tiny share of the vote. As original members of the MMD all four figures were prominent throughout the 1990s and even further back. Brigadier-General Miyanda (republican Vice President, 1994–97), although parting company with MMD largely because of his desire to contest the presidency, is generally regarded as a man of integrity—a 'real Christian', in a country of many committed Christians. But the Heritage Party (HP) lacked funds and organisation; unusually, it relied on members to provide the resources for campaigning activities. The party's message of national renewal was vague. Like Tembo, Miyanda's military background possibly counted against him.

In contrast Mwila, a long-time ally of Chiluba and a cabinet minister until he was expelled from the party for orchestrating a personal campaign to capture the MMD's presidential nomination even before the Chiluba 'third term' campaign got under way, sought votes on a platform emphasising wealth creation. Never likely to exert much appeal in the South, East and West of the country, his reputation as a wealthy businessman clearly proved unpersuasive. The same is true of Sata, who broke with the MMD in September after the failure of the 'third term' campaign and upon discovering that he would not then become the MMD's presidential nominee. A professional politician with a long career in government, he turned against Chiluba, having gained a reputation for carrying out a lot of the 'dirty work' in the party. The Patriotic Front (PF) fielded fewer parliamentary and local government candidates than either HP or the Zambia Republican Party (ZRP). As a northerner Sata, like Mwila, encountered determined and at times violent tactics by MMD cadres in Copperbelt, Northern, and Luapula Provinces (where the voting figures placed ZRP second to the MMD). In Zambia, party organisation and funding count. Independent candidates secured only 3.32% of total votes cast.

Finally, for many years Mbikusita-Lewanika—who broke with MMD and stood successfully for Agenda for Zambia (AZ) in the 1996 parliamentary elections—has been a prominent campaigner on women's issues. During the run up to the 2001 elections the women's lobby groups made considerable efforts to sensitise Zambia's female voters and persuade the parties to adopt female candidates. In the end just 182 women contested parliamentary seats for the parties (FDD fielded 31, MMD a paltry 16, and AZ only one out of 17 candidates); 16 were successful (including seven for UPND). Mbikusita's low personal vote (under 1% of the registered electorate) even in her home province, Western Province and AZ's failure to take any seats even there testify to the difficulty that Zambia's women face in being taken seriously as political contenders. Women comprise not quite half of all registered voters and they turned out in large numbers to vote.

Decisions, non-decisions or 'not decisions'?

Politically contentious issues in 2001 that had a bearing on the elections can be organised chronologically in analytically distinct phases—pre-campaign, formal campaign beginning after the announcement of the election date, on 22 November; election day, and immediate aftermath.

Pre-campaign period: Chiluba's 'third term'

An election can be won, or lost, many months and even years before the due day. By the start of 2001 it became obvious that President Chiluba, who on several previous occasions had quite publicly renounced ideas of a third term, harboured second thoughts. The following months saw an orchestrated campaign by MMD cadres, especially from the Copperbelt, to mobilise support for abolishing the two-term limit in the republican constitution. This can be effected in one of two ways, by a two-thirds vote in the National Assembly or a referendum. The presidency appeared to commit substantial financial and organisational support to the campaign, directed at provincial level by District Administrators—civil servants whose official role is to co-ordinate administration, and yet who were appointed by Chiluba as his 'eyes and ears'. Some traditional chiefs, the government-owned media, some small non-governmental organisations (NGOs) and a few church figures were co-opted into the cause. Discussion of the issue was not allowed in parliament, in the cabinet or in the National Executive Committee of the MMD—a classic example of non-decision. But the bid ultimately failed, in the face of considerable hostility expressed not just by opposition politicians but from leading independent NGOs like the Law Association of Zambia and the main church umbrella organisations. Many of Chiluba's colleagues in the party and government also expressed strong opposition. Eventually 22 ministers left or were expelled; around 90 MPs are alleged to have signed an anti-third term petition. In June, at an extraordinary party convention for invited members only, the MMD changed its own constitution to enable Chiluba to remain as leader. However, not long after Chiluba renounced any third-term intentions.

