

**PARLIAMENTARY FLOOR-CROSSING AND BY-ELECTIONS IN  
ZAMBIA'S THIRD REPUBLIC: THE RELATED CONFLICT FOR  
DEMOCRACY AND PEACE**

**By**

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**Submitted in partial fulfilment of the requirement for the degree  
Doctor of Philosophy (Conflict Transformation and Peace Studies)**

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**2019**

## DECLARATION

I certify that the work in this thesis entitled “Parliamentary floor-crossing and by-elections in Zambia’s Third Republic: related conflict for democracy and peace” has not previously been submitted for a degree nor has it been submitted as part of requirements for a degree to any other university or institution other than the University of KwaZulu-Natal.

I also certify that the thesis is an original piece of research and it has been written by me. Any help and assistance that I have received in my research work and the preparation of the thesis itself have been appropriately acknowledged.

In addition, I certify that all information sources and literature used are indicated in the thesis.

Peter Mulinda Mudenda (Student No: 208511198)

DECEMBER, 2019.

## DEDICATION

Though they may no longer be here with us, I know that Auntie Mutinta Mpamba and Sr. Veronica Moore, along with the family and ancestors that have made me the man who I am today, look down on me with pride. I miss you and may your humble souls continue to rest in peace.

To my son Mulinda Mudenda Jr., born during this long journey; and growing in unforgiving and uncertain times, you never chose – when you are a grown-up, I pray that you will look back on your dad’s achievement with pride and perhaps draw inspiration. I love and miss you more than you will ever imagine.

To Thandiwe Thabethe, I am eternally grateful for all you have done to me – the future beckons.

To my family, mum and dad, my grandmother, my sisters, cousins, nieces and nephews, aunties and uncles, and my in-laws, I thank you.

## ACKNOWLEDGEMENTS

I wish to express my gratitude to the following people for their contributions toward the successful completion of my PhD study.

Thank you Lord God the Almighty for seeing me through these long, trying and at times hopeless times.

I am also grateful to my family members who were emotionally present with me and praying for me - undaunted by the barrier of geography during my studies.

I would like to thank my PhD supervisor, Professor Suzanne Francis for her guidance and direction during the course of my study. I am equally grateful to Dr. Alain Tschudin who originally accepted me into the CTPS program and helped me to lay a foundation as my first postgraduate supervisor.

I am grateful to Dr. Lydia Hangulu for the support, encouragement and memories. To my friends: Fred Mundando, Deo Kaundula, Bryan Chibuluma, Victor Mwanamwambwa, Shoba Nyambe, Ian Milimo, Clement Moonga, Collins Mucheuki, Danford Chibvongodzi Dr. Remmy Musumpuka, Dr. John Kunda, Francis Moyo, Dr. Brian Shawa, Dr. Mike Haule. Thank you for your friendship, kindness and support during the long, lonely and at times painful journey I often had few to turn to.

I would like to thank the College of Humanities - Social Sciences at the University of KwaZulu-Natal, Durban, South Africa for providing an environment that made my achievement possible.

## ACRONYMS

AVAP	Anti-Voter Apathy Project
CARITAS Zambia,	
CSOs	Civil Society Organisations
ECZ	Electoral Commission of Zambia
FODEP	Foundation for Democratic Process
GRZ	Government of the Republic of Zambia
JCTR	Jesuit Centre for Theological Reflection
LAZ	Law Association of Zambia
MMD	Movement for Multiparty Democracy
MPs	Members of Parliament
NGOCC	Non-Governmental Organizations Coordinating Council
NGOs	Non-governmental Organizations
PF	Patriotic Front
SACCORD	Southern African Centre for the Constructive Resolution of Disputes
TIZ	Transparency International Zambia
UNIP	United National Independence Party
UPND	United Party for National Development
YALI	Young African Leaders Initiative
ZCSD	Zambia Council for Social Development
ZNWL	Zambia National Women's Lobby
ZNBC	Zambia National Broadcasting Corporation

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## **ABSTRACT**

The inducement of parliamentary floor-crossing and by-elections in Zambia's Third Republic has been a source of conflict between the ruling parties and the opposition. To determine its effect on democracy and peace, the study utilised a qualitative research approach employing a semi-structured interview method to collect data from elected Members of Parliament from the ruling and opposition parties in Zambia; leaders of Civil Society Organisations; and the electorate. The study found that the inducement of floor-crossing and by-elections causes intra-party and inter-party conflict that negatively impacts on democracy and peace. It has further led to the erosion of liberal democracy anchored in a system of checks and balances by weakening the opposition and the parliamentary oversight of the executive. Moreover, it has also led to the erosion of peace due to the conflict it sets off within and between political parties, as seen in adversarial and antagonistic relations and electoral violence. The study shows that the inducement of parliamentary floor-crossing and by-elections in Zambia's Third Republic undermines liberal democracy and peace. The study suggests that peace can be attained by banning the appointment of opposition MPs without consent of their parties; banning MPs that cross the floor from contesting by-elections and from public office appointments; introducing a system of proportional representation in the electoral system; ensuring that independent state institutions manage elections; curtailing Presidential powers; the use of coalition government; the promotion of on-going dialogue between stakeholders; and the building of ideology-based politics.

# CHAPTER ONE

## INTRODUCTION

This study is an exploration of the inducement<sup>1</sup> of parliamentary floor-crossing<sup>2</sup> and by-elections<sup>3</sup> in Zambia's Third Republic and how the related conflict it generates affect democracy and peace in the country. This phenomenon of floor-crossing and by-elections inducement has been a source of conflict between the opposition and the ruling parties that negatively impacts on democracy and peace. It leads to adversarial relations; creates a hostile political environment compounded by a lack of impartial and equal electoral process management and application of law and order that ultimately result in electoral violence.

### 1.1 Background

Zambia is a country in Sub-Sahara Africa, whose name comes from the Zambezi river (Simson, 1985; Habson, Williams & Roberts, 2017). It was formerly known as the British colonial territory of Northern Rhodesia before gaining its independence on 24 October, 1964 (Simson, 1985). It is a landlocked country covering a geographical area of about 752,612 sq. km with a population of about (2016 est.) 15.37 million (Habson, Williams & Roberts, 2017), with Angola, the Democratic Republic of the Congo (DRC), Tanzania, Malawi, Mozambique, Zimbabwe, Botswana and Namibia as neighbours.

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<sup>1</sup> Inducement in this study is a term used to refer to the 'enticement' or 'payoff' in the form of cabinet appointment that makes an opposition MP change their party loyalty to that of the ruling party without which they would not.

<sup>2</sup> Floor-crossing refers to the change of loyalty by opposition MPs from the party on whose ticket and support they were elected as MPs to the ruling party upon offer of position in cabinet. It is a *de facto* defection without the MPs' resignation from the party that sponsored them for election to parliament for fear of their seats being declared vacant.

<sup>3</sup> By-elections are elections held before the expiration of the 5 year term of an incumbent MP who resigns or is expelled from the party they were elected to join another party, for the purpose of this study, the ruling party.



**Figure 1. The Map of the Republic of Zambia**

Source: *Encyclopedia Britannica*

Zambia has gone through three major political phases, from its founding as an independent state. The three phases being: 1) the First Republic (1964 – 1972) multi-party state; 2) the Second Republic (1972 – 1991) one-party state; and 3) the Third Republic (1991 – to date) multi-party state (Mbao, 2007; Phiri, 2006). Dr. Kenneth Kaunda, the founding president of the independent Republic of Zambia led the country as president in the First and Second Republic for 27 years (Baylies & Szeftel, 1992). It has had peaceful transfers of power, from Kaunda, of the United National Independence Party (UNIP)<sup>4</sup>, to Dr. Fredrick Chiluba, of the

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<sup>4</sup> UNIP, the United National Independence Party was started by Mainza Chona in 1959 after being leader of ZANC, the Zambia African National Congress that was banned with its leader Kenneth Kaunda arrested. In 1960, Mainza Chona handed the leadership of UNIP to Kenneth Kaunda upon his release from prison. In the 1964 general elections, Kenneth Kaunda led UNIP to victory winning 55 seats out of 75 seats becoming Prime Minister. He became President of the Republic of Zambia on 24<sup>th</sup> October 1964 after leading the country to independence. UNIP adopted the ideology of Humanism, a man-centred society which was a socialist oriented ideology. UNIP under Keneth Kaunda's leadership and as the Head of State ruled from 1964 to 1991 after being defeated by the MMD (Meebelo, 1973; Rakner, 2003; Mwaangala, 2010)

Movement for Multi-Party Democracy (MMD)<sup>5</sup>, which was heralded as an example and a beacon of political transformation in Africa by the West, by international institutions and by academics (Bartlett, 2001; Joseph, 1992). Zambia, unlike many African countries, has been hailed as a stable and peaceful country in Africa (Burnell, 2005).

In a multi-party democracy, President Chiluba recognized that if the party held the majority of Members of Parliament it would be able to change the constitution to pursue personal/party goals. And so, in 1996, Chiluba made use of his majority to block Kaunda from challenging him by amending the constitution to require a presidential candidate to be, a Zambian citizen born to parents who are Zambian citizens by birth or descent (Human Rights Watch, 1996; Mbao, 2011). Consequently, UNIP boycotted the 1996 election to protest the barring of its leader, Dr. Kaunda, leaving the MMD to win 131 of 150 seats compared to 125 of 150 seats from the 1991 general elections (Bertelsmann Stiftung's Transformation Index, 2012). With more than two-thirds of MPs the MMD had won during the 1996 general elections, President Chiluba was determined to use that majority to amend the constitution to allow him to run for a third term but failed due to resistance by Zambians including prominent members of his own party (Simutanyi, 2005).

Having failed to change the constitution to allow him to run for the third term, President Chiluba handpicked Levy Mwanawasa<sup>6</sup>, to run for the presidency. In the 2001 general elections, that followed his failed attempt to run for the third term, President Chiluba using the power of incumbency, extensively used state resources to ensure that his handpicked MMD party candidate Levy Mwanawasa won (Simutanyi, 2010). Mwanawasa narrowly won

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<sup>5</sup> MMD, the Movement for Multi-Party Democracy was formed in July 1990 after the re-introduction of multi-party democracy in Zambia under the leadership of Fredrick Chiluba. The MMD with Frederick Chiluba as leader defeated UNIP in the 1991 general elections winning 125 seats out of 150 seats with the former ruling party, UNIP winning 25 seats in the national assembly. Its ideology was liberal and free-market economy. The MMD remained the ruling party from 1991 to 2011 when it lost to the Patriotic Front (PF) led by Micheal Sata (Bratton, 1992; Rackner, 2003).

<sup>6</sup> Levy Mwanawasa was one of the founding members and first vice-president of the MMD and after the MMD's victory in the 1991 general elections served as the nation's Vice-President from 1992 – 1994. He was elected the nation's President in 2001 and 2006 but died in 2008 before completing his second term (Baylies and Szeftel, 1992; Momba and Madimutsa, 2009; Tobolka, 2013).

the presidency and his party, the MMD, despite having won the most seats in parliament did not have the majority seats needed in parliament compared to the opposition and independent seats combined (Carter Centre, 2002; Kabemba, 2004). The results in table 1 shows the narrow victory the MMD got in the 2001 general elections giving the opposition a combined majority of seats in parliament over the ruling party (MMD); one of the reasons that prompted President Mwanawasa to engage in the inducement of parliamentary floor-crossing and by-elections to gain a majority of seats in parliament.

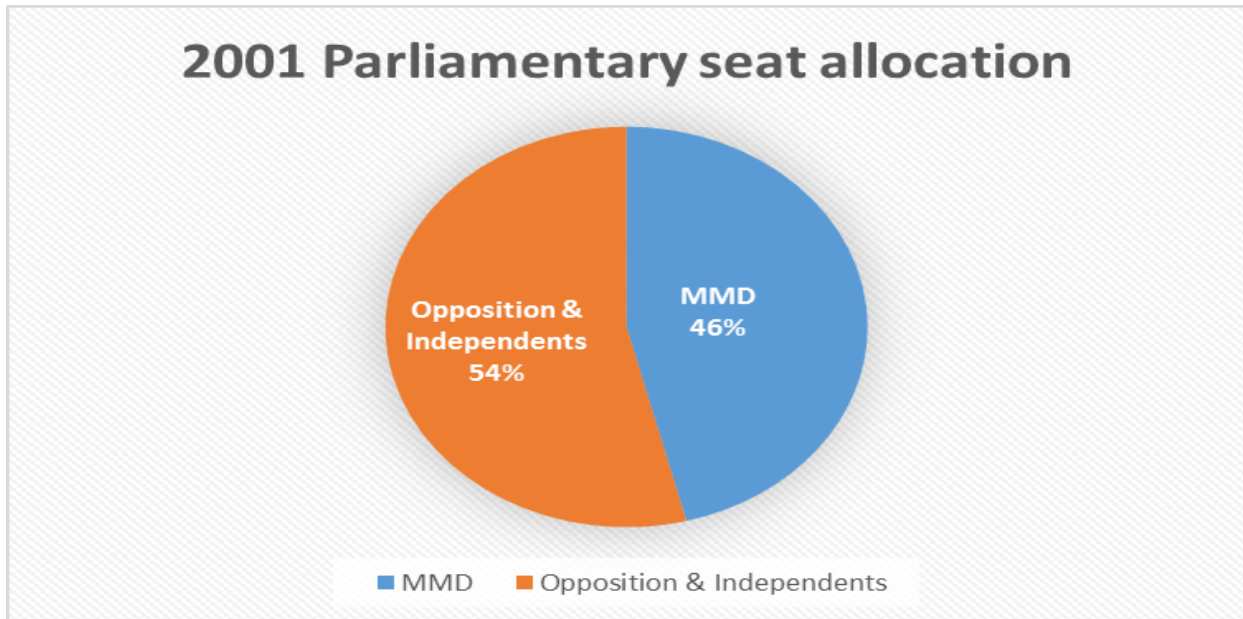
### 2001 ZAMBIA PROVISIONAL ELECTION RESULTS

PRESIDENT				PARLIAMENT			
Party - Candidate	Total Votes	Percent	Party	Votes	Percent	Seats	
MMD – Mwanawasa	506,694	28.69%	MMD	490,680	27.48%	69	
UPND –Mazoka	472,697	26.76%	UPND	416,236	23.31%	49	
FDD – Tembo	228,861	12.96%	FDD	272,817	15.28%	12	
UNIP –Kaunda	175,898	9.96%	UNIP	185,535	10.39%	13	
HP – Miyanda	140,678	7.96%	HP	132,311	7.41%	4	
ZRP – Mwila	85,472	4.84%	ZRP	97,010	5.43%	1	
PF – Sata	59,172	3.35%	PF	49,362	2.76%	1	
NCC – Mumba	38,860	2.20%	NCC	35,632	2.00%	—	
SDP – Konie	10,253	0.58%	INDEP'S	59,335	3.32%	1	
AZ – Lewanika	9,882	0.56%					
NLD – Shamapande	9,481	0.54%					
			(ZAP, NLD, AZ, NP, SDP, LPF, ZUDE, P, ZPP — less than 1%)				

**Table 1: 2001 Presidential and Parliamentary Election Results**

*Source: The Carter Centre, 2001*

The 69 parliamentary seats the MMD got from the 2001 general election results translated into 46% of the number of seats in Parliament, while the opposition and Independent seats translated to 54%. This result denied the MMD the simple majority in parliament needed to pass bills and be able to effectively govern by itself without some help outside the party, from the opposition and independent MPs.



**Chart 1: 2001 Parliamentary election result seat allocation**

*Source: Adapted from the Carter Centre, 2001*

President Levy Mwanawasa initiated and defended the unilateral co-optation of opposition MPs by offering them Cabinet or deputy ministerial positions to create a majority in parliament (Sishuwa, 2012). This strategy of inducing floor-crossing and by-elections enabled the ruling party (MMD), in 2002, to regain the majority in parliament that it lost in the 2001 general elections (Phiri, 2005). The inducement of floor-crossing and by-elections has since been employed by successive administrations to date (Sishuwa, 2012).

In the 2011 general elections in which the opposition Patriotic Front (PF<sup>7</sup>), led by Michael Sata<sup>8</sup>, defeated the ruling party the MMD, the PF won the most seats, 60, representing 41%,

<sup>7</sup> PF, the Patriotic Front the current ruling party in Zambia was formed in 2001 by Michael Sata as a breakaway party from the MMD. The PF won the 2011 general elections bringing to an end the 20 year rule of the MMD (Rakner, 2003; Diakonia Zambia, 2013; Siachiwena, 2017).

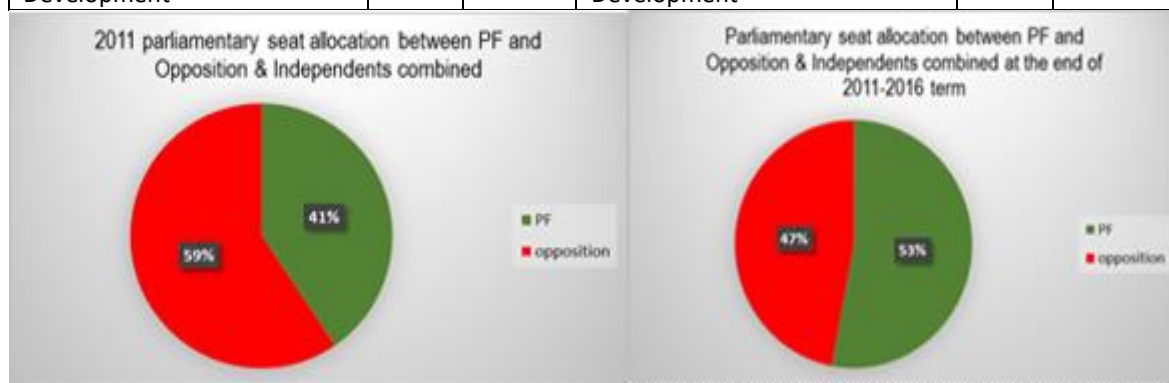
<sup>8</sup> Micheal Sata became President of the Republic of Zambia in 2011 after winning the presidential election in the 2011 general elections but died in 2014 before completing his first term of office. Prior to forming the PF he had served in various cabinet portfolios in the Second Republic under the UNIP government and in the Third Republic under the MMD government. He resigned from the MMD to form the PF after the nomination of Levy Mwanawasa as the presidential candidate for the MMD in the 2001 general elections (Bartlett, 2000; Rakner, 2003; Siachiwena, 2017; Williams, Hobson, and Roberts, 2018).



while the opposition with the independents combined, not as single entities, got the majority of the seats in Parliament 59% (ECZ, 2011).

The PF led government just like the former ruling party, the MMD, quickly embraced the floor-crossing and by-election inducement strategy it so vehemently opposed and condemned when it was in the opposition, in order to create the majority in the house. By 2013, the late former president Sata had appointed approximately 10 opposition MPs as deputy ministers in the PF-led government (Simutanyi, 2013). The PF had increased its total number of MPs from 60 to 79 during the 2011-2016 term through the inducement of by-elections. On top of that, they had through induced floor-crossing, secured the seats of the MPs appointed as Cabinet Ministers and Deputy Ministers from the opposition; and the 8 nominated MPs to ensure an absolute majority in the house. The table and pie charts number 2 show the extent to which the PF through the inducement of floor-crossing and by-elections increased the number (share) of MPs after the general elections of 2011 within the 2011-2016 term.

PARTY/INDEPENDENT 2011		SEATS	PARTY/INDEPENDENT 2016		SEATS
Patriotic Front	PF	60	Patriotic Front	PF	79
Movement for Multi-Party Democracy	MMD	55	Movement for Multi-Party Democracy	MMD	36
United Party for National Development	UPND	28	United Party for National Development	UPND	31
Independent	IND	3	Independent	IND	1
Alliance for Democracy and Development	ADD	1	Alliance for Democracy and Development	ADD	1
Forum For Democracy and Development	FDD	1	Forum For Democracy and Development	FDD	1



**Chart 2: Parliamentary seat allocation change in one term between 2011-2016**

*Source: Adapted from the Electoral Commission of Zambia, 2011 & National Assembly, 2016*

The table and charts above show that the outcome of parliamentary elections in the 2011 general elections significantly changed before the end of the 5 year term. The ruling party, PF increased the number of its MPs from 60 (41 percent share) to 79 (53 percent share) mainly through the inducement of floor-crossing and by-elections.

## **1.2 Rationale of the study/Problem Statement**

The subject of floor-crossing inducement in Zambia's Third Republic has been just as contentious and bitterly contested as the by-elections it induces. The by-elections that flow from floor-crossing have been bitterly contested and increasingly 'characterized by vote-buying, threats to withhold government development projects, intimidation, and physical violence' (Bureau of Democracy, Human Rights and Labor, 2014; Schendler, 2002). The political arena has been poisoned by bitter partisanship, name-calling, and insults, anger and hate; and has created a war like environment that, according to one politician, threatens the country's future (Lusaka Voice, 2014, January 25). This environment is not only a threat to multiparty democracy and development but is also a direct threat to peace and security.

Though the current volatile political environment in Zambia's Third Republic cannot simply be ascribed to floor-crossing, it is, however, a major factor. In presenting a petition to the President for national dialogue aimed at diffusing tension in the country, the leader of Zambia Direct Democracy Movement (ZDDM) stated that the conflict between the ruling party, PF and the opposition parties, was caused by among others, the issue '...of the PF poaching opposition MPs...' (Lusaka Times, November 19, 2012). The ruling party, does not only desire to gain an absolute majority in the House but in the words of the current ruling party's former Secretary General, Winter Kabimba "it was his duty to entice opposition parliamentarians to resign from their parties to join the PF, even if it meant having no remaining opposition MPs" (Bureau of Democracy, Human Rights and Labor, 2014: p. 8). Floor crossing is therefore embarked on not only to get a sufficient number of seats in the House for governance purposes but to strengthen the ruling party, weaken and even to destroy the opposition. The opposition parties see it for what it is, as an existential threat and treat it as such.

This study wishes to explore the two issues at the heart of political conflicts in Zambia's Third Republic: (1) induced floor-crossing of opposition members of parliament from their political parties to the ruling party, and (2) induced by-elections. The current ruling party when in opposition strongly opposed and condemned the very practice they have now embraced and defend; while the MMD now condemn what they once pioneered and defended when they were the ruling party.

A lot of attention is given to the subject of induced floor-crossing and the resulting induced by-elections in terms of how it undermines democracy, or as argued by its proponents, promotes democracy and development (Momba, 2005; PANA, 2003). Not much has been written about how it undermines or promotes peace. Yet, the political arena has been characterized by much antagonism, tension, political and electoral violence. This antagonism and violence does get media coverage (Election Violence, 2009; Mulenga, 2013; Kyambalesa, 2014; Mafa, 2016). The violence and the tension in the political arena are written about often without reference to some of the root causes. The political and occasional electoral violence get media coverage as the pictures in figure 2 vividly show:



**Figure 2: Political party cadres engaged in electoral violence**

*Photos: ANP/ AFP Dawood Salim*



**Figure 3: A victim of electoral violence**

*Source: Post Newspaper: Mufumbwe bye-elections violence*

And yet, for true democracy and development to take place there must be peace. And true peace also requires democracy and development (Galtung & Scott, 2008). Peace is more than just the absence of war or conflict. As distinguished by Galtung (1969) peace that is merely the absence of direct violence is negative peace while positive peace involves efforts aimed at ending the indirect violence which includes social, political, economic, structural and systemic causes. Peace “involves working to eradicate that which works against equality..., changes in attitude and behaviour, so that we treat each other as equally valuable” (Nielsen & Froese, 1988).

This study focuses on the conflict that has arisen out of the phenomenon of the induced parliamentary floor-crossing and by-elections. The political conflicts in Zambia are not limited to these, but these have been chosen to provide focus for the study, and because they create a hostile, antagonistic and adversarial political environment that ultimately lead to political and electoral violence.

This study shows that the desire on the part of politicians for domination, power, wealth and survival drives them to do things that run counter to the principles of democracy and peace. This study provides proposals that aim to contribute to a process that leads to the transformation of the conflict around induced floor-crossing and by-elections in order to contribute to a sustainable peace.

### **1.3 The aim of the Study**

The main aim of the study is to examine the underlying causes/ drivers of the phenomenon of floor-crossing and by-elections; and how the conflict it provokes impacts on democracy and peace in Zambia's Third Republic and how it can be transformed.

The fact that political parties when in opposition are vehemently opposed to floor-crossing but when in government embrace the very practice is an indicator of underlying issues that beg a study and understanding. Are politicians just looking for a majority in Parliament for the sake of governing which cannot be achieved through credible and genuine coalition/s or consultation with the opposition? For the opposition, are there better ways of solving the intra-party conflict that arises out of co-option of some of their MPs apart from resorting to expulsion? Are they conscious of the negative consequences of this conflict caused by floor-crossing and by-elections? What are the underlying causes of this conflict and what should constitute the process to transform it?

### **1.4 The objectives of the study**

This study, therefore, has the following objectives, which are to:

1. Explore the conditions that facilitate floor-crossing by Zambia's elected Members of Parliament.
2. Assess the impact of parliamentary floor-crossing and by-elections on democracy in Zambia.
3. Examine the consequences of parliamentary floor-crossing and by-elections on peace and security.
4. Investigate possible ways of transforming the conflict generated by floor-crossing for a more democratic, peaceful and secure Zambia.

### **1.5 Research Methods**

The aforementioned phenomena of the inducement of parliamentary floor-crossing and by-elections have caused much antagonism, acrimony, tension and occasional violence in the

political arena. It has been widely condemned by civil society organisations, major church bodies, academics, opposition parties and ordinary citizens (The Council of Churches in Zambia (CCZ), the Evangelical Fellowship of Zambia (EFZ) and the Zambia Episcopal Conference (ZEC), 2013; Momba, 2007). Despite this widely held opposition to floor-crossing and the induced by-elections, they have not only continued but increased; and violence has also been escalating. While this problem remains and continues to be a challenge to multi-party democracy and peace, it also presents a unique opportunity for reflection, change of assumptions and attitudes; an examination of issues, institutions, structures and laws that support, entrench and sustain it.

### **1.6 Key questions**

1. What are the conditions that facilitate floor-crossing by Zambia's elected Members of Parliament?
2. How do parliamentary floor-crossing and by-elections impact on democracy in Zambia?
3. What are the consequences of parliamentary floor-crossing and by-elections on peace and security in Zambia?
4. How can the conflict generated by floor-crossing and by-elections be transformed?

### **1.7 Study design**

This study utilized qualitative methodological approach because it helps scholars to understand how individuals, organisations and communities make meaning of issues that concern them. Unlike quantitative studies that aim at generalizability and the statistical representation of data, a qualitative study is appropriate because it aims to provide the depth, insights and conceptual understanding of the data (Ulin, Robinson, Tolley & McNeill, 2002). Qualitative research sees things from the participants' perspectives and allows for creativity and advocacy on the part of the researcher. This kind of enquiry allows one to focus on individual meanings (Creswell, 2009) in their social and political context. This approach helped the study explore what was relevant for the participants and how they make sense of their world (Lester, 1999).

Thus, the approach focused upon collecting, analysing and understanding information rather than identifying, isolating and controlling variables as is the case with the quantitative approach (Terre Blanche, Durrheim & Painter, 2006). Additionally, qualitative research aims at understanding complex issues that may elude structured quantitative research (Bryman, 2001).

## **1.8 Participants**

The sample from which data was collected consisted of three entities, namely: (i) Members of Parliament, (ii) civil society organisations / church-based organisations, and (iii) the electorate / ordinary citizens. Extensive open-ended interviews were carried out with nine elected Members of Parliament from the three major political parties, the PF, MMD and UPND.

In the second sample, interviews were carried out with eight leaders of civil society organisations (CSOs) and church-based organisations (CBOs) that are advocates for the ideals of justice, peace, development, equality, faith, democracy, participation, and transparency in Zambia. These are: The Executive Director for Foundation for Democratic Process (FODEP), Executive Director for Southern African Center for the Constructive Resolution of Disputes (SACCORD), Secretary General for Zambia Episcopal Conference (ZEC), Executive Director for Anti-Voter Apathy Project (AVAP), President for Young African Leaders Initiative (YALI), Director for the Jesuit Center for Theological Reflection (JCTR), President for Transparency International Zambia (TIZ), and the Executive Director for Operation Young Vote (OYV). In the third sample, eighteen ordinary citizens, made up of twelve men and six women, were interviewed. This sample of citizens consisted of civil servants, farmers, the youth, and businessmen and businesswomen.

All in all, this study conducted 35 one-on-one in-depth interviews. These different types of participants were chosen for triangulation purposes because as Kaplan & Maxwell (2005) observed, the results of a study have greater credibility when data from different sources is consistent compared to when it is from one source. These participants were recruited to meet the following criteria (1) those from political parties had to be current serving elected

Members of Parliament from the major political parties, and 2) those from civil society organisations / church-based organisations had to be holders of senior positions at national level, and (3) the ordinary citizens had to represent a cross-section of groups found in society. The mix of ideas and experiences from this mixed sample is necessary to get a clear picture that is not one-sided, partisan or ideological for the study.

## **1.9 Ethical Considerations**

Ethical approval for this study was obtained from the Humanities and Social Science Research Ethics Committee of the University of KwaZulu-Natal, South Africa. The fieldwork was conducted in Lusaka, Monze and Choma in the Republic of Zambia. Participation in the study was voluntary; participants were informed of their right to withdraw from the study at any point without any harm to them if they chose to do but none of them chose to withdraw. The ethical principles (informed consent, anonymity, confidentiality and voluntary participation) were followed. The ethical approval for the study is provided in Appendix 1.

## **1.10 Sampling of participants**

Purposive and snowball sampling techniques were used to identify and locate participants for the study. Purposive sampling provided an opportunity for the researcher to choose particular participants that were required to provide more insight into the research question. These participants can be individuals, groups, organisations or specific kind required for the study (Devers & Frankel, 2000). Purposive sampling, states Davies (2007, p. 57), “invites the researcher to identify and target individuals who are believed to be ‘typical’ of the population being studied.”

Once initial contact had been made, snowball sampling was utilized. This method is suitable when a researcher needs a sample of people who are of the same background, characteristics or same trade as the ones first contacted who in turn refer the researcher to their kind (Biernacki & Waldorf, 1981). It is based on referrals of individuals who have an understanding of a given phenomenon (Ulin, Robinson, Tolley & McNeill, 2002). Even though snowball sampling does not claim statistical representation (Bryman, 2004), it is appropriate in this study because a more varied sample of organisations, parties and



individuals were chosen to provide more detailed information on different perspectives of conflict created by floor-crossing and the by-elections that follow.

### **1.11 Data collection instruments**

This study utilised semi-structured, open-ended one-on-one interviews. The interviews were guided by an interview schedule. The semi-structured interview guide was developed from the literature. Semi-structured interviews give participants the free expression of their views and can provide data that is reliable and comparable (Cohen & Crabtree, 2006). The interviews were conducted in English and fielded semi-structured, open-ended questions because they allow the researcher to source data in greater detail by remaining conversational and situational (Ulin et al., 2002). The interview guide with semi-structured questions was used to keep the interactions focused to allow for free probing (Britten, 1995). Unlike closed-ended questions that limit the respondent to a set of responses determined by the researcher, open-ended questions allow the respondent to express opinions without being influenced or limited by the researcher (Foddy, 1993).

### **1.12 Data collection procedure**

In accordance with the ethical principles followed, prior to each interview conducted, the nature and aims of the study were explained to each participant who was asked to sign an informed consent form. They were informed of their right to withdraw from the interviews or focus group discussions at any time if they wished to.

Participants' confidentiality was guaranteed through the use of pseudonyms. These interviews were conducted at convenient venues agreeable to, or identified by, the participants where they were comfortable. Before the start of the interviews, participants' permission was sought to use the digital recorders to record interviews. The data collected is safely stored under encryption for a period of five years to be safely disposed thereof afterwards.

### **1.13 Data Analysis**

In preparation for analysing the data, all audio-recorded interviews were transcribed, verbatim. This study used a thematic data analysis technique to analyse the data collected from the interviews. According to Braun and Clarke (2006), thematic analysis is a method used to identify, analyse and report patterns or themes within the data. This type of analysis is inductive in that the researcher does not predetermine the themes but they emerge from the data. Data analysis is the process of systematically scrutinising and arranging the field notes and interview scripts in order to present the findings to others (Bogdan & Biklen, 1992).

Furthermore, a thematic analysis method was utilised because it is flexible and allows for the exploration of the context and meaning of the participants (Ulin *et al.*, 2002). The data analysis process involved five steps as presented by Blanche, Durrheim and Kelly (2006). These are (1) familiarisation: this involves rereading of the data (2) identifying a thematic framework: involves identification of themes (3) Indexing (Coding): involves identification of codes for different themes (4) Charting: involves creating charts for the data set, and (5) mapping and interpretation: involves searching for patterns, associations concepts and explanations aided by the visual displays and plots. The final step involves putting together the interpretation of the data (Blanche *et al.*, 2006) which will later be presented.

### **1.14 Outline of the Dissertation**

#### **Chapter One**

This chapter is an introduction to the study. It provides the background to the study and the research methodology. Specifically, this chapter lays out the background; aims and objectives of the study; research problems and objectives: key questions to be asked; study design; participants; ethical considerations; procedure followed for the sampling of participants; data collection instruments; data collection procedure; method of data analysis; and the outline of the dissertation

## **Chapter Two**

This chapter examines literature on liberal democracy, the roles that parties and the opposition play. It lays out the challenges liberal democracy faces among which are efforts by ruling parties to weaken opposition parties, undermining separation of powers through the inducement of floor-crossing and by-elections that brings the legislature under the control of the ruling party. The second part of the chapter examines the concept of electoral conflicts and violence. It explores some of the factors that cause electoral conflicts and violence some of which are due to lack of impartial electoral process management and an un-even electoral playing field.

## **Chapter Three**

This chapter explores the theoretical frameworks that underpin this study: the theory of patron-clientelism; the theory of rational choice; and the theory of conflict transformation. The theory of patron-clientelism shows what the nature of relationship between the Republican Presidents (patrons) and opposition MPs (clients) is and why they enter into one through the inducement of floor-crossing and by-elections. The theory of rational choice theory also adds more understanding as to the question of motivation for the choice of a course of action: inducement of floor-crossing and by-elections despite wide-spread condemnation and resistance from citizens; and its negative impact on democratic consolidation and peace. The theory of conflict transformation guided the study in the understanding of the dynamics of conflict and how it can be transformed into constructive outcome as opposed to destructive outcome.

## **Chapter Four**

This chapter explores the conditions and factors that motivate and allow the inducement of parliamentary floor-crossing and by-elections in Zambia's Third Republic. These include a weak and porous constitutional framework; greed on the part of opposition MPs; desire for power consolidation (domination) by the Republican President and the ruling party.

## **Chapter Five**

This Chapter examines how the inducement of parliamentary floor-crossing and by-elections in Zambia's Third Republic impacts on democratic consolidation. It weakens and destroys the opposition thereby allowing the Republican President and his party (the ruling party) to have control over parliament which in turn disables or weakens parliament's ability to provide meaningful checks and balances. A weak parliament becomes a rubberstamp that cannot stop the abuse of power and state resources by those in the executive (from the ruling party).

## **Chapter Six**

This chapter is a critical examination of the impact of the inducement of parliamentary floor-crossing and by-elections on peace. The conflict that ensue thereof, leads to intra-party conflicts creating discontent and divisions within parties. It also leads to anger and loss of trust by the electorate over inter-party conflicts resulting in adversarial and confrontational relations between parties. The hostile political environment compounded by lack of impartial electoral process management; and law and order enforcement results in electoral violence.

## **Chapter Seven**

This chapter explores and proposes some elements of a framework that be a basis for the transformation of the conflict around the inducement of parliamentary floor-crossing and by-elections in Zambia's Third Republic for a more democratic and peaceful Zambia.

## **Chapter Eight**

This chapter provides a general conclusion to the study. It provides a summary of the aims and objectives of the study; conditions that facilitate floor-crossing and by-elections in Zambia's elected Members of Parliament; the impact of parliamentary floor-crossing and by-elections on democracy; consequences of parliamentary floor-crossing and by-elections on peace; and recommendations.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

This chapter examines the peer-reviewed literature on the concepts of democracy and electoral violence. Various components of the concept of democracy, as it is applied, are interrogated such as the notion of i) liberal democracy; ii) political parties; iii) the role of opposition parties; iv) the state of opposition parties in sub-Saharan Africa; and v) parliamentary floor-crossing. The second part of the chapter examines the concept of electoral violence. It explores aspects of elections such as i) elections in Sub-Sahara Africa; ii) electoral conflicts and violence in Africa; and iii) elections and electoral violence in Zambia.

The study chose to examine the peer-reviewed literature under the concepts of liberal democracy and electoral violence because the conflict around the inducement of floor-crossing and by-elections have a negative impact on liberal democracy and peace. Secondly the literature review reveals a gap in available peer-reviewed literature, namely that the inducement of floor-crossing and by-elections have been viewed as a challenge to liberal democracy excluding the challenge to peace they pose. The challenges to liberal democracy exclude the hostile and adversarial environment in the political arena created by the conflict around the inducement of floor-crossing and by-elections that ultimately result in political and electoral violence that affect democracy and peace.

#### **2.1 Liberal Democracy**

The word democracy comes from the two Greek words: “demos” which means people, and ‘Kratos’ which means power or rule (Dahl, 2017). The direct translation meant for democracy was rule by the people though the Greeks originally used it to mean the rule of the masses or the poor. So, the origins of the concept of democracy can be traced to the city state of Athens in ancient Greece in the 5<sup>th</sup> Century B.C. (Dahl, 2017; Ober, 2008; Konrad-Adenauer-Stiftung, 2011). The assembly, usually composed of 5000 to 6000 adult citizens chosen by lot, not elections, as the belief by the Athenians was that any citizen was capable of holding

public office, was the central political institution in Athens that decided on all domestic issues by a simple majority vote (Konrad-Adenauer-Stiftung, 2011). Schumpeter, (1941) argued a minimalist model of democracy as a mechanism for competition between leaders through periodic votes by the general public for the legitimisation of government with a severely limited participatory role for the public. He defined democracy as a process of competitive elections by the people for elected representatives to carry out their will.

There are different types of governments, those based on elections and those that are not; and there has been a debate as to whether the ones based on elections provide good governance and those that aren't based on elections do not. One argument though that has been widely accepted is that, a democratic government is not possible without elections of some kind (Wright, 1971). In a multiparty democracy however, apart from the holding of elections, the wellbeing of liberal democracy depends, among other things, on the need for strong opposition political parties.

### **2.1.1 Political parties**

There is a recognition that political parties are a prerequisite in a democratic political system (Aldrich, 1995; Müller, 2000; Dalton, Farrell & McAllister, 2011). Political parties play many critical roles in a democracy. As such, “democratic consolidation can hardly be achieved without political parties playing a significant role not only in the debate but also by practising the principles and policies they advocate” (Salih & Nordlund, 2007, p. 20).

In a multi-party state, the existence of political parties should not only be tolerated but should be encouraged, supported and strengthened because they play a vital role in a vibrant democracy. In underscoring the importance of political parties, Diamond (1997, p. xxiii), states that they are,

essential instruments for representing political constituencies and interests, aggregating demands and preferences, recruiting and socializing new candidates for office; organizing the electoral competition for power, crafting policy alternatives, setting the policy-making agenda, forming effective governments, and integrating groups and individuals into the democratic process.

At their core, political parties are representative institutions that produce leaders and, by means of democratic elections, form governments; provide ideologies that speak to

alternative economic, social and political interests and bequeath legitimacy to regimes. In the quest for democratic consolidation, political parties are at the centre of shaping programmes, political representation, public policies and government functions (Webb, 2005; Salih & Nordlund, 2007).

### **2.1.2 Opposition parties in a democracy**

John Acton's axiom cited in (Venter, 2015) "Power tends to corrupt, and absolute power corrupts absolutely," is a powerful reminder of the need to keep any government in check owing to the enormous power it holds. One of the vexing challenges of any government given the enormity of power it possesses is the need to control the government so that it does not abuse the power that the people have given it to govern. Schedler (1999, p. 13) notes that, "the earlier classical theorists knew: in politics, first comes power, then the need to control it." Control, oversight or accountability over how the power to govern is exercised is important because human beings are not angels, as Madison (1788, para. 4) so eloquently argued:

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

In an effort to seek and to ensure that control, oversight and accountability is exercised in government, over its use of power or its application, the doctrine of separation of power has been devised. According to Kiiza (2005, p. 2), "The doctrine of separation of powers is designed to build institutions that guard against arbitrary rule via a system of checks and balances. The biggest danger to the separation of powers is usually the executive." The absence or lack of checks and balances among the various branches of government (executive, legislature and judiciary) facilitates one of the worst indicators of unaccountable government, which is the abuse of state power (Ikome & Kode, 2010).

Among the functions of the opposition in a multiparty democracy as outlined by Kiiza (2005), the ones that pertain to holding government accountable; and to promote and stimulate debate, relate directly to its role in the legislature. "In a multiparty system the opposition thus

becomes crucial as it challenges the incumbent and provides horizontal accountability of government to the legislature” (Chiroro, 2006, p. 102). The opposition as part of government, with its elected members of parliament in the legislature should be a watchdog that guards against, and challenges the abuse of power, corruption, waste of public funds, breaches of human rights, and nepotism that too often those in the executive are prone to (Kabgin, 2015). Thus, according to Lawson (2010, p. 108), the main function of opposition parties is, “to hold elected officials accountable, thereby ensuring a healthy political debate, generating competition over ideas and policies, exposing corruption, and thus serving the public interests and requiring a responsive government.” Holding the government accountable ensures that government conducts its business within the confines of the law and that once it steps out or abuses its authority those in the opposition would be on hand to expose it, fight it and hopefully stop it.

Opposition political parties thus play a critical role in a democracy, that of providing oversight and accountability of the government in power. They make for “a powerful engine for enforcing accountability. The party in power all too often has strong incentives to evade accountability, but the opposition have their own incentives to uncover wrongdoing...” (Blair, 2000, p. 28).

Among the three branches of government in which the opposition parties can provide one of its core functions of ensuring checks and balances is in the legislature. As noted by Rakner and van de Walle (2009, p. 109), “Stable and numerically viable opposition is a key requisite for horizontal accountability through legislative checks on executive power.” To offer effective checks and balances in the legislature, the opposition needs to be stable and have sufficient numbers of members of parliament.

Parliament or the legislature as one branch of government needs a strong opposition for it to be able to effectively discharge its responsibilities. It is that one place, where, according to Diefenbaker (1949, para. 9) “in full discussion freedom is preserved, where one side advances arguments and the other examines them and where decisions are arrived at after passing through the crucible of public discussion.” Apart from being that one place where decisions are discussed, challenged and sometimes amended or stopped, parliament, states



Diefenbaker (1949, para. 8), has an important responsibility of supervising,

all expenditures and prevent over expenditure by exposing to the light of public opinion wasteful expenditures or worse. It finds fault; it suggests amendments; it asks questions and elicits information; it arouses, educates and molds public opinion by voice and vote. It must scrutinize every action by the government and in doing so prevents the short-cuts through democratic procedure that governments like to make.

Parliament is most likely to remain true to its functions if it is composed of a strong opposition representation. Without a strong opposition in the legislature, its watchfulness that is supposed to keep the executive in check by the arguments they make through debates and votes they cast is weakened.

Parliament is the one branch of government where the opposition plays an oversight role over the executive. The control of parliament is central to the conflict around the inducement of floor-crossing and by-elections. The concepts of liberal democracy and electoral violence are related to the following themes being assessed by this study: a) reasons (drivers) for the inducement of floor-crossing and by-elections, b) impact of induced floor-crossing and by-elections on democracy, c) impact of induced floor-crossing on peace, and d) transformation of the conflict for consolidation of democracy and peace.

### **2.1.3 State of democracy and opposition parties in Africa**

The state of democratic consolidation and political parties (especially the opposition) in Africa, while varying from country to country is fragile (Salih & Nordlund, 2007). Many governments in Africa give no sign of wanting to go beyond elections to transform to liberal democracy<sup>9</sup> but instead, "...they often manifest patterns of personal clientelistic-based rule<sup>10</sup>

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<sup>9</sup> Liberal democracy is a political system that allows political liberties and democratic governance. Political rights entail the right to participate, form or belong to a political party of choice and freedom to express political views through any media while democratic rule entails having a government that is accountable to the people; and allows them to participate directly or through their representatives in government (Bollen, 1993).

<sup>10</sup> A clientelistic-based rule is a political system whereby the President who is head of a dominant party discretionarily uses public resources, and government bureaucracy in order to preserve hegemony (Goldsmith and Brinkerhoff, 2002; Briquet, J-L., 2015).

reminiscent of African authoritarian regimes<sup>11</sup>, with the executive holding a preponderance of power” (Tripp, 2004, p. 5).

Many countries across Africa, have experienced a reincarnation of the one party system dictatorship<sup>12</sup> under the guise of multi-party democracy. Kura (2008, pp. 63-64), characterizes democracy in many African countries under the emerging dominant ruling parties as demonstrating, “... an inclination towards a new form of ‘modern’ democratic authoritarianism. In other words, the ruling dominant parties are appearing to be a ‘reincarnation’ of the one-party system and military rule that held sway for about three to four decades in Africa (from the 1960s)”.

The earlier promise of a new dawn of democracy in Africa is slowly being undermined or reversed by a return to one party autocracy<sup>13</sup>. Among other factors, ruling parties in Africa have been cited as major drivers of democratic authoritarianism<sup>14</sup>. African ruling (governing)

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<sup>11</sup> This refers to the post-independence era that saw the personal type military and one party dictatorships that ruled most of the African independent states with impunity (Tripp, 2004)

<sup>12</sup> One party dictatorship is a single-party state with one political party having the monopoly of power. They are autocratic regimes that lack of democratic and human rights; without social and political liberties, and without checks and balance (Brooker, 1995; Brooker, 2000).

<sup>13</sup> One party autocracy is the characterized by the concentration of power in a single a party, the ruling party that relies on use of force to suppress the opposition without any effective means to rein in the abuse of power (Heslop, 2017).

<sup>14</sup> Democratic authoritarianism is the nominal adoption of democratic institutions such as holding multi-party elections by authoritarian regimes to gain and maintain legitimacy and power while forestalling democratization (Brancati, 2014).

parties, according to Kura (2008, p. 64), “have been grossly destabilising opposition and perceived dissenters through clientelism<sup>15</sup>, patronage politics<sup>16</sup> and extra-legal means<sup>17</sup>, thereby undermining the provision of social justice in the guise of democratization.” Ruling political parties under this new ‘democratic authoritarianism’ have become strong and powerful at the expense of liberal democracy and the opposition political parties. Apart from the aforementioned, ruling parties tend to build their political parties using state resources and blurring the lines between party and government. To this, Salih and Nordlund (2007, p.21), argues that,

The majority of African governing political parties are still heavily dependent on the direct or indirect (the embezzlement of public funds to finance elections) use or abuse of government resources. The party in power is hardly autonomous from government influence and it is difficult to draw the line where the influence of government begins and that of political party ends. The relationship between party and government is so blurred that the governing party tends to rely on the state resources to exact patronage in order to maintain the party organization and management.

These and other factors undermine the genuine growth of opposition parties and liberal democracy in many African countries. The fact that abuse of state resources by ruling parties to build their parties means that the opposition parties cannot effectively compete due to the uneven playing field that is not only harmful to the opposition but also to the overall well-being of liberal democracy. “Opposition parties’ evolving ability to compete politically should in theory correlate with the level and quality of democratic practice. Legislative dominance by one party over time often results from authoritarian tendencies, the misuse of state resources, or both” (Rakner and de Walle, 2009, p. 109).

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<sup>15</sup> Clientelism is a relationship between individuals of unequal status (patron and client) based on reciprocal exchange which goes against the values of liberal democracy. As articulated by Briquet (2015, para 9), ‘It involves a discretionary usage of public resources, which contradicts the rule of law and the principle of bureaucratic impartiality. Also, it is based upon personalized exchanges and instruments that are antithetical to the ethics of political conviction...’

<sup>16</sup> Patronage politics involves the distribution of favours or rewards like jobs in public office, contracts, subsidies, status and other benefits by the patron to a client. It is usually an unequal relationship in which an elected official to high office with such power to grant benefits is the patron, while the client provides the patron with services such as voting for the party of the patron (Lemieux and Noël, 2006).

<sup>17</sup> ‘Not regulated or sanctioned by law’ (Merriam-Webster Dictionary).

This also has a negative impact on good governance as the one part or branch of government, the legislature, which is supposed to play an oversight or watchdog role over the executive to prevent abuse of power and resources is also weakened as a consequence of a disadvantaged and weakened opposition in parliament. Parliament on behalf of citizens has a responsibility of representing their views, shaping legislation, overseeing and holding the executive accountable particularly overseeing the use of public funds (Africa All Party Parliamentary Group, 2008).

The health of liberal democracy in a multiparty system also depends on the health of political parties, the ruling party and the opposition parties. In Africa, opposition parties tend to be weak and disadvantaged because ruling parties enjoy undue advantages over the opposition due to the access they have to countrywide state infrastructure and abuse of state resources the opposition parties don't (Rakner and van de Walle, 2009). Furthermore, Rakner and van de Walle (2009, p. 113), argue that:

The single biggest impediment to truly competitive democracy in Africa is the overwhelming dominance of the presidency... Thus the weakness of the parties, and in particular of the opposition, is embedded in the political system's excessive concentration of power in the hands of the executive.

While it is understood and accepted that opposition parties play an important role in a democracy, it cannot effectively play its rightful and critical role that of providing checks and balances if it is disadvantaged and weak. One such institution, in Africa, that suffers as a result of a weak opposition is parliament. President Barack Obama, in his address to the Ghanaian parliament underlined the need for strong independent capable institutions in Africa such as parliament as the key to success and democracy, saying that,

In the 21st century, capable, reliable, and transparent institutions are the key to success -- strong parliaments; honest police forces; independent judges; an independent press; a vibrant private sector; a civil society. Those are the things that give life to democracy... Africa doesn't need strongmen, it needs strong institutions (The White House, Office of the Press Secretary, 2009, July 11).

Sadly, in Africa, with the re-emergence of 'authoritarianism,' many of the supposedly independent institutions are under the 'control' of the very principalities they are

supposed to keep it in check. One such institution or arm of government that is supposed to make government self-regulating, is often targeted by the ruling party to ensure total dominance or rule without effective challenge. This is the legislature (parliament). Among other tools used to ensure that parliament is controlled by the executive (president and the ruling party) has been the inducement of parliamentary floor-crossing and by-elections, a phenomenon quite common in some countries in Africa (Lembani, 2007).

### **2.2.1 Parliamentary floor-crossing**

Floor-crossing is called by different names such as party switching, carpet crossing, defection, crosstitution, and others. The term floor-crossing in this study refers to a process by which an elected Member of Parliament changes his or her allegiance from the party in which they were elected to office for, to another party. Parliamentary floor-crossing (party switching and defections) is not a phenomenon unique to Africa; it is an issue many other countries have had to grapple with (Desposato, 2006). It is common in many countries even though it is rare in most (Majola, Saptoe, & Silkstone, 2007; Desposato, 2006). In this literature review the experience of Nigeria, South Africa, Malawi and Zambia will be explored.

The study selected these countries due to the similarities and differences for triangulation purposes to note constants and variations under similar and different circumstances under which floor-crossing happens in the case of Nigeria, Malawi and Zambia; and in the case of South Africa, happened. Nigeria uses the FPTP electoral system like Malawi and Zambia but Ministers are appointed from outside Parliament. Malawi like Zambia are identical in the use of the FPTP electoral system and appointment of Ministers from among MPs. South Africa on the other hand uses the PR electoral system concerning elections to the National Assembly.

### **2.2.2 Nigeria**

Nigeria held its first democratic elections in 1999 after many years of military dictatorship, but has since been faced with a number of challenges hindering multiparty liberal democracy. One of these challenges is party defections (Aleyomi, 2013, p. 87). The 1999 Constitution of

Nigeria contained anti floor-crossing legislation. A member of the Senate of the House of Representatives, according to Section 68 (1) (g) of the 1999 Constitution of the Federal Republic of Nigeria, may vacate his/her seat if:

being a person whose election to the House was sponsored by a political party, he becomes a member of another political party before the expiration of the period for which that House was elected; Provided that his membership of the latter political party is not as a result of a division in the political party of which he was previously a member or of a merger of two or more political parties or factions by one of which he was previously sponsored (1999 Constitution of the Federal Republic of Nigeria).

However, this 1999 anti-floor-crossing legislation is full of ambiguities that politicians have fully exploited, providing ‘an escape route for politicians to “party switch” “anyhow”’ (Aleyomi, 2013).

The first part of the section prohibits floor-crossing but the second part allows it on the premise of division in the political party on which they were elected. It is therefore argued that since there is no political party that has no divisions, this in effect is not an anti-floor-crossing legislation.

The People’s Democratic Party (PDP)<sup>18</sup>, the then ruling party in Nigeria since its transition from military rule to democracy in 1999, though it was the most powerful, well-funded and organized party in Nigeria was shaken by the defections of five governors and 37 House of Representatives Members, in the run up to the 2015 presidential elections (Murdock, 2014, January 31). These defections have been from the ruling party to the newly formed opposition party, the All Progressive Congress (APC)<sup>19</sup>.

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<sup>18</sup>The People's Democratic Party (PDP) was found in 1998. It won the 1999 general elections under the leadership of Olusegun Obasanjo marking Nigeria’s return to democratic rule for the third time in its history. The PDP won 4 consecutive general elections ruling for 16 years from 1999 up to 2015 when it lost to the All Progressive Congress (APC) in the 2015 general elections. The PDP policies were based on neoliberal capitalist ideology (Omotola, 2009; Katsina, 2016).

<sup>19</sup> The All Progressive Congress (APC) political party in Nigeria, is an alliance that brought together the then three biggest opposition parties in Nigeria, the Action Congress of Nigeria (ACN), the Congress for Progressive Change (CPC), the All Nigeria Peoples Party (ANPP) and part of the All Progressives Grand Alliance (APGA) in 2013. The APC candidate Muhammadu Buhari won the 2015 presidential elections defeating the incumbent President Goodluck Jonathan of the PDP. The APC also won majorities in the National Assembly elections: in the senate the APC got 60 vs PDP’s 49; while in the House of Representatives the APC got 225 seats vs the PDP’s 125 and 10 for other parties. The APC controls 61.29 % of the states in Nigeria having won 19 seats vs

Floor-crossing in Nigeria is mostly not motivated by political patronage as, ‘Nigeria operates a presidential democracy anchored on power separation, with little or no opportunity of cabinet appointments for defectors’ (Fashagba, 2014, p. 519). This is precisely because the Nigerian constitution does not allow the appointment of members of the legislature stating section 127(4),

Where a member of the National Assembly or of a House of Assembly is appointed as Minister of the Government of the Federation, he shall be deemed to have resigned his membership of the National Assembly or of the House of Assembly on his taking the oath of office as Minister’ in the Constitution of the Federal Republic of Nigeria of 1999.

A consequence of which both the ruling parties and the opposition parties have lost their members of the legislature (the Senate and the House of Representatives) to each other. Table 2 shows legislative floor-crossing in Nigeria from and to each political party in the period 1999 – 2011:

Serial Number	1999–2003		2003–7		2007–11		Total	
	No. and % of Defectors to Other Parties	No. and % of Defecting Senators Received by Parties	No. and % of Defectors to other Parties	No. and % of Defecting Senators Received by Parties	No. and % of Defectors to Other Parties	No. and % of Defecting Senators Received by Parties	No. and % of Defectors to Other Parties	No. and % of Defecting Senators Received by Parties
1	PDP	14 (51.85%)	PDP	4 (25%)	PDP	18 (66.67%)		9 (33.33%)
2	AD	9 (33.33%)	AC	4 (25%)	ACN	1 (3.70%)		11 (40.74%)
3	ANPP	4 (14.82)	ANPP	4 (25%)	ANPP	6 (22.22%)		1 (3.70%)
4	NDP		DPP	2 (12.5%)	APGA	0		2 (7.40%)
5	UNDP		PPA	1 (6.25%)	ACPN	0		1 (3.70%)
6			AP	1 (6.25%)	CPC	0		2 (7.40%)
7			AD	3 (18.75%)	PDC	0		1 (3.70%)
					AP	1 (3.70%)		
					PPA	1 (3.70%)		
Total:		27		16		27		27

**Table 2: Number and Percentage of Party Switchers Received by Parties in each of the Three Legislative Terms: (1999 – 2003, 2003 – 2007; and 2007 – 2011).**

*Source: Fashagba (2014, p. 528)*

In the run up to the 2015 elections, the PDP lost 37 members of the House of Representatives to the APC, while in the Senate 11 PDP members defected to the APC (Badejo & Obah-Akpowoghaha, 2015). In July 2018, the APC, the current ruling party lost 33 seats to the

the PDP’s 12 in the 2015 gubernatorial elections. Ideologically, the APC describes itself as a leftist, progressive party (INEC, 2015; Thurston, 2015; Sule, Sani, & Mat, 2018).

opposition PDP and four others to the ADC through defections making the APC ruling party now the minority party in the Senate (AFP, 2018, July 24).

According to some studies done on the subject of Legislative floor-crossing in the Federal Republic of Nigeria it weakens democratic consolidation (Awofeso & Irabor, 2016). It has an effect on democracy which is one of the themes this study found to be negatively affected by floor-crossing. The second theme is on the factors that cause floor-crossing. The literature on floor-crossing in the Federal Republic of Nigeria indicate that it is mainly caused by lack of ideology; selfish interest (re-election concern, political careerism, and personal ambition) and intra-party conflicts; and patronage (Fashagba, 2014; Awofeso & Irabor, 2016).

### **2.2.3 South Africa**

The South African Parliament in 2002 passed three legislative amendments and one Bill, whose 'sole objective was to allow members of Parliament to switch party allegiances and loyalties in between elections while still retaining their legislative seats' (Masemola, 2007: 5). This change prompted a debate on its appropriateness, supported by the major political parties while a few small opposition political parties, intellectuals, electoral authorities and civil society actors opposed it (Boysen, 2006: p. 730).

Controversy grew surrounding floor-crossing and, complaints abounded from the opposition parties that it was 'detrimental to their sustainability and effectiveness, as it tends to benefit larger parties, especially the ruling party...' (Masemola, 2007: p. 1). As a result of its negative impact on the party political system and representative democracy in the country, the



opposition parties such as the Democratic Alliance (DA)<sup>20</sup> and Inkatha Freedom Party (IFP)<sup>21</sup> among others, in 2006, unsuccessfully introduced a private member's bill aimed at scrapping the floor-crossing legislation (Masemola 2007: p. 10). It was successfully amended in 2008, to prevent politicians from keeping their seats if they joined other parties, following the decision to reject floor-crossing by the African National Congress' (ANC)<sup>22</sup> at their 2007 Polokwane National Conference (Carter, 2008). On 6<sup>th</sup> January, 2009 President Kgalema Montlante assented to the amendment after the bill was passed by Parliament (Constitution Fourteenth Amendment Act of 2008, 2009).

In the South African case, floor-crossing negatively affects democratic consolidation and party system in that benefited the dominant party at the expense of small ones and led to the

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<sup>20</sup> The Democratic Alliance (DA) is a South African opposition party that was formed in 2000 out of a merger by the Democratic Party (DP) with the New National Party (NNP) and the Federal Alliance (FA). The DA is the current official national opposition party to the ANC-led government with 89 MPs (22.23% share) in Parliament. It has a nationwide footprint in all provinces of the Republic of South Africa though the Western Cape is the DA's stronghold and has been governing the province since 2009 to date. Mmusi Maimane is the current leader of the party after taking over from Helen Zille following the party's elections in 2015, May 10 (IEC, 2014; Areff, & Khoza, 2015; Everatt, 2016).

<sup>21</sup> The Inkatha Freedom Party (IFP) is an opposition South African political party that was formed in 1994 from the Inkatha National Cultural Liberation Movement (INCLM) by Mangosuthu Buthelezi who is still its leader. It is the fourth largest party in the National Assembly with 10 seats. It is a regional party with the Kwa-Zulu Natal Province being its stronghold, a province it governed from 1994 up to 2004 when it lost to the ANC and has since fallen to number three in the Provincial Legislature with 9 seats after the 2014 elections. Ideologically, the post-apartheid IFP has a mixture of militant Zulu nationalism and inclusive conservative-liberalism (Piper, 2006; Rohanlall, 2014; IEC, 2014).

<sup>22</sup>The African National Congress (ANC) the governing political party in South Africa was found in 1912 as the South African Native National Congress (SANNC) before being known as ANC in 1923. Following the ANC's ban in 1960, the party formed Umkhonto we Sizwe (Spear of the Nation) to fight apartheid using sabotage and guerrilla warfare. Many of the ANC's leaders like Nelson Mandela were arrested and imprisoned on Robben Island while others were killed and some went into exile. The ban on the ANC was lifted on 3 February 1990 followed by Mandela's release from prison on 11 February 1990. The Mandela-led ANC won the first post-apartheid democratic elections in the Republic of South Africa in 1994 and the ANC to date is still the ruling party. It has a national footprint and is the dominant single political party in all provinces except for the Western Cape. Ideologically, though the ANC is a member of the Socialist International and describes itself as a social democratic party, in practice it is liberal-capitalist (Saeboe, 2002; Kurtz, 2010; Ellis, 2011; Rohanlall, 2014; IEC, 2014).

proliferation of small new parties. And perhaps most importantly, it sacrifices constitutional principles over political expediency as floor-crossing was instituted as a way of settling the battle for ‘control of the Western Cape between the ANC and the DA government and Cape Town City Council (Hoeane, 2008). Floor-crossing as the table below shows that the dominant party benefited the most through the increase in the number of seats.

Table 3 shows the outcome in the National Assembly of the March/April 2003 and September 2005 floor crossings at national level, compared with the results of the 1999 and 2004 general elections.

<b>Table 1: South African National Assembly, 1999–2005 (400 members)</b>				
	<i>1999 election</i>	<i>5 April 2003 floor crossing</i>	<i>2004 election</i>	<i>15 September 2005 floor crossing</i>
ANC	266	275	279	293
DP/DA	38	46	50	47
IFP	34	31	28	23
NNP	28	20	7	0
ACDP	6	7	7	4
UDM	14	4	9	6
FF+	3	3	4	4
UCDP	3	3	3	3
PAC	3	2	3	3
FA	2	2	-	-
MF	1	1	2	2
Azapo	1	1	1	1
ID	-	1	7	5

*Source: Compiled from IEC sources, including <<http://www.elections.org.za/Library1.asp?KSId=13&iKid=3>>.*

**Table 3: South African National Assembly 1999-2005**

*Source: Kotzé (2007, p.77).*

Floor-crossing allowed individual legislators to take their seats with them through inducements by the incumbent party. This was frequently ahead of elections when they feared de-selection in their own party, or faced misconduct cases or feared being too far down the list that they would not get back into parliament. Thus personal interests were more important than considerations of democracy. It has a negative effect on the mandate given to elected representatives through their parties as it encourages personal opportunism such as a desire

to change one's personal financial circumstances by alignment with the ruling party over preferences expressed by voters (Kotzé, 2007; Hoeane, 2008).

In South Africa it was found to be unconstitutional in a party-list electoral system because the seat was in effect owned by the party. So at national and provincial levels it was unconstitutional and thus reversed. At local government level there are two electoral systems (a) one is a party-list system – where it was unconstitutional; (b) the other is a ward system where the individual first-past-the-post system is used – thus the seat is “owned” by the individual, not the party and floor-crossing is allowed (Spiess & Pehl, 2004).

#### **2.2.4 Malawi**

Malawi has experienced a lot of party floor-crossing and by-elections since the re-introduction of multi-party liberal democracy in 1993 (Maganga, 2009). The Constitution of Malawi prohibits MPs keeping their seats if they defect to another party while safeguarding their right to free vote in the National Assembly without risking their seats. According to Section 65 of the 1994 Constitution of Malawi,

(1) The Speaker shall declare vacant the seat of any member of the National Assembly who was, at the time of his or her election, a member of one political party represented in the National Assembly, other than by that member alone but who has voluntarily ceased to be a member of that party and has joined another political party represented in the National Assembly.

(2) Notwithstanding subsection (1), all members of all parties have the absolute right to exercise a free vote in any and all proceedings of the National Assembly, and a member shall not have his or her seat declared vacant solely on account of his or her voting in contradiction of the recommendations of a political party, represented in the National Assembly, of which he or she is a member.

The change of party by any elected MP according to the constitution would be grounds on which the Speaker declares their seat vacant. Any MP therefore who wishes to switch or change party would be required to resign from their party and seek a fresh mandate through by-elections. An MP going by subsection 2 cannot lose their seat even if one votes contrary to party stated position (Chigawa, 2008; Maganga, 2011).

In the 1994 multiparty elections, the former opposition party, United Democratic Front (UDF)<sup>23</sup> won the elections with 85 seats out of 177 seats, while the defeated former ruling party, the Malawi Congress Party (MCP)<sup>24</sup> received 56 seats and the Alliance for Democracy (AFORD)<sup>25</sup> obtained 36 seats. The opposition parties, the MCP and AFORD, formed a parliamentary alliance that gave them a combined majority of 86 seats. The combined majority of the MCP and AFORD enabled them to elect the Speaker, both deputy speakers, and seven Committees of Parliament that they chaired. The committees in Parliament were heavily composed of opposition MPs; thereby making the smooth running of government by the UDF difficult (Maganga, 2009).

The response of the UDF government in 1994 to this problem was to enter into a coalition government with AFORD. It created a second vice-presidential cabinet post for the AFORD party president and further appointed 7 AFORD MPs to ministerial positions (Maganga, 2009). However, Malawi was thrown into a floor-crossing crisis in 2005 when the president (Mutarika) abandoned the UDF party under which he was elected in 2004, and formed his

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<sup>23</sup> The United Democratic Front (UDF) political party in Malawi was found in 1993. The UDF won the 1994 multiparty elections under Bakili Muluzi defeating the MCP of former president Kamuzu Banda and was ruling party up until 2004. It has its stronghold in the South of the country; and the party has been seen to be grounded in Western liberal ideologies (Phiri, 2000; Chirwa, Patel, & Kanyongolo, 2000; Patel, 2005; Young, n.d.; Kameme, 2011).

<sup>24</sup> The Malawi Congress Party (MCP) the successor to the Nyasaland African Congress (NAC) party, is the oldest party in Malawi that was found in 1959 as a national mass movement for independence from colonial rule. The MCP led Malawi to independence in 1964 and remained a post-independence ruling party under Kamuzu Banda until 1994, when it lost to the United Democratic Front (UDF). The MCP is the current official opposition party in Malawi. The MCP is ideologically a conservative party with a stronghold in the Central part of the country (Patel, 2005; Kadima & Lembani, 2006; Wikman, 2012).

<sup>25</sup>The Alliance for Democracy (AFORD) is a political party in Malawi that was found in 1993 by Chakufa Chihana. It began as an underground movement aimed at ending President Kamuzu Banda's autocratic one-party dictatorship and usher in multi-party democracy in Malawi. In the 1994 multiparty elections, AFORD emerged as the third largest party in the National Assembly with 32 seats. AFORD had its stronghold in the North where the founding party leader comes from and ideologically is a social democratic party (Patel, 2005; Tsoka, 2009; "Malawi's political party," 2013; Svåsand, 2014).

own party, the Democratic Progressive Party (DPP)<sup>26</sup> triggering a reaction that led almost the entire cabinet, some MPs from the UDF, MCP and independents joining his new party (Muriaas, 2013; Maganga, 2009). In the end the President managed to get 60 MPs from the opposition to the newly formed ruling party, the DPP, but in the process party politics in Malawi became strongly polarized and adversarial between the ruling party and opposition parties. This heightened the adversarial political landscape in Malawi and ensured that president Mutarika's tenure of the DPP was spent in tense stand-offs with the opposition (Maganga, 2009).

The floor-crossing case on Malawi has some differences and similarities to the Nigerian and South African cases. In the case of Malawi, floor-crossing was from the dominant established parties to a new party being formed from scratch. However, the new party (DPP) was being formed by the President who is the most powerful man in the country and MPs from the big political parties were drawn to it because, as succinctly explained by Cammack (2009) in Maganga, 2011,

In Malawi (and in Africa generally, because it's poor) there are relatively few avenues outside of politics to obtain access to real power and wealth. Being close to a powerful man who commands the state, its people and wealth is one of the few ways to gain the personal and financial satisfaction to be derived from being a 'player' at the 'centre of events'. Also, it's easier than being a critic, which can deprive you of a livelihood and more (p. 47).

The politics of patronage are a big factor in attracting MPs to the party the President of the Republic of Malawi belongs regardless of size. They are attracted by the prospects of power and wealth that come with the appointment into the cabinet and not by the electoral considerations (such as being in a party likely to win the next elections, the uncertainty of being the party's candidate for the future elections, being far on the party list or due to intra-party conflicts). Simply put, the circumstances may be different, but self-interest over the consideration of the democratic consolidation holds sway. Floor-crossing in Malawi, as

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<sup>26</sup> The United Democratic Front (UDF) political party in Malawi was found in 1993. The UDF won the 1994 multiparty elections under Bakili Muluzi defeating the MCP of former president Kamuzu Banda and was ruling party up until 2004. It has its stronghold in the South of the country; and the party has been seen to be grounded in Western liberal ideologies (Phiri, 2000; Chirwa, Patel, & Kanyongolo, 2000; Patel, 2005; Young, n.d.; Kameme, 2011).

literature shows, undermines democratic consolidation as it results in political chaos and instability.

### **2.2.5 Zambia**

In 1991, Zambia reverted to a multiparty liberal democracy after many years as a one-party autocratic dictatorship during which only one political party, the United National Independence Party (UNIP)<sup>27</sup>, was allowed to exist (Baylies & Szeftel, 1992). The return to multi-party democracy marked the beginning of Zambia's Third Republic, a new era in which many political parties, other than UNIP were allowed to be formed, exist and compete for political power to run the government. Following the re-introduction of multi-party democracy and the general elections, a newly formed party, the Movement for Multi-party Democracy (MMD)<sup>28</sup>, led by the former Chairman-General of the Zambia Congress of Trade Unions (ZCTU)<sup>29</sup>, Fredrick Chiluba, defeated the former ruling party in a landslide electoral victory, winning 125 parliamentary seats out of 150 (Bratton, 1992). The peaceful transition

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<sup>27</sup>The United National Independence Party (UNIP) was formed in 1959 as successor party to the Zambia African National Congress (ZANC) that was banned with its leader Kenneth Kaunda arrested. Mainza Chona was the interim leader for the party and in 1960 handed the leadership of UNIP to Kenneth Kaunda upon his release from prison. In the 1964 general elections, Kenneth Kaunda led UNIP to victory winning 55 seats out of 75 seats becoming Prime Minister. He became President of the Republic of Zambia on 24<sup>th</sup> October 1964 after leading the country to independence. UNIP adopted the ideology of Humanism, a man-centered society which was a socialist-oriented ideology. UNIP under Kenneth Kaunda's leadership and as the Head of State ruled from 1964 to 1991 after being defeated by the MMD (Meebelo, 1973; Bratton, 1992; Macola, 2008).

<sup>28</sup> PF, the Patriotic Front the current ruling party in Zambia was formed in 2001 by Michael Sata as a breakaway party from the MMD. The PF won the 2011 general elections bringing to an end the 20 year rule of the MMD. Under the late President Michael Sata, the PF had a leftist pro-poor ideology bent, characterised by rapid expansion of social assistance though under President Edgar Lungu, the PF government has pursued a more free market friendly platform (NDI & FODEP, 2003; Rakner, 2003; Siachiwena, 2017).

<sup>29</sup> The Zambia Congress of Trade Unions (ZCTU) was formed in 1965 as a replacement to the former United Trade Union Congress (UTUC). It is the central (mother body) trade union to which all trade unions in the country affiliate. Throughout its existence, even during the one-party autocratic dictatorship of UNIP, ZCTU maintained its autonomy and resisted being under the control UNIP. It has always advocated for liberal capitalistic policies contrary to the socialist orientation in the Second Republic and was instrumental in the fight for the re-introduction of plural multiparty politics in Zambia under the Chairman-General, Fredrick Chiluba (Rakner, 1992).

of power was cited as a good example; a model to an African continent that had seen too many bloody transitions of power (Bratton, 1992; Joseph, 1992).

The constitution of Zambia was first changed in 1966 through Act No. 47 of 1966 to compel a sitting Member of Parliament to vacate his/her seat if one ceased to be a member of the party on which they stood as candidate for election to Parliament (Slinn, 1996). This, in effect was the first anti floor-crossing legislation in Zambia, four years after independence in 1964. The 1973 constitution that ushered in the Second Republic, changed Zambia from a multi-party state to a one-party state with the United National Independence Party (UNIP) as the only political party in the land, stated that any MP who ceased to be a member of UNIP would inevitably vacate the seat as MP. The 1991 Constitution of Zambia that re-enshrined multi-partyism stated that any elected member shall vacates his/her seat if one ‘becomes a member of a political party other than the party, of which he was an authorised candidate when he was elected to the National Assembly or, if having been an independent candidate, he joins a political party’ (Slinn, 1996: p. 115).

Despite the Zambian Constitution having anti-floor-crossing legislation, floor-crossing has not only continued but increased (NDI & FODEP, 2003). The problem of inducement of floor-crossing started in earnest after the tripartite elections of 2001 when the ruling MMD failed to get the absolute majority in the National Assembly and embarked on a strategy of encouraging defections. Members of the Heritage Party (HP)<sup>30</sup> and United Party for National Development (UPND)<sup>31</sup> who defected or were expelled from their parties, re-contested their

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<sup>30</sup>The Heritage Party (HP) was formed in 2001 by Godfrey Miyanda, former Zambian Vice President from 1994 to 1997 in the MMD government. Godfrey Miyanda formed the HP in protest of President Chiluba’s bid for third term presidential bid. In the 2001 parliamentary elections, the HP won 4 seats and failed to win any seats in the subsequent parliamentary elections to date and is described as one of the parties that exist on paper only (NDI & FODEP, 2003; Rakner, 2003).

<sup>31</sup> The United Party for National Development (UPND) political party was formed in 1998 by Anderson Mazoka the former Anglo-American Corporation (AAC) Chief Executive for Eastern and Southern Africa. The UPND is the second largest party in Zambia and is the official opposition party in Zambia having narrowly lost to the PF in the 2016 general elections. UPND has a social democratic platform with a commitment to provision of free education and healthcare. The current leader of UPND is Hakainde Hichilema (Mazoka finally retires from AAC, 1999; NDI & FODEP, 2003; Rakner, 2003; Siachiwena, 2017).

seats under the ruling MMD government and won, thereby strengthening the ruling party while weakening the opposition (Goeke & Hartmann, 2011).

A review of the relevant literature, that includes South Africa, Malawi and Zambia, indicates that studies have been conducted on the phenomenon of floor-crossing as it relates to democracy and destabilization to the party system. These studies have shown, in the case of Zambia, that floor-crossing was a major cause of the erosion of parliamentary democracy through the buying off of opposition members of parliament. The buying off in the form of appointments of renegade opposition MPs into cabinet and the by-elections that follow are, Phiri claims, deliberately aimed at weakening the opposition (Phiri, 2005).

While studies conducted have rightly focused on the impact of floor-crossing on democracy (Phiri, 2005), there have been no studies conducted on its impact on peace, as is a key concern of this study. Yet, these defections necessarily imply a conflict precipitating fierce opposition that led to the repeal of legislation that allowed it, in the case of South Africa. During this case, it threatened to resurrect violent conflict that had been witnessed between the ANC and IFP in their competition for power in the Province of KwaZulu-Natal (cf. Francis, 2011).

In the case of Malawi and Zambia, it has undoubtedly been a source of conflict. In Zambia the by-elections that are a result of floor-crossing have increasingly become violent, and in some cases result in the loss of property and life as well. One such case in point is the Livingstone by-election<sup>32</sup>. It resulted in violence between the ruling party (PF) and the opposition party (UPND); the killing of a PF cadre that led to the arbitrary arrest of 40 UPND supporters and leaders of the UPND (the party president Hakainde Hichilema and two MPs) on 25<sup>th</sup> February, 2013. However, the police eventually dropped all their charges and released them without any explanation on 11<sup>th</sup> March 2013 (Violence switches off by-elections, 2013; U.S. Department of State (BDHRL), 2013. In postponing the Livingstone by-elections, the Chairperson of the Electoral Commission of Zambia (ECZ), Justice Irene Mambilima, stated

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<sup>32</sup> This case refers to the violence that took place in 2013, February 23 in Livingstone during the run-up to the by-election that led to the death of a cadre of the ruling party, PF. There was a lot of violence and intimidation between the major contending political parties: the ruling party (PF) and the opposition, UPND. The by-election was occasioned by the resignation of the opposition UPND Livingstone Central MP, Hon. Howard Sikwela from his party (UPND) and stepping down as MP (Sikwela steps down, 2013; U.S. Department of State, 2013; Political parties regret, 2014).



that: ‘This postponement is due to the high unprecedented levels of intolerance between political parties and violence which ultimately led to the loss of life’ (Violence switches off by-elections, 2013).

The re-introduction liberal democracy entailed that Zambia would be guided by democratic principles among which are, free press; regular, free and fair elections; equality; accountability; transparency; bill of rights; separation of power; political tolerance; economic freedom; and control of the abuse of power (Konrad-Adenauer-Stiftung, 2011). In a multi-party state, like Zambia, the existence of political parties should not only be tolerated but should be encouraged, supported and strengthened because they play a vital role in a vibrant democracy. As asserted by Diamond (1997):

Political parties remain important if not essential instruments for representing political constituencies and interests, aggregating demands and preferences, recruiting and socializing new candidate for office; organizing the electoral competition for power, crafting policy alternatives, setting the policy-making agenda, forming effective governments, and integrating groups and individuals into the democratic process.

The inducement of floor-crossing and by-elections (in some cases) as the Nigerian, South African, Malawian and Zambian cases have shown is not based on the need to consolidate democracy or improve the lives of citizens through improvement of governance and service delivery. It is rather based on self-interest that actually weakens democratic consolidation.

### **2.3.1 Elections in Sub-Sahara Africa**

One of the hallmarks of a democracy is a political system in which politicians, in political parties, compete to form a government; where regular, free and fair elections are held allowing citizens to vote and where those citizens are guaranteed political and civil rights (Sandbrook, 1988; Alli, 2015). Citizens’ political participation; competition by political parties and the granting of civil and political liberties some of which are freedom of association, assembly, expression, and free press that safeguards credible participation and competition are fundamental constitutive elements of liberal democracy (Hoglund, 2009; Diamond, Linz & Lipset, 1989; Sorensen, 1993; Sandbrook, 1988).

In democratic societies, Hoglund (2009) explains that, elections allow the public to have a say – a “voice” over their government, it allows political competition, participation, legitimacy and more importantly, permits the change of power and allows for accountability of the governing party. Apart from constituting an important element in democracy that confers leadership succession, change and legitimacy, the absence or failure of elections leads to dictatorship and personalised rule (Adejumobi, 2000; Norris, 2012).

In a true and functioning democracy, credible elections are free and fair, but should not be seen as an end in themselves. As important as they are in the endeavour of democracy, they are but “just one of many indicators of a democracy’s health. Others include a democratic political culture characterised by accountability and transparency, an active and engaged citizenry, and a strong and independent institutional framework that represents and responds to the interests of citizens” (Sylvester & Eshetu, 2010, p. 169). In his address to the Ghanaian Parliament, President Obama (The White House, Office of the Press Secretary, 2009, July 11) said:

This is about more than just holding elections. It's also about what happens between elections. Repression can take many forms, and too many nations, even those that have elections, are plagued by problems that condemn their people to poverty. No country is going to create wealth if its leaders exploit the economy to enrich themselves... That is not democracy that is tyranny, even if occasionally you sprinkle an election in there.

The fact there is still repression, poverty and exploitation of wealth by leaders means that tyranny irrespective of the holding of elections persists. While elections are a critical constitutive element in democratic consolidation, it is but a part of the whole (such as transparency, accountability, rule of law, equal and fair application of law, respect for human rights and freedom) that is no less important. Where there is respect for democratic values, there is improvement in people’s living standards; leaders exploiting the people through corruption are held accountable.

The onset of the process of democratization that swept across the continent of Africa in the early 1990s, marked by competitive elections, brought a hopeful political renewal of Afro-optimism (Lindburg, 2006). That initial hopeful Afro-optimism about the process of democratization on the continent of Africa has been challenged by a whole range of issues

such as disputed elections, electoral violence, electoral fraud, voter intimidation, vote-buying, semi-authoritarianism, neopatrimonial and clientelist politics; that has led to pessimism concerning democracy in sub-Saharan Africa (Collier & Vicente, 2012; Lindburg, 2006; Goldring & Wahman, 2016). There seems to be a gradual re-institutionalisation of authoritarian and autocratic rule under the guise of democracy with elections falling victim to the reversal of the gains made.

In a democracy, elections do not only give legitimacy and power by the people to the government, but also, as distinguished by Huntington (1991), signify the end of dictatorship. Yet, despite all this, in Africa, 'Apparently, elections and the electoral process are the major victims in this tendency towards democratic retreat. The precepts, structures and processes of elections are mostly characterized by reckless manipulations, the politics of brinkmanship and subversion' (Adejumobi, 2000).

One of the most worrying sad development is that, 'The experience of many African democratic transitions, in particular during electoral periods, has been violent' (Straus and Taylor, 2009: pp. 2). All too often, elections in Africa are increasingly accompanied by violence. Zambia has been no exception in this regard as it has been experiencing repeated orchestrated incidents of conflicts and violence during elections that hamstring democratic consolidation and peace.

### **2.3.2 Electoral conflicts and violence in Africa**

Elections are linked to democratic development in that they facilitate peace building (Omotola, 2010). As such, the main virtues of any electoral process is the ability to adhere to the electoral laws, transparency, accountability, competition and participation (Laakso, 2007). Lack of adherence to these virtues can cause electoral violence (Omotola, 2010). The ultimate goal of electoral violence is to determine, delay or influence the electoral process in order to shape the results (Omotola, 2010). In other words, electoral violence is used for the purpose of influencing or shaping voting, turnout and preferences by instilling fear or intimidating opponents in order to win electoral support (Collier, 2009; Snyder, 2000; Wilkinson, 2004).

Fischer (2002, p. 3) defines electoral conflict and violence to be “any random or organized act or threat to intimidate, physically harm, blackmail, or abuse a political stakeholder in seeking to determine, delay, or to otherwise influence an electoral process.” Electoral violence is a type of political violence orchestrated by the ruling parties or opposition parties, before, during or after the elections to achieve a political outcome by use of physical violence, threats, intimidation and harassment (Adolfo, Kovacs, Nyström & Utas, 2012).

Electoral violence, can be in three forms: physical, psychological and structural, of which the physical aspect is characterised by beating, assassination of political opponents, looting, shooting, kidnapping, hostage taking and forceful disruption of the electoral campaigns, rallies, armed raids on voting and collating centres and also snatching of ballot papers or boxes at gun point (Onapajo, 2014; Straus & Taylor, 2009). Physical violence can also result in psychological violence aimed at creating fear in the people. As explained by Nwoliise (2007), psychological violence does not only involve fear from actual experienced physical violence but can also be a result of threats to opponents such as using phone calls or text messages. Structural electoral violence involves the coercion of citizens to register or vote in a particular way, unequal opportunities for political parties and candidates, abuse of power, falsification of election results, politicizing security or electoral officials.

Among the notable features of elections in parts of sub-Saharan Africa includes ballot fraud, vote buying and intimidation of voters (Collier, Pedro & Vicente, 2011). As already noted, electoral violence in sub-Saharan Africa is increasingly becoming a common feature before, during and after the elections. The study conducted by Lindburg (2004) on multiparty elections in Africa indicated that about 80% of elections experienced electoral violence of varying degrees; and that those that were not declared free and fair were not more violent as those declared free and fair. About 60% of elections held between 1990 and 2008 according to the African Electoral Violence Database by Scott Straus and Charlie Taylor, experienced electoral violence of varying levels and forms (Straus, 2012). This goes to show that electoral violence in Africa is quite endemic.

That is not to say that electoral violence is uniquely an African problem. Whether it be in the United States of America, Mexico, Haiti, India, Italy, