Author(s): Peter Burnell
Article Title: Financial Indiscipline in Zambia's Third Republic: The Role of Parliamentary Scrutiny
Year of publication: 2001
Link to published version: http://dx.doi.org/10.1080/714003884
Publisher statement: None

Financial Indiscipline in Zambia's Third Republic: The Role of Parliamentary Scrutiny

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Contrary to the thesis that claims weak legislative power vis-à-vis the executive is essential if economic modernisation and development are to be driven forward in third world countries, Zambia's developmental interests would be served by making the powers of parliamentary oversight of the public finances more effective. The problematic of 'financial indiscipline' in the public sector is analysed in terms of a nest of principal-agent relationships, between: legislature and executive; political executive and bureaucratic executive; Ministry of Finance and Economic Development and the spending arms of government. Evidence from the Public Accounts Committee is used to illustrate the case for more enforceable mechanisms whereby government can be made accountable for the public finances. At the same time it is argued that more wide-ranging political changes are necessary if there is to be a significant reduction in 'financial indiscipline'.

INTRODUCTION

The thesis that government unencumbered by a strong legislative is essential for development in developing countries makes a presumption that the executive is committed to developmental goals for the benefit of society. It assumes the government raises and applies resources efficiently and effectively to that end. Any limitations in the shape of shortages of finance, relevant bureaucratic skills and expertise will be lessened over time, as a result of development. This article shows how empirical evidence from Zambia is highly damaging to the thesis. While other observers have identified high-level political corruption as a serious and growing problem, basing their accounts on confidential and journalistic sources especially, far less publicity has been given to the culture of 'financial indiscipline' running throughout the

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public service. Documentary evidence exists in the published findings of the Auditor-General and Parliament's Public Accounts Committee (PAC) in particular. 'Financial indiscipline' means both behaviour that is undeniably corrupt and a broader complex of attitudes that lead to the unauthorised misuse or wasteful use of scarce public resources, money specifically. Although it may or may not be intended to procure personal gain 'financial indiscipline' invariably ignores or breaches the regulatory framework. The Zambian case shows how the absence of effective Parliamentary accountability allows these endemic shortcomings in the executive to persist. Effective accountability means not just the scrutiny of public expenditure by Parliament. There must also be some institutional mechanism, of which Parliament could be but a part that requires the executive to take note of and respond appropriately to the recommendations of Parliament. In regard to evidence of financial irregularities, effective accountability would mean that the government should face a serious possibility of incurring political costs and/or legal sanctions, in the event of not taking adequate corrective and remedial action.

There is a nest of principal-agent relationships in which agency problems arise when, in some instances agents act in accordance with the principal's wishes and in other instances their conduct is at variance with the same: *both cases can be problematic*. The political representatives are central to the problem in as much as they appear to regard public spending as an instrument for maintaining and exercising power, not simply a tool for promoting national development. Power is sought through traditional neo-patrimonial and clientelistic patterns of relationship. This adds a distinctive African flavour to an electoral democracy in which there is a strong concentration of power in the presidency. Although institutional strengthening of the Auditor-General's Office and Public Accounts Committee and capacity-building in the administration are essential to improved management of the public finances, they are unlikely to be sufficient. For in general the Parliament's powers are weak - some Members say it is just a rubber stamp; and a journalistic source calls it a 'useless house'.[i] So, even the addition of a more balanced party system and a greater representation of opposition parties in the legislature may well not be enough. But aside from the constitutional balance of power between executive and legislative, there also needs to be a shift in the political and administrative culture to a situation where policy performance measured by the yardstick of the national good is given priority as the litmus test of good government.

The article proceeds in four parts: a briefing on contemporary Zambia; evidence from the Public Accounts Committee plus supplementary evidence from other parliamentary committees; an examination of where responsibility for the 'financial indiscipline' lies, and major winners and losers; and the shortcomings of the budget process. It concludes with an assessment of future prospects in the light of recent proposals for Parliamentary reform.

ZAMBIA TODAY

Zambia is a unitary state. The constitution prescribes a presidential form of democracy with strong executive powers together with a unicameral legislature. The Parliament, which is the supreme law-making body, consists of the President and the National Assembly comprising 150 elected seats and eight seats filled by presidential nomination. Parliament's powers include the power to vote expenditure, approve taxation measures and scrutinise government administration. The government consists of the President of the Republic, who enjoys his own electoral mandate, a Vice-President who is also Leader of the House and a cabinet and other ministers and deputy ministers, all of whom must be drawn from Parliament.

In terms of the schema for scoring legislative powers proposed by Shugart and Carey, Zambia's constitution bestows one of the strongest varieties of presidentialism of any electoral democracy.[ii] Even so, government is supposed to justify its actions, policies and programmes before Parliament. This is done through *inter alia* Parliamentary Questions to ministers, motions, the submission of annual reports by public sector organisations, and the scrutiny activities of various parliamentary committees. Chief among these in respect of public expenditure is the Public Accounts Committee (PAC), which acts on the basis of reports received annually from the Auditor-General's Office (AG). A Committee on Local Governance, Housing and Chiefs' Affairs oversees spending by city, municipal and district councils. In addition there is a Committee on Economic Affairs and Labour to oversee the activities of the Ministry of Finance and Economic Development (MOFED) and three related ministries (Commerce, Trade and Industry; Mines and Mineral Development; Labour and Social Security). Whereas the oldest of the committees is the PAC, the most recent is the Estimates Committee, whose mandate is to examine the government's budgetary process and expenditure. At the time of writing the Estimates Committee had produced its first report only, which was presented to the house in November 2000.

Zambia is a small country of around 10 million people that since the mid-1970s has seen average incomes fall to levels among the very lowest in the world. Over 90 per cent of the population are reckoned to exist on the equivalent of under US$2 a day. Gross public external indebtedness rose to one of the highest levels, on a per capita basis. The government's spending comprises around 40 per cent of GDP (Gross Domestic Product); and although its fiscal annual fiscal deficits have been reducing they still represent around 2.3 per cent of GDP.

The state has only a small tax base (tax receipts represent around 17 per cent of GDP), made all the narrower by the trade liberalisation which since the early 1990s has eliminated much traditional import tariff and duty-based revenues. So the government depends greatly on international multilateral and bilateral donors to fund public expenditures. Donor pledges averaged over 30 per cent of the public budget during the years 1994-99 and virtually all of the government's capital expenditure is financed in this way. Given the absence of sustained improvement in economic output and in social development in the 1990s, and notwithstanding significant macro-economic reforms and sweeping privatisation, it would be misleading to say Zambia is truly developing. One glimmer of hope is the prospect of early qualification for debt relief worth up to US$3.8billion (out of a total debt stock of $6.8 billion), spread over 22 years. In this way the donors' heavily indebted poor countries initiative would release more of the government's income for spending on the many heavy domestic social and economic priorities. In such circumstances a careful and cost-effective application of public expenditure becomes an issue of even more pressing concern. The government must create confidence that the financial relief would be applied in the best interests of the people, in order to meet the donors' conditions.

Even so, it was precisely with countries like Zambia in mind that the thesis favouring a strong executive and weak legislature emerged as part of the so-called modernisation school of development.[iii] The executive would then be able to take tough decisions on spending priorities. It would prioritise investment in the physical and human capital infrastructure so essential to development, at the expense of private consumption. In contrast a relatively powerful legislature could potentially obstruct the decision-making process and thwart needful action by the executive. In a competitive multi-party environment it would all too likely lead to an escalation of demands for public spending particularly for items of immediate consumption, and especially near general elections. In fact since 1991 Zambia has had an only weakly competitive party system, more like a predominant party system.[iv] The constitutional provision for a powerful executive has been reinforced by the dominant position the governing party, the Movement for Multi-Party Democracy (MMD), has enjoyed in the National Assembly since 1991. It won 125 and 131 of the elected seats in the 1991 and 1996 general elections as well as winning the presidency very comfortably.

However, the fallacy of the modernisation thesis is that it presumes government is committed to pursuing public goals for the public good and will strive do so efficiently and effectively *inter alia* through a well judged use of the public purse. In Zambia, not only have analysts pointed out the presence of high-level political corruption[v] but the findings of authoritatively constituted bodies for monitoring and scrutinising the public finances also fail to bear out this presumption. On the contrary, the evidence they provide indicates a problem of 'financial indiscipline' that is much more widespread.

THE OFFICE OF AUDITOR-GENERAL AND THE PUBLIC ACCOUNTS COMMITTEE

The President appoints the Auditor-General. The constitution requires this nomination to be subject to ratification by Parliament. The AG's mission statement is 'to promote accountability, economy, efficiency and effectiveness in the collection, disbursement and utilisation of funds and other resources for the benefit of society'.[vi] The Office has seven divisions covering different government responsibilities and four regional offices. While the production of an annual report is a constitutional requirement the AG can also issue interim and special reports, such as in its 1998 report on the disastrous financial position of the University of Zambia, which owed debts exceeding K23 billion. Since 1994 it has been entitled to undertake value-for-money or performance audits - something the PAC began to apply in 1998 when it investigated the considerable sums ($27 million per annum by 1997) spent on maintaining the foreign missions of the diplomatic service. (The PAC found no value-for-money objectives to test, because the Ministry of Foreign Affairs had not provided the missions with a mission statement: they had been given no instruction to promote Zambia's economic interests, for example).[vii] In December 1997 the AG signed an aid-funded programme for capacity-building, with the Norwegian government, which is still on-going. Views differ on how much progress has actually been made since then. One perception is that the profile of both the AG and PAC has been increasing, such that Controlling Officers in the ministries are now less inclined to delegate to subordinates the task of responding to the AG's inquiries. Also, the reports of the AG, like those of the PAC attract some media attention. A brief selection of the reports' findings is published in the state-owned and government-run daily newspapers, the *Times of Zambia* and *Zambia Daily Mail* at the time they are released The more critical privately-owned papers, notably *The Post* (daily) and *The Monitor* (weekly) use the material more in the vein of investigative journalism, by emphasising the most critical findings and revisiting them on subsequent occasions as they try to harry the government. The foreign embassies in Lusaka take great interest in the findings, which may have a bearing on the international donors' negotiations with the government and the construction of various aid conditionalities. A possible inference is that it is becoming increasingly difficult for the government to ignore the bad publicity that can arise from the reports or avoid the imperative to formulate some sort of response.[viii] At the same time it seems that none of the recommendations of a 1996 restructuring study of the Auditor-General's office, written by the consultants Coopers and Lybrand, have yet been implemented.[ix]

The PAC, which the Standing Orders of the National Assembly style one of three General Purpose Committees (the other two being the Committee on Delegated Legislation and the Committee on Government Assurances) dates from 1965 and is the most senior Parliamentary watchdog committee. The PAC is mandated to examine the accounts showing the appropriation of sums granted by the National Assembly to meet public expenditure and the AG's Report on these accounts, and to exercise powers conferred on it under the Constitution of Zambia (Article 103:5). Controlling Officers in the departments and ministries (which usually means Permanent Secretaries) and chief executive officers of parastatal entities are required to submit memoranda on paragraphs raised in AG reports, which then provide a focus for the PAC's own inquiries.

The PAC consists of nine members appointed by the National Assembly from among its members. The Minister for Finance and Economic Development attends only the first meeting, when the members elect the chair. Although the chair has on occasions been drawn from outside the ruling party the government does not accept the idea, adopted in some Commonwealth parliamentary systems, that this should always be the case. The turnover of membership appears to have been marginally greater than in parliament's other investigatory committees (which in 1999 were increased in number to 11 departmentally-oriented committees). But usually at minimum three members will be retained from the previous year, and it is from their number that the chair will be appointed. There is a suspicion among some opposition MPs that in some years certain well-qualified colleagues have been kept off the committee in preference for 'passengers', in order to reduce its effectiveness.[x] But the argument that continuity of membership is particularly valuable to enhancing the PAC is a more substantial. Like the other Parliamentary committees the PAC appears to benefit from a cross-partisan - even no-partisan - approach. There is no tradition of presenting minority reports within the context of the main reports; and even committee chairs drawn from the ruling party have agreed to and forcefully presented some damning criticisms of the administration on the floor of the house. The Clerk's Office provides an officer to service each of the parliamentary committees who may in turn make use of the entire research team numbering around ten officers. There is a general acceptance that the committee structure is greatly under-resourced; for instance the PAC has sometimes been forced to curtail field visits due to lack of funds.[xi]

Like Parliament as a whole the PAC's impact on government was very limited during the Second Republic (1972-91) because the *de jure* one-party state subordinated government to the then ruling party, the United National Independence Party (UNIP). Cabinet, whose members were increasingly drawn from outside the National Assembly was secondary to the executive organs of the party; and power was concentrated in the hands of President Kaunda. The return to multi-party politics in 1991 and the expectation, initially, that Zambia would adopt a much more democratic form and transparent style of government and would honour the principle of accountability, could have enhanced the importance of the PAC. Alas, while the AG and PAC deserve credit for their performance in scrutinising the accounts and producing very revealing reports, the reports themselves present an unchanging picture of lax expenditure control, misuse of public funds and assorted financial irregularities, misappropriation and the like, throughout the whole decade. The reports paint much the same picture year after year. They not infrequently make tart remarks about the absence of improvement in the management of the public finances in spite of the critical observations, constructive recommendations, assorted warnings and threats issued by the Committee on many previous occasions.. This record speaks volumes both about substantive shortcomings in the executive and the weakness of parliamentary oversight - a mechanism for accountability that lacks the means to ensure enforcement.

The following are typical of the different kinds of 'financial indiscipline' that PAC reports from second half of the 1990s have highlighted in the line ministries and other government agencies: failure to observe the correct procedures for regularising excess expenditures as laid down by the Finance (Control and Management) Act, 1980[xii]; concealing information from the Auditors; failure to keep records of expenditure; unsupported or inadequately supported payments; misapplication of funds; diversion of monies to unauthorised objects; blatant flouting of approved procedures for public tenders; payments made for goods never received or received too late to meet the intended purpose; collusion between purchasing officers and suppliers for the purpose of mutual personal gain; poor maintenance of stores; unauthorised award of salaries and allowances; the unplanned recruitment of workers; failure to contest doubtful compensation claims; failure to comply with court orders ordering compensation; failure to recover loans; going ahead with a project that was 'politically sensitive' in spite of a background of serious financial problems. The non-submission of accounts by parastatal bodies has been rife (although contrary to the law), but 'so far no grants payable to the organisations have been withheld for not submitting the accounts for audit'.[xiii]

At the state electricity company ZESCO for example, the PAC concluded that financial management 'appears to have collapsed completely…financial regulations are either non-existent or totally ignored'; as a result ZESCO failed to collect large amounts of revenue and lost 'colossal sums', a situation which if anything continues to deteriorate. The Board of the Kariba North Bank Company, which came under ZESCO's umbrella, did not even meet between 1995 and 1998![xiv] At the University of Zambia the administration was found to have done nothing about the mismanagement of public funds and disregard of financial regulations 'because they wanted to personally benefit from a free for all situation'.[xv] The 1997 PAC report (for 1994) objected to the way local politicians were allowed to influence the distribution of hammer mills (for grinding maize into flour), under a programme intended to target eligible local women's groups. The programme, funded by the Ministry of Community Development and Social Services but for which there was no express provision in the Estimates approved by Parliament, was so badly executed that the PAC judged it was bound to encourage the beneficiaries to ignore the repayment obligations on the loans. The Permanent Secretary defended the politicians' involvement: they merely 'assisted their constituencies in meeting their felt needs'.[xvi] More generally, the lament that the Budget Office in the Ministry of Finance and Economic Development (MOFED) 'in many instances, is compelled to release funds not provided for in the budget due to political and social reasons' runs throughout the reports. In the words of one PAC chair, this practice 'severely compromises the control process'.[xvii]

FURTHER EVIDENCE

Parliament's committee system was restructured in 1999 to ensure that every government department, ministry and agency was shadowed by a committee charged with the following responsibilities: oversee its activities, carry out detailed scrutiny, make appropriate recommendations to the House and to the government on the mandate, management and operations; make, if deemed necessary, recommendations to the government on the need to review certain policies and/or existing legislation; consider any bills that may be referred by the House; consider in detail the annual reports. The Standing Orders Committee (dominated by senior government ministers) decides the membership of all watchdog committees, in theory paying regard to gender balancing and an appropriate level of representation from outside the ruling party. The committees begin sitting in April or May and present their reports to the House for adoption late in the annual session, in November or December, possibly holding meetings for up to 15 times during the meantime. At the time of writing two years of reports from the newly restructured committees were available. The government is required to make a response to the house within 60 days of receipt of a committee report, in the form of an *Action-Taken Report*, which is normally presented by the Vice-President. In the past there has been much slippage and delay in the delivering of *Action-Taken Reports*.

The Committee on Local Governance, Housing and Chiefs' Affairs (before 1999 called the Committee on Local Administration) is unique among these committees. For it continues to devote its reports to the audited accounts of councils (as tabled by the Minister of Local Government and Housing) and the AG's annual reports on the accounts of councils. Councils are obliged to prepare accounts in accordance with the Public Audit Act of 1980. Thus for example the Committee's report for 2000 reviewed 22 district and municipal councils out of the total of 72 local government authorities, along with the Minister's annual report. The report also included consideration of *Action-Taken Reports* by the government on previous reports of the Committee and its predecessor. The committee met 13 times during the year and took submissions from Principal Officers in local councils and the Permanent Secretary from the Ministry, and, in an effort to reduce the backlog also considered two *Action-Taken Reports* for 1999 as well as comparable reports for 1996, 1997 and 1998.

If anything the contents of these reports make even more dismal reading than those produced by the PAC. The tone set by the statutory audit for the Municipal Council of Luanshya is illustrative. Luanshya is a Copperbelt town whose constituency MP, Ben Mwila, was for nine years a powerful cabinet minister and close ally of President Chiluba. The Committee discovered that the Council had failed to prepare annual Income and Expenditure Statements and Balance Sheets for the period 1st January 1995 - 3 December 1998. There were no monthly accounts either - a further contravention of the Local Government Act. In fact financial malpractice and negligence are so pervasive throughout local government as a whole that the system has deteriorated to a condition of near terminal crisis. There are numerous examples of the following: unvouched expenditure; missing payments vouchers; unsupported payment of wages and salaries; under-banking of receipts and failure to bank revenues; unretired imprest; missing receipt books; failure to collect rates; the funding of non-existent projects; fraud; illegal payments; misapplication of funds and various irregularities in procurement; diversion of funds, advances given illegally to non-council employees; irregular payment of allowances; as well as the non-production of financial reports. In urban councils the average delay in auditing accounts appears to be around eight years (in 1997 the most recent audit by one council was 1971). The Committee voiced special concern over the misuse of monies from the Constituency Development Funds. These Funds are meant to support development projects decided at the local level. In a number of cases they appear to function as 'slush funds' for purely party activities, controlled by MMD activists who dominate the local committees deciding the expenditure. There was also evidence of MPs making use of the monies for personal ends. Another general finding concerned the tenants of council houses who opted to acquire the property under a central government directive to local authorities to dispose of their housing stock. Many had ceased paying rent but had not paid for the property (some had even sold the property on, for a higher price than the value owing to the council). The local authorities lost out on all counts. Although central government has been instrumental in bringing about the financial crisis in local government and has allowed the situation to develop unchecked, it disclaims responsibility for sorting out the mess.

The Committee on Economic Affairs and Labour produced three reports in 2000, one of which, the *Review of the Privatisation of Zambia Consolidated Copper Mines Limited*, was not adopted by the whole house (and hence is not on public release) when it came before the house in November 2000. The government mobilised its majority in the National Assembly to throw the report back to the Committee. The government claimed there were errors and inconsistencies in the report. The report, in addition to complaining about the government's failure to take effective action on the resolutions in its first report (1999), allegedly contained a very damaging account of the government's handling of the privatisation process. It repeated charges endorsed by the Attorney-General of illegal behaviour in the disposal of non-core assents, 'asset-stripping' and failure to account for monies realised from the sale of assets. The President of the Republic was implicated in the decision process over Zambia Consolidated Copper Mines' (ZCCM) privatisation. The procedure was said to have departed from the terms of the Privatisation Act, through circumventing the Board of the Zambia Privatisation Agency, the membership of which should by law be approved by Parliamentary. Concern about the misapplication of proceeds from privatisation sales and for instance their use to subsidise the government-run *Zambia Daily Mail* constitute a separate line of complaint. The Committee's report is reputed to have recommended the establishment of an independent public inquiry to examine issues of public interest in the management and divestiture of ZCCM assets and the realisation and utilisation of the proceeds. The recommendation was that the inquiry would report to the Director of Public Prosecutions (DPP) for further action, as deemed necessary.[xviii]

ANALYSIS

First it is helpful to understand that there is a nest of principal - agent relationships bound up in these issues of public finance and accountability. While the ultimate principal actor is society, and government is society's agent, Parliament - a device to render government accountable - is supposed to represent the principal, the people. Whereas the PAC clearly acts in behalf of Parliament, the AG's place, in contrast, is contested. It describes itself as an agent of parliament: after all, the institution was established by Act of Parliament and the audit is a way of checking the government's reports *to Parliament*. But the power of appointment lies with the president, subject to ratification by parliament, and in the first instance the AG delivers its report to the President, who then lays it before the house. The Office of AG is actually part of the civil service; the executive determines the AG's budget and the Auditor-General himself has no direct control over staff movements in and out. The AG has no powers to take punitive action against the executive where it finds evidence of misbehaviour. At times not only have senior government spokesmen referred to the AG as an agent of the government whose task is to help the executive, but this has been the perception of some MPs also. Their confidence in an institution that they see as being 'under the government' is affected accordingly. In 1996 the government rejected a recommendation of the Constitutional Review Commission that the AG be styled an officer of the National Assembly. The Commission believed that removal of the link with the Presidency would enhance the AG's effectiveness, especially if security of tenure was granted and the conditions of service and funding allocations were determined by a committee of the house independently of the executive.

Within the executive there are a number of principal-agent relationships: between the political executive and the bureaucratic executive; between the MOFED on the one side and, on the other side the Controlling Officers in ministries, departments, parastatals and other government agencies; and between the Controlling Officers and subordinate accounting officers, and between the last and more junior functionaries in the administration. The extent to which, at any level the behaviour of an agent owes to the intervention or example set by a principal, or instead defies a principal, can be difficult to establish from the outside. The same is true of whether the principals' own conduct has been legitimate or, instead has directed agents to behave in ways contrary to the regulations. Put simply, who should be blamed when things go wrong, and how do we know? These are the questions that the AG and PAC endeavour to address. At times their inquiries appear to have met with obfuscation. And while their findings indicate that 'financial indiscipline' is highly diffuse, the disposition of many of the reports has been to focus most closely on the Controlling Officers. For example in 1998 the Committee found it 'incredibly and deeply regrettable that many controlling officers, if not all, have very scanty knowledge of some vital concepts in use in the financial management realm'. In 1999 it remarked, again, on 'the lack of interest by the Controlling Officers in the financial affairs of their institution'.[xix] For example 'savings' and 'appropriation-in-aid' were widely misunderstood concepts - not surprising, perhaps, given the dearth of trained expertise. As of December 1997 Zambia had only 511 qualified accountants registered and recognised by the Zambia Institute of Chartered Accountants, and of these, 416 were Zambians, of whom *only four were working for the government*. [xx]

The account so far might seem to indicate that the issue is not primarily one of executive-legislative relations at all but is something internal to the executive, possibly the bureaucratic executive alone. Surely the principal, the political executive could be presumed to have an interest in addressing the failings? For wouldn't a firmer and more effective control of public spending maximise the government's chances of achieving its general policy objectives? And that in turn would enhance its prospects of retaining or increasing its appeal with the voters, and thereby promote the chances for re-election. What is more, there seems to be a simple remedy to the problem: make the requisite personnel changes and/or provide suitable staff training and development courses, particularly at the level of Controlling Officer. Resources could be made available to address the chronic shortage of financial skills. For these areas of need invite precisely the sort of technical and financial support the international donors are keen to offer. This is especially true of the multilateral donors, who concentrate on 'non-political' assistance and are enthusiastic about capacity-building programmes for 'good governance'.

Furthermore the MOFED might be thought to have a particular interest in attracting precisely this kind of technical help. MOFED's capability to achieve its formal institutional objectives and, just as important, maximise its power relative to the rest of the government bureaucracy would be served by the presence of a reliable network of Controlling Officers and effective system of public expenditure control. No longer would it have to rely on the AG and PAC to search out financial irregularities in the farthest reaches of the administration. The AG and PAC could themselves be construed as allies, not enemies. Indeed, speaking as Minister for Finance and Economic Development Edith Nawakwi referred to the PAC as 'partners to my ministry in managing public funds prudently'.[xxi] On the one hand a more robust approach to enforcing expenditure control might risk alienating the spending departments from MOFED and render MOFED politically isolated, which is a disincentive to making the improvements. But the fact is that MOFED routinely upsets some political colleagues anyway. For it invariably pares back budget requests and declines to release all the monies that have been given Parliamentary approval (that is, it enforces under-spending). During the year the

Finance Minister frequently faces special requests for extra spending from MPs on the floor of the house, and has to disappoint many.

There are of course other reasons to explain the need to enforce under-spending in some departments. For one there are the excessively optimistic estimations of likely government income, and for another the unreliable nature of flows from foreign donors. Donors have been known to withhold promised aid for such reasons as dissatisfaction at the government's administration of the public finances. On occasions they have simply been late in disbursing promised money, or have disengaged from ministries that proved unable to provide matching or counterpart funds - perhaps occasioned by over-spending on different budget heads in their own or some other department. Capital investment is usually the main casualty in these situations. That is why the government's public investment programme for 2000-2002 carries forward many so-called priority programmes and projects which had not been implemented from the previous report, for 1995-97.[xxii]

Then there is the failure of government officials to collect domestic non-tax revenues effectively, which has been highlighted in PAC reports. This is another aspect of financial indiscipline. In 1997 for instance only nine of the 24 ministries and departments that collect fees for services rendered reached their estimated targets. The average collection rate reached 67 per cent only because just three ministries greatly exceeded their targets.[xxiii] Far from most targets having been set unrealistically high, the PAC found evidence of more disturbing reasons. For instance its 2000 Report on the *Collection and Management of Government Revenue* commented that the 'work attitude is totally unacceptable and highly questionable' among toll fee collectors at border posts. It expressed 'utmost disappointment and concern at the unacceptable working and reporting arrangements' of the Road Traffic Commission headquarters: 'such unethical arrangements, which are deliberately designed to deny the Government huge amounts of revenue, are totally unacceptable and deserve the strongest condemnation and abhorrence'.[xxiv] The failure to bank revenues once collected is typical, as has been the slowness of commercial banks to send banked revenues to the Bank of Zambia. Unlike in say Botswana, where the Office of Accountant General has full autonomy to supervise and monitor the collection and management of government revenues, the corresponding officer in Zambia is ranked below Permanent Secretary and has negligible authority. There have also been shortfalls in the sums that should have been received from privatisation. The reasons include the sale of assets on deferred terms,[xxv] non-compliance by purchasers with the terms of agreement and other dubious practices referred to by the Committee on Economic Affairs and Labour. Most of the unpaid *tax* (debt) is actually owed by public sector organisations, according to the PAC. Even so, the Zambia Revenue Authority, which in the early 1990s was restructured with technical assistance from Britain, fails to capture 'briefcase businessmen', the large informal sector of the economy, although it claims to meet its targets for tax collection

IDENTIFYING RESPONSIBILITY

The Controlling Officers have provided a convenient scapegoat during investigations into the culture of 'financial indiscipline'. In the PAC's view they appear to feel no remorse at being remonstrated by the Committee year in, year out. However, not only does the government's slack performance over the collection of non-tax revenues suggest the problem is more extensive, but at least some Permanent Secretaries are in fact held in considerable esteem by independent observers and foreign advisers, who work alongside. There are several reasons to conclude that the true nature of the problem is, then more complex.

First there is the stock response that the chief culprits are at lower levels of the bureaucracy and that in their role as principals the Controlling Officers lack the authority and the means to impose more professional conduct by subordinates. The disciplinary procedures against officials suspected of misbehaviour, including those against Controlling Officers themselves, are said to be lengthy and cumbersome and hence little used.[xxvi] Also, good Permanent Secretaries are hard-pressed to attend to all their obligations precisely because the middle levels of administration provide only thin or unreliable support: the monitoring of performance further down the line has to take a back seat.

Second, while successive political heads of MOFED have promised to take a tougher line with Controlling Officers there appears to have been very little effective action. The Secretary to the Treasury in the *Treasury Minutes* on PAC Reports (the equivalent of *Action-Taken Reports* on the reports of other parliamentary committees) routinely adopts an apologetic tone, endorsing many of the Committee's points and saying that its recommendations are 'noted'. It is aware of many civil servants' 'lack of honesty, integrity and willingness and readiness to accept responsibility to do the job'.[xxvii] But not until 1998 did the *Treasury Minutes* report on the implementation of PAC recommendations arising from AG reports for 1989 through to 1993. At most they offer vaguely worded claims about making progress in resolving the issues raised or about proceeding further with inquiries and the like. They fail to report back on issues where presumably MOFED has taken no action at all; and on occasions MOFED resorts to the excuse that lack of funds precludes a speedier response. The PAC finds all of this unacceptable. Clearly, MOFED *is part of the problem*. The PAC claims to be 'baffled by the wanton disregard of financial regulations displayed by some accountants' in MOFED.[xxviii] It says it cannot make sense of MOFED's persistent failure to review the effectiveness of its own internal control systems. The PAC is indeed right to wonder how MOFED could be expected to exercise punitive action against Controlling Officers in line ministries when it too flouts with impunity the same regulatory regime.[xxix] A very plausible inference is that the status quo actually serves the political power that MOFED represents. It enables the Finance Minister to condone over-spending in some areas of government relative to the Estimates approved by Parliament, where political interests dictate, even though monies may have to be withheld from other activities in order to maintain some overall fiscal balance or contain the public deficit.

Thus administrative shortcomings and a shortage of expertise within the bureaucratic executive are only part of the problem; another important element has been a lack of political will to address the 'financial indiscipline' or its underlying causes. Put differently there is complicity by powerful political figures in the executive in the way resources are misused. Permanent Secretaries in line departments act as their principals require; the political boss counts for more than the auditor.[xxx] There are many hints of this in the committee's reports although they tend to be *sotto voce.* Take for example the experience of the Public Service Reform Programme (PSRP). This is a donor-driven retrenchment programme that has the aim of reducing government's recurrent expenditure, thereby releasing revenue both for investment and to enable higher salaries to be offered to attract high calibre personnel to the bureaucracy. The government says the programme is responsible for lowering morale and spreading indiscipline in the public service. However the PAC found that in the early years the PSRP was sabotaged by political interference from Cabinet Office, which eroded the authority, powers and entitlements of the programme's Director-General. Then, after the World Bank became impatient to see progress, the government proceeded to spend in one year four times the amount it had earmarked for the programme in the annual budget. Resources were diverted from other essential expenditure heads. Subsequently the Committee on Government Assurances cited 'apparent undue political influence' on heads of department and the operations of the civil service and discovered that despite a substantial reduction of employees on the payroll by 1999 there was no corresponding reduction in the wage bill, due to financial mismanagement.[xxxi]

A different kind of example, investigated by the Committee on Economic Affairs and Labour in 2000 concerns the commercial banking sector. Beginning in 1995 Zambia has witnessed the failure of more than seven commercial banks, such as Prudence Bank, the owner and director of which was an MMD official. In 1995 Meridien Biao bank moved $90 million to offshore accounts in the Bahamas before its collapse (in May 2001 the donors made 'clarification' of these events a precondition for releasing further balance of payments support[xxxii]). Departments and public bodies like ZESCO that had been directed to deposit public money with some of the banks that failed, without authorisation from the Secretary to the Treasury, lost heavily. Some politically important people had accounts with banks that were allowed to borrow from the government just prior to their collapse: between 1995 and 1999 government 'intervention loans' to the banks amounted to K900 million, much of it now presumed to have left the country. At their closure the banks owed a total of more than K104 billion to the Bank of Zambia (the figure was down to K70 billion by mid-1999, after the sale of assets and debt recovery).[xxxiii]

On a smaller scale is the Auditor-General's recent exposure of the misuse of Ministry of Defence procurement procedures to provide campaign materials for the MMD. The AG added, significantly, 'There was no evidence that the controlling officer had authorised the diversion of the materials' - materials delivered from the supplier, the Ministry of Defence's Mulungushi Textiles, to the residence of Ben Mwila, Minister for Defence and MMD party treasurer at the time.[xxxiv] Just as harmful as such interventions by political heads can be the cases of inactivity and non-decision. To illustrate, three different individuals (Mwila being one of them) held the post of Minister of Energy and Water Development during the period covered by the PAC's review of the appalling financial performance at ZESCO, in 2000. None of the ministerial changes appears to have come about as a result of that performance. Instead the AG judged the Ministry to have failed in its obligation to give due guidance through the Minister's power of appointment of the ZESCO board.[xxxv]

All in all there is considerable evidence that 'financial indiscipline' enjoys active connivance from senior government figures and is an entrenched feature of the politico-administrative culture. While negligence by Controlling Officers might explain some of the reported instances there are also occasions when they are acting under orders, or have been overruled. We must remember that in Zambia as in many parts of Africa neo-patrimonialism and clientelistic arrangements provide a deeply rooted way of life, with origins that predate colonial rule; personal loyalties formed around the exchange of favours take precedence over legal contractual regulations. In this context a discretionary approach to using public resources, and latitude in ignoring wholly or in part the formal procedures governing public spending decisions and disbursements, are embedded ways of maintaining relationships of power. A reasonable presumption is that this culture within the political executive provides opportunities for personal gain. But what is less often remarked is that, in a system where patronage cascades, it provides the top leadership with a weapon of control that has a powerful reach. For when the 'big man' starts to squeeze the 'middle man' the latter's ability to command the loyalty of his/her clients is also impaired.

A notable example was the extensive practice of large scale borrowing from the state's Food Reserve Agency (FRA) for purchases of maize and fertiliser, in which at least 38 ministers and deputy ministers, 84 MPs and 37 opposition politicians took part. They were able to use these benefits to 'purchase' local political support and social standing. But their unpaid debts to the FRA, totalling K16 billion, subsequently featured in steps by the President to inhibit colleagues from disobeying his wishes where the President's own political interests were at stake, by the simple expedient of threatening to call in the loans.[xxxvi] The FRA's bad financial state in turn destroyed its capability to offer security to international agencies that might have been prepared to finance bulk fertiliser imports. That has meant the government is repeatedly unable to make fertiliser available to farmers at the start of the growing season, with predictably adverse consequences for the agricultural yield. In most years Zambia continues to experience a large food deficit in maize, the staple crop.

WINNERS AND LOSERS

There are winners, where overspending is rife and year after year seems to go unchecked. And there are losers who never receive anything like full disbursement even of the monies that Parliament has voted, let alone the larger amounts they requested during the annual budget preparations. So, however much the issue of 'financial indiscipline' in the public sector is a matter for executive-legislative relations and is not confined within the bureaucratic realm, the problem also features in relations within the political executive (and, indeed within ruling party). This point merits elaboration.

The distorting effects of 'financial indiscipline' on the distribution of scarce public resources have consistently favoured spending on general services, the machinery of state, rather than functions directly relevant to the economy and social well-being. An example is the overnment's annual spending on cell phone usage of K50 billion, which equates to the entire health sector budget. In 1999 MOFED released only K6million of the K1billion budget for tackling the scourge of HIV/AIDS (almost one fifth of the adult population aged 15-49 is currently HIV infected). The Supplementary and Excess Appropriations appear to have consistently benefited the same ministries and departments, like the Ministry of Defence, more than others such as for education and health. Perhaps most notable of all among the 'winners' have been the Office of the President - Cabinet Office and Office of the President - State House, the budget vote for which contains the President's discretionary fund (often dubbed the 'presidential slush fund'). The sums disbursed regularly exceed by far the Estimates voted by Parliament, which finds it difficult to identify the recipients.[xxxvii] The President's capacity to project himself as chief patron of the nation is enhanced accordingly, so accentuating his own power relative to the rest of government. For example there is the building programme first announced by the President and called the *Presidential* Housing Initiative (PHI), which appears to have been underwritten by proceeds from the sale of council houses. The PAC called the PHI a 'legally non-existing entity with no powers whatsoever to collect rents which should otherwise be collected by the Ministry of Land', and 'neither a department nor an agent of government engaged in revenue collection'.[xxxviii] In 2001 this entity is reputed to have borrowed $18 million without MOFED's sanction for the purpose of housing guests to the June summit of the Organisation of African Unity in Lusaka, for which the total budget exceeded the budgets for public health and education.[xxxix]

'Financial indiscipline' also allows public spending to favour Lusaka, the seat of government, relative to the rest of the country and the rural areas, where the majority of poor people live. The deepest poverty is in areas furthest away from the capital. The constituencies of MPs from the ruling party and indeed the President's own province (Luapula) can be preferred against constituencies that return opposition party and Independent MPs.[xl] Spending can be finely tuned to the exigencies of persuading voters to support the government in parliamentary by-elections.[xli] MPs who are out of favour with the president or have no bargaining power can be discriminated against. No less important, the institutions of governance whose formal rationale is to check abuses of executive power can be penalised, by MOFED's control over the release of funds. Thus the instruments of 'horizontal accountability'[xlii] that are supposed to work alongside the National Assembly and which complement Parliament's position as a leading instrument of vertical accountability are themselves held in check - no less than is the National Assembly which similarly does not dictate its own budget.

The judiciary, the Commission for Investigations (which since 1974 has existed to handle complaints from the public against acts of injustice or maladministration by state organs, but between 1992 and 1998 was unable even to compile annual reports for Parliament, because of insufficient funds) and the Anti-Corruption Commission (ACC) are all cases in point. Of the K133.5 million approved by Parliament for institutional capacity-building at the ACC in 1999 not a single Kwacha had been made available to it as of 10 November 1999.[xliii]

In fact MOFED released no funds for use by the Commissioners in either 1997 or 1998. The AG is another very pertinent example. It has consistently been underfunded both absolutely and relative to the Estimates approved by Parliament, something that the PAC has consistently brought to the government's attention. For instance the PAC's report on 1998 noted that only 76 per cent of the amount voted by Parliament was actually released to the AG (and was released only intermittently), and this represented barely 30 per cent of the original budget request put to MOFED. In his report for 1996 the AG noted that only 49 per cent of his approved budget was actually released. And of the amount provided, only 23 per cent was released by the time in August when all audit inquiries for the year in question should have been completed. The AG in 1998 had a shortfall of 54 officers compared to the establishment entitlement of 194 officers (grades down to the level of Assistant Audit Examiner). Thus although the laws of Zambia say the AG 'shall not be subject to the direction or control of any other person or authority' (Act No. 8 of 1980), the Office's ability to discharge its responsibilities is circumscribed by the simple expedient of denying it adequate resources.

Finally, in the economy some entrepreneurs including traders and 'middlemen' with good political connections (including government ministers and other and MMD MPs) have benefited from the 'financial indiscipline', through activities like public procurement. Others including some local private manufacturers and parastatal entities like ZESCO have been less fortunate. They are now owed large amounts by government as consumer of their product (this puts them in thrall to the government); some have been bankrupted as a result. At the very least private investment will not bear fruit where the government's financial mismanagement renders it unable to provide vital infrastructures like bridges and roads.[xliv]

To explain how this situation can persist we need to visit the budget process.

THE BUDGET PROCESS

The budget process is central to the relationship between the executive and legislature. The Estimates of expenditure are considered by the Committee of Supply and taxation proposals by the Committee of Ways and Means, both being committees of the whole house. The recently introduced Estimates Committee is mandated to consider the budget system - a remit described in terms of 15 objectives that conclude with an entitlement to suggest ways and means of improving the present system. Its other main objective is to consider the draft budget estimates for the coming year. While being too recent an innovation for us to assess the Committee's contribution to making government more open, transparent and accountable, its first report, presented to the House in November 2000, was a major analytical exercise. It highlighted 'significant deficiencies in all phases of the budgetary process: drafting, legislating, implementation and audit'; it advanced no less than 54 substantial recommendations for reform. Although the report 'was not liked' by government, the Committee's future seems reasonably secure[xlv] (the membership was renewed for 2001) and it looks like becoming a very useful companion to the PAC.

In its inaugural year the Estimates Committee rightly gave priority to considering the entire budget procedure over the content of the forthcoming budget. It expressed concern that the process, format and timing of the budget all obstruct transparency and public participation. In particular the budget as approved by Parliament is not an accurate indicator of the actual amount and pattern of spending. The Committee placed responsibility for this at the door of cash budgeting, introduced in 1993 as a device to disallow monetary financing of expenditure, and MOFED's practice of raising money by issuing Treasury Bills (and more recently, bonds as well). The constraints on spending that become necessary if the government is to comply with cash budgeting fall unevenly across the public sector, with decisions being taken in line with political dictates as already explained. Treasury Bills lie outside parliament's control and may be used to fund expenditures outside the Estimates. When the time comes to redeem the bills from the general revenue the cost may be born by cuts in budgeted items of expenditure that were approved by parliament.

Expenditures that fall outside or go beyond the Estimates voted by Parliament are submitted for retrospective approval, in the form of Supplementary Appropriations. These can be submitted for parliamentary approval up to two years in arrears although, as happened in September 1998 the government sometimes exceeds that limit. The sums typically represent between 4 and 8 per cent of the original appropriation. In addition there are Excess Expenditure Appropriations, which are usually for amounts half as much again. These are supposed to be submitted for approval not more than 30 months after the end of the financial year in which the expenditure occurred. In practice they have been presented as late as six years afterwards. The Excess Expenditure Appropriation Bills for 1994, 1995 and 1997 were only brought forward in 2000. These bills are intended to regularise unauthorised spending detected by the AG's inquiries; in 1995 and 1996 they amounted to around 12 per cent of actual government expenditure.

Basically requests for Supplementary and Excess Appropriations present Parliament with a *fait accompli*. Officials in MOFED and the spending departments know this and are not intimidated. In the Committee's view the cash budget, which was introduced at the behest of the international donors as a device to stop inflationary spending, has undermined the 'rule of law'. Spending departments and MOFED's manipulation of cash releases 'face few legal constraints on shifting funds between subheads during the course of the fiscal year'.[xlvi] MOFED has been able to interpret its powers as 'a *carte blanche* for unilaterally deciding which of those activities approved by Parliament will actually be funded'. This makes the budget 'an inconsequential document due to the disjunction between budgeted expenditures and the actual expenditures'; the budget becomes merely 'an academic exercise'.[xlvii] The considerable time the house sits as Committee of Supply (much of the sitting from January to April) is made redundant as a means of legislative control. In 1997 for instance the financial outturn represented a net under-expenditure of 31 per cent of the authorised total budget; in contrast 25 per cent of what was actually spent had not been authorised at all by the Appropriation Act.[xlviii]

Moreover the tabling of the Estimates in January means that by the time Parliament gets round to voting on the government's proposals the financial year (equals the calendar year) is already well under way. Hence the Estimates Committee has proposed that the Estimates (the 'Yellow Book') be made available in October, which would enable the budget to complete its passage through the house by January. Alternatively the start of the financial year could be put back to April. These proposals would have a deeper significance, by shifting the burden of the proceedings away from the floor of the house. There MPs use the occasion mainly to press for more public spending in their constituencies - a representational function akin to what Norris calls *'service* responsiveness'. Instead the Committee's proposals call for a more considered deliberation of policy (*'policy* responsiveness').[xlix] The intention is that parliamentarians should be more proactive and engage in medium to long term strategic thinking, rather than be largely reactive and function as the voice of immediate needs. A further recommendation by the Estimates Committee is that Parliament be allowed to vote an increase in some heads beyond what the government proposes so long as it compensates with reductions elsewhere in the total budget, leaving a revenue-neutral effect.

With respect to the budget format, the Committee recommends a more transparent layout that would enable clear comparisons to be made between the original Estimates and the actual expenditures in the final outturn, so providing a more informative basis for the following year's budget deliberations. Also, some MPs want the annual spending proposals to be disaggregated on a constituency basis, which would make it easier to judge the overall distribution as between different parts of the country and to identify how much is being spent, and on what, in their own area. The demand reflects suspicion of the executive's influence over actual spending allocations. It also represents a desire by MPs to have the means to persuade their own electors that *they* are 'bringing home the pork'[l] (even though that in turn rests on their clientelistic relationship with government leaders and State House, rather than the depth of their personal commitment to their constituents). The MPs' contribution to debates such as in the Committee of Supply and their questions to ministers strongly suggest that government spending in their locality dominates, to the exclusion of almost everything else, their perception of their role. It determines their chances of re-election, even though their nomination depends first on not alienating party leaders. Candidate selection is highly centralised (for example the National Executive Committee controls the process in the MMD). In short, MPs too are engaged in a patron-client relationship with their constituents. The most frequent requests tend to be for development projects like new roads, electrification, fertiliser distribution and agricultural loans, improved schooling and, in dry areas, boreholes.[li] A recent Zambian perspective is that the Parliament 'has become like an auction floor for making decisions based on patronage, not principle. It is dividing spoils and not discussing issues for the common good of the people'.[lii] Presidential systems in general perhaps encourage this kind of scenario. But it is accentuated in countries like Zambia where patron-client links continue to be fundamental, and where the 'populace expects to exchange political support for concrete help: that is the only way in which politics makes sense to them'.[liii] It has not obviously helped Zambia to make economic and social progress.

RECENT PROGRESS, FUTURE PROSPECTS

The story so far is one of endemic 'financial indiscipline' in the public sector. It is deeply rooted and not just a recent development. Indeed, in giving evidence to the Constitution Commission in 1990 the Office of the Auditor-General said 'the Executive have come to take for granted that no action or non implementation of the recommendations (of the Public Accounts Committee) is not punishable'.[liv] The AG's latest findings indicate the problems persist unabated. The AG's report for 1999 draws attention to over Kwacha32.9 billion in misappropriation and misapplication including sums at State House, and says it is apparent that MOFED 'has not taken any serious reviews of the internal control system'.[lv] It is safe to assume that the country's development prospects continue to be undermined. The cry of 'insufficient funds' features in over a third of the explanations the government routinely offers for its failure to execute promises and the undertakings it makes to the house. Its *Action-Taken Reports* identify capital projects as the chief victims; 'still looking for funds' is a common form of reply.

For this situation to improve it is worth distinguishing between the kinds of incremental reform that might help to improve the functioning of the AG and PAC within an unchanged political context, and more fundamental changes to the underlying conditions.

Modest Incremental Reforms

The second half of the 1990s saw some signs that the problem was at last being recognised and there were a few steps forward. There was a greater commitment by the state to prepare and submit annual financial reports.[lvi] Formerly, the late or non-production of financial accounts had seriously hindered the work of the AG and PAC. Numerous queries raised by the AG as far back as the 1970s had not been replied to as late as 1995. In 1998 Parliament's Committee on Public Investments, while reporting the establishment of a special committee of officials from the Clerk's Office, Cabinet Office and AG to eliminate outstanding issues, still complained of the lack of real progress, naming the Secretary to the Treasury and Director of State Enterprises as culprits.[lvii] A 'lackadaisical attitude' is still said to persist among many Controlling Officers and their accounting personnel.[lviii] Similarly MOFED protests that delays in obtaining the necessary data from government departments will make it difficult to bring the budget process forward. Yet there has been a considerable amount of hard work by the PAC and support staff to address the backlog, enabling it to produce no less than five reports in 1998, including the reports for 1994 and 1945. Any return to the pattern of delay by government departments in rendering their accounts will once again impair the effectiveness of parliamentary scrutiny. The PAC has often observed that by the time an erring party has been identified, in many cases he/she has died or taken retirement or been retrenched.

Some thought has also been given to improving the institutional framework for exacting financial accountability. At the state opening of Parliament on 19 January 2001 the President announced proposals to expand the scope and decentralise the operations of the AG. The Parliamentary Reform Committee, a select committee appointed in February 1999, finally presented its *Report on Reforms in the Zambian Parliament* (November 2000), after setbacks arising from MPs' concerns about the restricted terms of reference and government objections to proposals that might increase Parliament's relative. In March 2001 the Speaker announced the formation of a new committee to consider the implementation of the *Report's* recommendations. Among the 73 recommendations were seven to reform the budget process along lines favoured by the Estimates Committee.[lix] The Reform Committee reckoned that six of the seven recommendations could be effected in the short-term and one in the medium term, and reckoned that three of them were financially inexpensive, two moderately expensive and only two were expensive. These changes, if implemented in the form intended by the Report, should make a modest contribution to tackling the problem of financial indiscipline in the executive.

More Fundamental Changes

Even the most enthusiastic advocates of 'new (or neo-)institutionalism' in social science acknowledge that the operation of government organisations is influenced by the more general political environment and the social and cultural surroundings, and that institutional engineering alone does not offer a panacea. In Zambia not simply the pace of substantive institutional reform but the rate of informal behavioural compliance with the values and aspirations underlying reform tend to be rather slow. Even the initial membership of Parliament's committee on implementing the parliamentary reforms came under threat almost as soon as it was announced. (Because they opposed moves to enable Chiluba to serve a third term as president, some of the members faced expulsion from the party and the possibility of losing their parliamentary seats).

Most importantly dominant interests in the political executive face a trade-off from the agenda for reform. On the one side there is the possibility that a reformed budget process and more effective (that is, enforceable) financial accountability could lead to improvement in policy performance. This, together with an enhanced reputation for probity in administration should enhance the electoral appeal of the ruling party. Reductions in the misallocation, misuse and misappropriation of scarce public funds, and more reliable arrangements for raising non-tax revenues could win friends in the business community. This is because the practice of issuing Treasury Bills and taking unauthorised overdrafts from the central bank drains society's limited pool of savings, crowding out small businesses and commercial farmers from the market for capital or causing high interest charges.[lx] Greater confidence in the government's financial management - which means becoming more predictable and less subject to arbitrary political interference - should make the country more attractive to foreign investors. It would strengthen the government's hand in negotiations with foreign donors. For just as the government alludes to its ties to the international financial institutions and donor unpredictability as factors impeding full accountability to Parliament, so MPs have invoked Zambia's aid dependence to support their case for reform, warning that without stronger financial discipline Zambia will become an international economic pariah.[lxi] At the same time the donors themselves should exercise more care to avoid funding expenditures in ways that lead their public sector partners to ignore, escape or lose the ability to comply with a suitable financial control regime.

On the other side, however, politicians have a vested interest in retaining areas of political discretion especially in matters financial, as befits the established neo-patrimonial and clientelistic approach to maintaining and exercising power. From the perspective of government leaders who control and manipulate public patronage, there are advantages in an unreformed status quo. For instance if Parliament was to acquire a stronger sense of ownership of the budget then it might be less willing to approve Supplementary and Excess Appropriation Acts.

Thus while a strengthening of the formal institutional mechanisms is necessary it is very unlikely to be sufficient for the installation of greater financial discipline in the public sector. In the past the government has behaved as if it believed the scrutiny activities of the PAC constituted an end in itself - a sufficient response to the problem, one that obviated the need for *government* to take special action. But even though the PAC is a dog that increasingly barks, the fact is, it still has no bite: 'It seems as if, year in and year out ' the annual presentation of the PAC report 'is for record purposes only'; its recommendations 'should not only end in our draws. The Executive must act on some of these recommendations'.[lxii] As with all the other committees the chief threat the PAC can make is to keep revisiting the same issues over and over again. This will not worry a government that feels secure. And the government will feel secure so long as the ruling party dominates the house. First there is the 'payroll' vote numbering up to 68 MPs. Second, the great majority of back-benchers take no part in the debates on the PAC reports, which tend to be monopolised by the Committee's members and ministers who reply. In 1997 and 1998 only three MMD back-bench MPs came anywhere close to the average number of interventions made by the handful of opposition party and Independent MPs. Thus an essential condition for reformed arrangements of parliamentary accountability to be effective is a more genuinely pluralist party system, where a strong political opposition is minded to put the government under pressure.

A second necessary condition is a package of constitutional measures that goes beyond the budget process and the immediate mechanisms for financial accountability. For example an entitlement by Parliament to pass a motion of censure or vote of no confidence in ministers individually and collectively would be a major development, linking sanctions to accountability and the possibility of enforceability. The recommendations of the PAC and Estimate Committee should be conceived as part of a broader review of executive-legislative relations, one that went beyond even the mandate of the Parliamentary Reform Committee.

There is an outside possibility that just such a review might take place if the general elections due at the end of October 2001 produce a change of government. But even then the consequences cannot be predicted with certainty. For example any changes that made ministers or the party in power feel less secure could have the effect of introducing greater party discipline into committee proceedings. This would be made even more likely if the press were in attendance, as the parliamentary reforms committee recommends. A confrontational atmosphere that eroded the cross-party approach to committee work would not be an advance on the present situation and could be counter-productive.

The Zambian state cannot possibly be expected to meet all of the country's many urgent social and economic needs. That said, the evidence suggests that the government has often used lack of money as an excuse for inaction and its reluctance to strengthen the institutions of accountability, when financial mismanagement has been an important constraint on progress. High-level political corruption represents only the 'tip of the iceberg'. 'Financial indiscipline' has been endemic throughout the public sector. None of the specific proposals for reform, however affordable, offer a guaranteed solution. If a new generation of politicians manoeuvres close to power then they too might be seduced by proximity to the resources at the government's disposal. Without some sort of cultural change there is always the risk that traditional approaches which appear to treat public expenditure more as an instrument for the exercise and retention of power than as a means to promote national development, will continue to prevail. There needs to be a shift in the public philosophy toward a performance-based system - one where the government's performance is judged in non-particularistic, non-patrimonial terms. A sea change in the bureaucratic culture is also required. For at the end of the day responsibility for many of the shortcomings highlighted by the AG and PAC lies not so much with the absence of a watertight regulatory regime but with a systematic failure to apply the existing regulations and internal control mechanisms. So, while the PAC and Estimates Committee recommendations constitute steps in the right direction in so far as they might alter the balance of incentive structures, we should beware of inflated expectations about the probable results.

NOTES

i . Fred M'membe, Editor-in-Chief of *The Post*, cited in *Official Verbatim Report of the Parliamentary Debates* (hereafter Parliamentary Debates) (Lusaka: National Assembly of Zambia), No. 109, 16 January - 3 April 1998, col. 32.

ii. M. Shugart and J. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (Cambridge: Cambridge University Press, 1992), chapter 8 especially.

iii. For example R. Packenham, 'What little we do know suggests that strengthening legislatures in developing countries would, in most cases, probably impede the capacity for change which is often crucial for "modernisation" and economic development.. ', Legislatures and Political Development', in P. Norton (ed.), *Legislatures* (Oxford: Oxford University Press, 1990), p. 82, first published in A. Kornberg and L. D. Musolf (eds.), *Legislatures in Developmental Perspective* (Durham, NC: Duke University Press, 1970).

iv. See P. Burnell, 'The Party System and Party Politics in Zambia: Continuities Past, Present and Future', *African Affairs*, Vol. 100, No. 399 (2001), pp.239-63.

v. M. Szeftel, '"Eat with Us: Managing Corruption and Patronage under Zambia's Three Republics, 1964-99', *Journal of Contemporary African Studies*, Vol. 18, No. 2 (2000), pp. 207-24; B. C. Chikulo, 'Corruption and Accumulation in Zambia', in K. R. Hope and B. Chikulo (eds.), *Corruption and Development in Africa* (Basingstoke: Macmillan, 2000), pp. 161-82.

vi. *Annual Report of the Office of the Auditor-General for the Year 1998* (Lusaka: Government of Republic of Zambia, n.d.).

vii. The PAC believes the rising cost of the missions is unjustified. It reported that in 1998 the public money spent on educating the children of foreign mission staff abroad was double the K67 billion allowed to the Ministry of Education for the whole of Zambia! See *Parliamentary Debates*, No. 108, 8 - 23 Sept. 1998, cols. 425-8.

viii. Interviews, Norwegian Embassy, 5 March 2001, Swedish Embassy, 14 March 2001, Lusaka.

ix. *Report of the Parliamentary Reforms Committee on Reforms in the Zambian Parliament* (November 2000), mimeo., p.11.

x. This an oblique reference to the vigorous Independent MP Robert Sichinga, one of few professionally qualified accountants on the back-benches, who last served on the PAC in 1998.

xi. The Estimates Committee when it first began work in 2000 received external financial assistance to enable it to access consultancy support from a non-governmental body in South Africa.

xii. The Act requires every Controlling Officer to prepare for the examination and certification of the AG appropriation accounts for each head of expenditure under his control, giving adequate explanations for variations between estimated expenditure and actual expenditure, if any. *Republic of Zambia Gazette Supplement Acts 1980*, Vol. XVI (Lusaka: Government Printer), p. 25.

xiii. *Action-Taken Report on Para. 70 of the Report of the Auditor-General for 1993 on the Accounts of Parastatal Bodies and Para. 71 of the Report of the Committee on Parastatal Bodies* (Lusaka: Government of Republic of Zambia: 1997), p. 10.

xiv. Public Accounts Committee, *Report on the Report of the Auditor-General on the Operations of ZESCO Ltd. and Kariba North Bank Co. for 1994-98* (Lusaka: National Assembly of Zambia, 2000), pp. 7, 47.

xv. Public Accounts Committee, *Report on the Report of the Auditor-General on the Review of the Operations of the University of Zambia for 1995 and 1996* (1998), p. 48.

xvi. Public Accounts Committee, *Report on the Report of the Auditor-General on the Accounts for 1994* (1997), p. 85.

xvii. R. Sichinga, MP, *Parliamentary Debates*, No. 111, 12 November - 4 December 1998, col. 666.

xviii. The report's reception in the house was described in *Zambia Daily Mail* 25 and 29 November 2000. The Committee's chair confirmed that the committee has every intention of addressing the government's stated reasons for rejecting the report and will bring it back to the house. And in evidence to the first *Report of the Committee on Economic Affairs and Labour* (Lusaka: National Assembly of Zambia, 1999) the Permanent Secretary, Ministry of Commerce, Trade and Industry acknowledged there had been cases of 'asset-stripping' in ZCCM: 'the provisions of the law with regard to negotiations in the privatization process had not been observed in many cases'. Ibid., p. 56. The 1999 report discomfited the government to such an extent that the Vice-President said it would be impossible for him to respond with a meaningful *Action-Taken Report*, 'so many are the inconsistencies' in the report. *Parliamentary Debates*, No. 114, 9 November - 9 December, 1999, col. 901.

xix. Public Accounts Committee, *Report on the Report of the Auditor-General on the Accounts for 1996* (1998), p. 10 and *Report on the Report of the Auditor-General on the Accounts for 1997* (1999), p. 3.

xx. Ministry of Labour and Social Security figures, *Parliamentary Debates,* No. 109, 16 Jan. - 3 April 1998, col. 1780. By February 1999 the figure had increased from 4 to 15 but almost half were in the lowest ('technician grade') of four grades of membership.

xxi. Edith Nawakwi, *Parliamentary Debates,* No. 111, 12. November - 4 December 1998, col. 752.

xxii. Ministry of Finance and Economic Development, *Public Investment Programme 2000-20002: Vol. I* (Lusaka: GRZ, August 2000).

xxiii. Public Accounts Committee, *Report on the Report of the Auditor-General on the Accounts for 1997* (1999).

xxiv. Public Accounts Committee, *Report on Management and Collection of Government Revenue* (2000), pp. 37-38. The PAC observed 'there is a lot of revenue that is being collected but not accounted for'. *Report on the Collection and Management of Government Revenue* (1999), p. 25.

xxv. For example the Public Accounts Committee *Report on the Report of the Auditor-General for 1996* (1998), p. 15 cited farm number 288 at Makeni, sold for Kwacha 276 million, of which only K21million had been paid. The balance outstanding was stated as being zero!

xxvi. Edith Nawakwi, *Parliamentary Debates,* No. 112, 22 Jan. - 18 March 1999, col. 576. Nawakwi promised to introduce legislation to increase the powers of Controlling Officers, but was subsequently demoted to another ministry.

xxvii. Secretary to the Treasury, in Public Accounts Committee, *Report on the Report of the Auditor-General on the Accounts for 1997* (1999), p. 6.

xxviii. Public Accounts Committee, *Report on the Report of the Auditor-General on the Accounts of the Republic of Zambia for 1996* (1998), p. 65.

xxix. Public Accounts Committee, *Report on the Report of the Auditor-General on the Accounts for the 1994* (1997), p. 2.

xxx. Thus for example whilst Finance Minister Katele Kalumba, addressing a pre-budget seminar in November 2000, berated Permanent Secretaries for allowing excess expenditures ('It is not limited resources, but the inappropriate use of the money, that was hampering development'), one Permanent Secretary retorted that the disrespect of financial regulations 'was a result of pressure from ministers...permanent secretaries were threatened with sanctions from ministers if they failed to carry out instructions.' *Zambia Daily Mail* 21 November 2000.

xxxi. *Parliamentary Debates*, No. 113, 24 August - 3 September 1999,col. 87; *Report of the Committee on Government Assurances* (Lusaka: National Assembly of Zambia, 2000), p. 9. cited 'apparent undue political influence on government heads of departments and operations of the civil service'.

xxxii. Reported in *The Monitor* 4-10 May 2001. Although 2000 saw legislation to give the central bank stronger regulatory powers, Parliamentarians maintain the framework remains inadequate, as evidenced by a further bank failure (Union Bank) in February 2001.

xxxiii. *Parliamentary Debates* No. 114, 9 November - 9 December 1999, col. 190.

xxxiv. The AG's findings are reported in *The Post*, 10 May 2001, which also reported that the Speaker of the National Assembly had ordered an inquiry into the unlawful drawing of K2 billion from the National Assembly to finance the extra-ordinary MMD convention, held at the end of April 2001. The convention was called to approve an amendment to the party's constitution to allow Chiluba to remain party president. Further revelations, in *The Post* 18 May 2001, identified the Finance Minister (Kalumba), the Minister for Works and Supply, and Home Affairs Minister (and MMD treasurer) as making the withdrawal, which entailed diverting funds from a roads project in Northern Province, 'without the knowledge of any controlling officer in their respective ministries'.

xxxv. Public Accounts Committee, *Report on the Report of the Auditor General on the Operations of ZESCO Ltd*., p. 47.

xxxvi. *The Post*, 13 January 2000, *Times of Zambia* 25 February 2000, and *The Monitor* 4-9 March 2000. MPs were reminded of their debts to the FRA in December 1999. President Chiluba, warming to the idea of a third presidential term, which would necessitate a change to the constitution by the legislature, interrogated each one personally. MPs called it 'a nasty experience' and 'humiliating', according to *The Post* 7 December 1999. They were reminded again in May 2001, when the President's allies sought to dissuade MPs from signing a petition to impeach him (*The Post* 8 May 2001). Nawakwi, who was on the interrogating panel in 1999 but joined the anti-third term camp in 2001 accused the government of 'clear blackmail and harassment' and

Chiluba of 'deliberately forcing MPs to get maize and fertiliser to distribute to the electorates during the 1998 local government elections which he was now using to blackmail them to support him' (*The Post* 29 June 2001). The MPs might have genuinely believed the loans would never be called in. The Public Accounts Committee's *Report on the Report of the Auditor-General on the Accounts for 1996* (1998), p. 58 observed that in 1996 the government kept no records of disbursement and made no serious efforts to recover monies lent from a Kwacha 2 billion fund established to fund maize imports. Formally the monies were to be repaid within eight weeks.

xxxvii. For example the Ministry of Finance and Economic Development *Supplementary Estimates No. 1 of 2000* included the following: Office of the President - State House K5billion; Cabinet Office - Office of the President Headquarters K66billion; Ministry of Defence K85billion; Office of the President - Special Division (security and intelligence) K50billion (compare with the original budget of K12.2 billion approved by parliament for the year); Ministry of Health headquarters K3billion. The Vice President informed the house that the accounts of the Office of the President - Special Division are beyond the entitlement to parliamentary scrutiny (Z*ambia Daily Mail*, 23 February 2001). In a lively debate in Parliament on the presidential discretionary fund on 5 February 1999 an opposition MP claimed that the AG's reports revealed unconstitutional movements of funds from Cabinet Office to State House to the Director-General of the Office of the President, 'who cannot be touched'. *Parliamentary Debates*, No. 112, 22 Jan.-18 March, 1999, col. 446.

xxxviii. Public Accounts Committee, *Report on the Collection and Management of Government Revenue* (2000), p. 34.

xxxix . *The Post*, 31 May 2001.

xl. C. Sibetta, MP claimed the Minister for Works and Supply had advised him that funds intended for road rehabilitation in Western and North Western Provinces were diverted to Luapula. *The Monitor*, 16-22 February 2001.

xli. MMD MP Major Kamanga alleged that the Minister for Works and Supply diverted K300million from his budget for the purpose of fighting eight by-elections caused by the defection of MMD MPs to the Republican Party, in 2000. See 'Forum "to form" party', *The Post* 28 May 2001.

xlii. See G. O'Donnell, 'Horizontal accountability in new democracies', *Journal of Democracy,* Vol. 9, No. 3 (1998), pp. 112-26.

xliii. Information from Vice President's Office, *Parliamentary Debates*, No. 114, 9 November - 9 December 1999, col. 93. The Commission for Investigations dealt with 4327 complaints between 1991 and 1996.

xliv. Public Accounts Committee, *Report on the Report of the Auditor-General on the Accounts for 1996* (1998), p. 130.

xlv. Confirmed by the Clerk of the National Assembly, Mr N. Chibesakunda. The Independent MP Dipak Patel, who chaired the Committee in 2000, was re-appointed to the Committee in 2001 and vowed that it would continue to push the government to act on the Committee's recommendations.

xlvi. Report of the Committee of Estimates, *Budget System in Zambia* (2000), pp 107; 117.

xlvii. Ibid., p.117; D. Mulaisho (former Governor of the Bank of Zambia), in evidence to the Committee of Estimates, *Budget System in Zambia*, p. 78.

xlviii. Report of the Committee of Estimates, *Budget System in Zambia*, p. 108.

xlix. P. Norris, 'The Puzzle of Constituency Service', *Journal of Legislative Studies*, Vol. 3, No. 2 (1997), p.29.

l. See R. Sichinga, MP, *Parliamentary Debates,* No. 112, 22 Jan. - 18 March, 1999, cols.1543-6. Also Colonel Nawa, MP: 'the biggest question every hon. Member of Parliament will ask by next year (ahead of elections) is: what have I done in this constituency since I was elected? What is there in the Yellow Book for my constituency?', *Parliamentary Debates,* No. 112, 22 Jan. - 18 March, 1999, col. 1559. Another MP, representing a rural constituency complained that the harsh economic environment 'has distorted what a Member of Parliament is there for', because MPs can 'neither procure nor provide funds for development'. *Parliamentary Debates*, 22 Jan. - 18 March, 1999, col. 1520.

li. The parliamentary questions for 1997-1999 reveal most interest in the ministries responsible for finance and economic development, agriculture, education, health, works and supply, energy and water resources, and local government, especially for renovating chiefs' palaces. There was almost negligible interest in low-spending ministries responsible for the environment, foreign affairs, labour affairs, and legal affairs, and few questions on defence.

lii. Letter from Joseph Kalumba in 'Postbag' column of *The Post* 13 March 2001. Opposition and Independent MPs interviewed by the writer in Lusaka in February 2001 said it was essential that Parliament return to discussing economic and social policy issues if it is to show its relevance to the people.

liii. P. Chabal and J. Daloz, Africa Works. *Disorder as Political Instrument* (Oxford: James Currey, 1999), p. 39.

liv. *Report of the Constitution Commission (*Mvunga Commission)(Lusaka: Government of Republic of Zambia, 1991), p. 118.

lv. Reported in *The Post* 28 June 2001. The AG also noted there were no guidelines regarding the use of the presidential discretionary fund or proper expenditure returns and that spending from the fund of over Kwacha 6.3 billion in 1998 made the provision for K1 billion in the 1999 Estimates 'unrealistic'. The 1999 financial statements submitted by the controlling officer indicated that the total expenditure was closer to K40 billion! *The Post* 15 June 2001.

lvi. For instance papers laid before the National Assembly between 8 and 23 September 1998 included the Dept. of Labour *Annual Report (1989)*, The Ministry of Commerce, Trade and Industry *Annual Report (1990)*, the Ministry of Home Affairs Dept. of National Archives *Annual Reports (1991 and 1995).*

lvii. *Report of the Committee on Public Investments on the Report of the Auditor-General for 1996 on the Accounts of the Parastatal Bodies* (Lusaka: National Assembly of Zambia, 1998).

lviii. Public Accounts Committee, *Report on the Report of the Auditor-General for 1998* (2000), p. 179.

lix. The origins of the Parliamentary Reform Committee date from September 1992 and the signing of a grant agreement on enhancing democratic governance, with the US government. In February 1993 a memorandum of understanding was signed with the United States Agency for International Development to focus on four areas, one of which is legislative performance. Among the Committee's recommendations are:
Recommendation 31: the National Assembly be willing to reduce proposed appropriations where deemed fit, or transfer appropriations from one line to another, or even vote against the executive's entire budget.
Recommendations 32/45: oblige ministers to defend budget proposals before the departmentally-related committees, as a regular part of the budget process.

Recommendation 33: greater support staff to the National Assembly for budget appraisal.

Recommendation 34: the executive be required to submit its budget sufficiently far in advance of voting in the house for there to be adequate analysis, deliberation and consultation.

Recommendation 35: the executive be required to itemise the budget line-by-line and show activity-based details, identify revenues by source and expenditures by purpose and geographic distribution, together with a report of the previous year's outturn.

Recommendation 36: the AG's reports should simultaneously go to the President, Speaker of the National Assembly and Public Accounts Committee.

Recommendation 38: where the PAC finds evidence of wrong doing it should hand it to the Attorney General.

lx. On the harmful effects on investor confidence see L. Rakner, N. van de Walle and D. Mulaisho, *Aid and Reform in Zambia. Country Case Study* (Bergen: Chr. Michelsen Institute, 1999), p.p. 32, 47.

lxi. Public Accounts Committee, *Report on the Reports of the Auditor-General on the Financial Statements for 1994 and 1995* (1998), p. 11.

lxii. A. Luhila, MP, *Parliamentary Debates*, No. 109, 16 Jan. - 3 April 1998, col. 390.