At no point did Chiluba publicly declare he would seek a third term. But, if we can conclude that his private decision to seek re-election failed, we can also say that it cast a long shadow—and some observers judged that was his intention, if not the main objective. His purpose was interpreted as being to sow confusion. Anti-MMD forces were distracted from focusing on preparing for the elections. Political leaders joined forces to resist Chiluba but failed to canvass support for their own parties across the whole country, until too close to the elections. 'Non-decisions' typically exercise power by limiting decision making to non-controversial matters. In contrast, Chiluba ensured that a highly controversial issue was thrust into public debate, so distracting the opposition from the need for an early and concerted programme of electoral registration. In this important election 'planning window', the ECZ placed electoral preparations in limbo. Also, it was denied access to crucial EU funds, negotiated the previous November (one of the conditions for disbursement very likely being 'no third term'). The monies were finally released in September 2001, as an 'act of faith'. By focusing on Chiluba personally the opposition were diverted from targeting the MMD government's poor socioeconomic performance. At the same time the case that was presented for a third term constituted valuable advance publicity for the MMD's campaign later—the need to finish the task of restoring development by maintaining policy continuity, thereby enabling Zambians to reap the benefits.

Of course the 'third term' campaign divided and weakened the MMD, but some of the prominent departees would probably have left anyway once they failed to

secure the party's presidential nomination. It energised the critics in civil society especially. But it also had the effect of putting back the eventual date (or declaration of the date) of the elections. This and Chiluba's finally settling on 27 December have been widely construed as a premeditated ruse to minimise the turnout. A low turnout would make it more possible to influence the outcome in a number of ways. For one thing it maximises the comparative advantage the MMD draws from its access to public resources and superior powers of patronage: in the words of one UNIP candidate, 'MMD has done everything to ensure that only a small bribable bunch go and vote'.⁷ In the event, the 'third term' campaign generated so much animosity and the parliamentary by-elections that were occasioned by the MMD's expulsion of anti-third term MPs became so heated that few Zambians could fail to know it was an election year. Anti-MMD sentiments were probably fuelled by the violent tactics and the money (generally believed to be public money) used to promote the 'third term' cause. All this might help account for the turnout on 27 December, almost 69% of registered voters, being much higher than anyone anticipated. Hitherto the ECZ appeared to use the expectation of widespread voter apathy as an excuse for not making more adequate preparations for the elections, but it is not clear if this was a deliberate miscalculation.

Pre-campaign period: the ECZ

The performance of the Electoral Commission, the ECZ was hindered by the government's inability (or refusal?) to provide funds until June. This might be interpreted as a ploy by the MMD to make interference easier, not least with the conduct of the ballot on the day. To illustrate, events on 27 December were to reveal weaknesses in the presiding and returning officers' training. At the same time the international observer missions found the head of the ECZ difficult to work with and gained the impression that he endorsed the government's tendency to view the Commission as part of the executive, not the autonomous body that is described in the constitution. There were several points at issue, although how many were decisions and how many count as 'not decisions' is debatable.

The ruling that voters could cast their vote only where they were registered was always liable to be contentious when, as happened in 2001, the election was called at an inconvenient time. Two of the groups who were affected, neither of whom could be expected to vote in large numbers for MMD, were university students (on vacation and unable to afford to remain in their term-time lodgings), and non-partisan election observers deployed outside their immediate community. The government rejected entreaties to denote 27 December a public holiday: this prevented some Zambians from voting, particularly where it took all day to queue to vote. The timing was unfortunate also because it coincides with the heavy rains in some parts of Zambia. This complicates the logistics (compounded by the ECZ's very late distribution of voting materials even to stations close by the capital), and discourages electors who often have to walk many kilometres to reach the polling station. In rural areas at this time peasant farmers are cultivating their fields often some distance away.

The Electoral Commission has been given no powers to take punitive action

against parties that breach the electoral regulations such as by 'buying votes'. This is no mere accidental oversight. Allegations of electoral malpractice should be referred to the police and to the High Court, but it is well known that the police are subject to government interference; and on issues important to the government judges lean towards the executive (Ng'andu & Chandra, 2002). During the MMD's tenure the police powers of law enforcement have been consistently applied on a partisan basis, often ignoring misbehaviour by MMD cadres—becoming increasingly violent by mid-2001—but using the Public Order Act to prevent critics from staging public meetings and demonstrations. The true extent of police powers under the Act is a matter of dispute; but even during the formal election campaign opposition parties were on occasions prevented from holding meetings because of directives that President Chiluba might be intending to visit the area.

However, the most controversial features of the pre-campaign period were the knock-on effects of the government's delayed release of the national census (was this politically engineered?) and the voter registration exercise. In order to register to vote a citizen needs a National Registration Card (NRC). The exercise for issuing NRCs by the National Registration Department was much criticised for appearing to favour areas like Luapula where the MMD was known to be strong. It had not even begun in Eastern, Southern and Western Provinces when the voter registration exercise finally commenced. The arrangements proved inadequate. We now know that over 20% of eligible Zambians—approaching one million people—do not have NRCs, including many young adults, for whom the dearth of employment opportunities probably made them predisposed to vote against the MMD. Yet initially the ECZ based its complacent attitude towards the progress of the voter registration exercise on the preliminary results of the national census. Only as late as 5 November did the Central Statistical Office reveal that these underestimated the actual population. The ECZ had assumed the eligible voting population to be around 3.65 million, not the real figure closer to 4.7 million. By then it was far too late to extend the voter registration.

Voter registration had begun late anyway (on 25 June); it seems the ECZ was paralysed by lack of resources and the political indecision over whether to call a referendum on the 'third term'. The registration exercise was not particularly well publicised and was disrupted by a civil servants' strike. It imposed a cumbersome, time-consuming procedure on the citizens; one hypothesis is that many people declined to register because they believed Chiluba would be contesting the presidency and believed his victory would be an inevitable outcome. Also in June Lusaka hosted the Organisation of African Unity summit, and the police banned or hindered activities by the parties. Even so the registration period was twice extended, to 31 July (and the register was briefly opened to inspection in October). The register finally represented only 55.5% of the legally eligible electorate. The net result was that as the day of the elections drew near many Zambians, who were by now increasingly enthusiastic, were unable to vote. In a further twist the ECZ then decided to charge excessively high fees for copies of the electoral register and for bestowing accreditation on local observers (and even higher fees for international observers), on the grounds that election observing is a 'privilege', not a fundamental democratic right.

Finally, the ECZ used the late production of the 2000 census data as a reason not to revise the constituency boundaries. Constituency size ranges from one of 5028 registered voters to one of 61 438 in Lusaka. The provincial distribution of constituencies appears to favour MMD. For example, Lusaka has almost twice as many eligible voters but fewer seats than Luapula; Southern Province has fewer constituencies than Northern but considerably more registered voters. Furthermore, the ECZ's 'one size fits all' approach to provisioning polling stations irrespective of the number of voters in the ward was to play a heavy part in slowing down voting and deterring would-be voters. This was particularly noticeable in certain wards where the opposition were expected to do well, for example the University of Zambia (4207 registered voters) and Copperbelt University (2383 registered voters). With voters processing through the station one at a time and taking an average of five minutes to complete the ballot procedure, 11 hours (stations were supposed to open at 6.00 am, close at 5.00 pm) were never going to be enough. Clearly the problem *could* have been avoided; but did the authorities simply underestimate the problem in urban areas, when they chose to give priority to reducing the distance between stations in the rural areas?⁸ Anyway the difficulties were compounded where not all six polling station officials turned up for duty (not uncommon) or where there were equipment shortages and other distractions, which may or may not have been purely accidental. What was not accidental was the decision to hold all three ballots—presidential, parliamentary and local government—simultaneously. Happily for the local elections this ensured a much higher turnout than usual, but the arrangements proved confusing to some voters, especially illiterates. Spoiled ballots were an inevitable consequence.

Formal campaign period

Electoral Act No 2 of 1991 states the ECZ may make regulations providing for 'the fixing of a date for an election of a President or an election following a dissolution of the National Assembly'.⁹ However, as specified in the 1996 constitution, the ECZ's mandate is interpreted as a power to recommend, and the president has the final say. Perhaps more than anything else this discretionary power gave to the opposition manifestos some common ground: most parties, but not MMD, pledged to insert the timing of general elections in the constitution. Chiluba finally announced the election date on 22 November. By 2 December all the candidates were nominated; most were chosen by their parties' central organs, UNIP being the main exception.¹⁰ By then the women's movement had identified around 200 women who wanted to stand as parliamentary candidates, the majority of whom were adopted, although some incurred intimidation.

As is true in most parts of Africa, the campaign centred around personalities; and mud-slinging dominated over debate on principles and programmes. The state-owned/government-controlled media (*Times of Zambia*, *Zambia Daily Mail*) and Zambia National Broadcasting Corporation's (ZNBC) radio and television stations were unashamedly partisan, in both the pattern of reporting—heavily biased towards MMD (around half of all the coverage of parties)—and the nature of the coverage, usually negative reporting of MMD's opponents. This was

patently in breach of the Electoral (Conduct) Regulations (1996), something the ECZ chose to ignore. The low point came when the opposition secured a High Court ruling that ZNBC was contractually obliged to transmit a planned eve-of-poll live studio debate by presidential candidates, but ZNBC went ahead with a broadcast by Chiluba instead. Undoubtedly high-level pressure was applied, but at other times the public media were probably inclined to give biased coverage simply out of habit or from auto-suggestion. The net effect on voters is not easily quantifiable; Lusaka's independent Radio Phoenix was even-handed and the independent print media gave more coverage to the opposition, but newspaper readership is restricted anyway. However, even the observers fielded by SADC-PF—the most diplomatically cautious of all the observers—'noted with serious concern' the problem of access to the public media (Southern African Development Community, 2002).

During the months leading up to the elections 27 NGOs funded in part by the EU carried out an assortment of voter education activities, although the parties neglected this task. A predictable feature of the campaign was the MMD's use of public resources: for example, Mwanawasa used a state helicopter although he was not even a government officer. A High Court ruling on 4 December challenged the way District Administrators were working for the MMD campaign, which had included including helping to organise the voter registration of MMD supporters. But the ruling party ignored this too. And not for the first time MMD leaders issued threats that constituencies who voted for the opposition would be denied development support. In the Copperbelt it is likely that the MMD benefited from the sale of state housing to sitting tenants.

There were repeated allegations that voter registration cards and, even, NRCS were being bought from opponents. The charges were mainly levelled against the MMD, although the FDD too was believed likely to perpetrate the sort of 'tricks' that its organisers might have engaged in when formerly belonging to the MMD. Some campaign events were disrupted by violent incidents, usually by MMD cadres, although it is not clear at what level in the party hierarchy these were authorised. At the ECZ the sudden arrival of a consignment of nearly three million voters' cards on 22 November aroused widespread suspicion. The ECZ's explanation—preparations for the continuous voter registration that comes into force after these elections—lays claim to a hitherto unsuspected degree of dynamism.

The policy of uniform staffing of the polling stations might also have been an innocent bureaucratic decision, but the ramifications for voters who queued for long hours, the impact on ballot counting and tabulation, *and the consequences for public confidence in the entire process* were all significant. The late arrival of the ballot boxes and ballot papers at some remote rural polling stations exacerbated the problems, although a plausible account of the ECZ's 'just-in-time' approach is that it minimised the opportunities for tampering at insecure local holding centres. The chaotic distribution of accreditation materials to the non-partisan election observer bodies at the local level might also just have been the product of poor organisation. Many observers who still made the trek to their assigned station had to rely on the good will of the presiding officer to gain access. Observers were supplied with incomplete voter registers, whose short-

comings were greatest in places where political opposition to MMD was strong (Coalition 2001, 2002).

Election day and immediate aftermath

There is no single ideal time to hold an election in Zambia, the climate of such a large country being very diverse. In fact on 27 December the weather was comparatively benign, which undoubtedly helped increase the turnout. Around 1.737 million turned out to vote—37% of the legally eligible electorate. But because over a quarter of polling stations opened late, and many closed late to compensate (although ECZ authorisation for extended hours reached only some presiding officers), fatigue had set in when the time came to count the votes and carry out the tabulation at the constituency centres. This last and crucial stage of the process proved chaotic in some places. Here was an enabling environment for anyone wishing to tamper with the results. Even more sinister was the presence of personnel from the intelligence service at several stations during voting and, later, the count, which had an unsettling effect.

Government media began broadcasting MMD victories yet ignoring and distorting opposition successes even while polling was still taking place in some areas. At a time when the result of the presidential contest was uncertain and looked extremely close, this could be construed as an attempt to influence the turnout and the vote. But what impact, if any, did it have? What we do know is that there were many discrepancies in data entry between the polling stations, the tabulation centres and the figures announced by ECZ, perhaps not in all cases caused by simple error compounded by fatigue. The European Union Electoral Unit (EUEU) in particular made strong representations about this concern. The ECZ's refusal later to publish voting figures from the polling stations, which would facilitate independent verification, while not abnormal, could be construed as an attempt to close down debate. Even so, post-ballot investigations by the observer missions reveal circumstantial evidence of tampering in some constituencies. They also found significant unexplained discrepancies in the number of spoiled ballots. Official figures claim there were none at all in 21 constituencies and none for one of the two main ballots (presidential; parliamentary) in a further 62 constituencies. Yet elsewhere spoiled ballots average 2% of the vote. Also, in its *Final Statement* the EUEU (2001/2) claimed to have found many examples of wide differences in the number of ballots cast for presidential and parliamentary candidates in the same constituency—the largest being 5996 more votes for the presidential contest in Mandevu.

Finally, a joint petition by the opposition party leaders to the High Court to halt the inauguration of a new president until their charge of electoral irregularities were satisfactorily dealt with was rejected as being a matter for the Supreme Court. The ruling was that it could be broached only during the first 14 days *after* the inauguration. In contrast to its behaviour on some previous occasions the MMD happily acquiesced in the legal ruling, which paved the way for Mwanawasa to gain control of the levers of power. In the fairly typical African situation where state patronage lubricates power relationships at the highest levels, and given the low confidence in judicial independence anyway, the chances of there being a

successful legal challenge now look remote. President Mwanawasa was inaugurated while the results from two constituencies remained outstanding. He proceeded to appoint the cabinet and included six nominated MPs among the most important portfolios, including for finance. Petitions from Mazoka, Tembo and Miyanda challenging the presidential result were subsequently submitted to the Supreme Court and a further 40 petitions filed against parliamentary results

Conclusion

The conduct of elections in Africa takes on heightened significance at the present time in the light of the much-heralded New Partnership for African Development (NEPAD). NEPAD proposes a sort of international contract between African-inspired initiatives to make progress in respect of peace, democracy, governance, human rights and economic policy, in return for offers of more generous aid and trade concessions by the rich countries. The deeply flawed presidential election in Zimbabwe and the response of the South African and Nigerian members of the Commonwealth observation effort have received wide attention as a test case for NEPAD, not least because positive peer mutual reinforcement among Africa's regimes is supposed to be crucial to NEPAD's success. By comparison political events in Zambia, a small, poor, landlocked but stable country that is much in thrall to the international donor community anyway, seemed relatively insignificant.

However, it would be wrong to dismiss the Zambian elections as being little more than a 'proving ground'—a malign case of peer mutual reinforcement—for techniques that were to be employed with more rigour and much greater brutality in the important case of Zimbabwe only three months later.¹¹ In Zimbabwe the inflammatory issue of land rights and land occupation was highly distinctive. Furthermore the groundwork for Mugabe's re-election was prepared far in advance, arguably even before the opposition Movement for Democratic Change won 57 seats in the June 2000 parliamentary elections, and without reference to Zambia.

Zambia's third general elections after reinstating multipartyism, viewed in a context of declining electoral quality in many (but not all) African countries, bears out Pastor's (1999: 7–8) claim: 'In developing countries, the problem of conducting free and fair elections is compounded by the intensity of politicization at an early stage in the democratization process'. Zambia's case appears to be fairly distinctive in at least one respect: according to Meadowcroft (2002: 1), Chief Observer of the EUEU and a very experienced election observer, 'in most other democracies, the Electoral Commission is part of the solution', not part of the problem. Yet the precise impact of all the contrived and non-contrived influences on the declared results of 27 December cannot be quantified; arguably, even the overall balance or direction of their impact is not absolutely certain. In any case it would be simplistic to reduce the analysis to just two rival camps, MMD and the opposition. Even in the MMD individuals such as Chiluba had their own agendas. And the MMD was probably not the only party to employ dubious methods.

Moreover, in most highly contested elections there is the phenomenon of 'sore

losers', afterwards. If oversight or 'not decisions' (in the sense of not being the MMD's express doing) contributed materially to the failure to prevent a third consecutive MMD administration, then the political opposition is partly responsible. At times opposition figures tried to raise issues with the ECZ and were greeted with non-decisions. At other times they were not sufficiently forceful or alert (which meant the ECZ was forced to make a choice between whether to respond with decisions or non-decisions only when the foreign donors, or later the international observer missions, broached the issues directly). For much of 2001 the political leaders were too preoccupied with personal and short-term ambitions, neglecting fundamental issues concerning the electoral arrangements. They made insufficient efforts to mobilise popular support until very late, in part reflecting the need to conserve finances; but more emphasis could be given to encouraging voluntary campaign resources. Anyway, from June onwards the merry-go-round of party defections gave the public few grounds for confidence in any of the politicians' integrity. Hence the view of Michael Meadowcroft in *An Observer's Overview* (EUEU, 2001/2) that Zambia has 'too many parties but not enough politicians': the parties appeared 'not to perceive the significance of the evidence in front of them' (a reference to the passivity of opposition party agents during the count and tabulation). The failure of MMD's rivals to unite in opposing the MMD before the elections (inter-party dialogue over whether to propose a government of national unity predictably broke down) explains more than any other single factor the MMD's ability to retain power. It has been a common enough story in many new democracies, including some in Africa—Kenya for example—although it does not apply to the manner of UNIP's defeat in 1991 and is not relevant to explaining Mugabe's re-election in Zimbabwe.¹² In Zambia post-ballot co-operation in petitioning the courts is symptomatic of the various parties' ability to agree only on what they are against.

The performance of the ECZ too is ambiguous. Of the 39 094 officers it employed for these elections, staff in the polling stations performed admirably. But at times the leadership engendered suspicion and mistrust. Both before and after the ballot the ECZ failed to respond to serious concerns expressed by parties and non-partisan observer groups. To what extent was this the 'mobilisation of bias', or instead just the sign of managerial shortcomings and 'technical' weaknesses—which may or may not have been an intended product of underfunding—and how much owed to improper political interference? After all Zambia is no newcomer to general elections—there have been nine since 1962 and now three under the Third Republic's multiparty dispensation—a more impressive record than in Africa's states where the military have intervened in government. The elections in 2001 could not be called 'founding' or 'transitional' or even 'second generation'. Put differently, by now the electoral authorities should have been able to do better.

We cannot know for certain how hard the ruling party tried to ensure a low turnout and cause confusion on the ground, to enable opportunities for political interference on the day. Indeed, even the presumption that a low turnout would favour the MMD cannot be proven, although it is plausible. At the same time the very closeness of the contests for the presidency and control of parliament lends support to the thesis that the outcome may well have been affected by the many

small decisions, non-decisions and 'not decisions'. The observer organisations were certainly right to conclude that there was a consistently unlevel playing field and evidence of electoral irregularities, although they were unable to demonstrate vote rigging, 'ballot stuffing' or fraud. The facts also appear to endorse one of the principal propositions that is both explicit in the growing literature on elections management and implicit in critiques of the 'fallacy of electoralism':¹³ the way to influence election outcomes is to start well in advance of the formal campaign. This was one of Bratton's conclusions from studying Africa's second elections (1998: 63). The legitimacy of Zambia's new government has been brought into question accordingly. Even the mistrust that was fuelled by what might turn out to be sheer incompetence cannot be healthy for democracy in a country that is so bereft of social capital among the political elite and where confidence in the institutions is already weak. That said, there are some positive elements to conclude on.

First, the election was peaceful. The people showed striking fortitude in voting in such large numbers notwithstanding the circumstances. NGOs, including the Women's Lobby Group, fielded an impressive presence, for instance the Foundation for Democratic Process stationed over 6247 field observers. This contributed substantially to the authenticity of the observer process. Following these elections the political balance is more fluid than at any previous time and there is an historic opportunity to develop a more competitive party system, which could lead to more accountable government. The closeness of the results could even stimulate the parties to work harder to mobilise eligible voters onto the register, especially once continuous voter registration takes effect—a legal requirement before the next general elections. Finally, if indeed there were more deliberate decisions and non-decisions than 'not decisions', this suggests the presence of powers of foresight, calculation and organisation—hence Mufalo and Kanyengo's (2002: 14) label for the election as a 'planned disaster'. On that basis there is perhaps more genuine potential for Zambia to enjoy a brighter future than many observers of its past mismanagement have thought possible, if only powers like these come to be applied more systematically and directed four-square at the good of the country.

Notes

The author is grateful to the Carter Center, USA for the opportunity to be a short-term member of its observer delegation during the elections.

- ¹ Pastor's (1999: 19–25) catalogue of flawed elections in 1988–99 worldwide listed 25 cases of opposition boycott, including 15 in Africa, and many instances of unspecified forms of opposition protest.
- ² Of the 81 'flawed elections' recorded over the previous decade—41% of them in Africa—there 'is not a single case in which a party petitioned, protested or boycotted that was not rooted in administrative irregularity'. Pastor (1999: 16–17).
- ³ Bratton (1999: 559) found that 73% of survey respondents in Zambia agreed that 'most government officials and politicians are mainly concerned with enriching themselves'.
- ⁴ Intentionality is not part of Kahn's original formulation of the idea of 'tyranny of small decisions'.
- ⁵ At the time of writing Malawi's President Bakili Muluzi is seeking to engineer a change in the constitution that will allow him to serve a further term.
- ⁶ Copperbelt Province demonstrates most clearly how the simple plurality system magnifies the distribution of votes, for the Heritage Party won only one seat despite polling almost half as many votes as MMD.

- ⁷ Private communication.
- ⁸ A decision to increase the number of polling stations by one-fifth was taken in March.
- ⁹ Republic of Zambia, *Electoral Laws* Cap 13, 17(2)(ff).
- ¹⁰ Zambia is by no means unique in having centralised candidate selection. In Ghana Ayee (2002: 167, 170–171) notes that it actually proved counterproductive in some constituencies, because of local resentment.
- ¹¹ For example, in Zimbabwe the number of polling station in areas of the cities where the Movement for Democratic change had strong support was reduced relative to the rural areas, where the ruling party was strongest.
- ¹² On reasons for the persistence of dominant party systems in Africa see Bogaards (2000).
- ¹³ Defined by Elklit (1999: 28) as ‘the mistake of confusing the holding of elections with the advent and development of democratic regimes’.

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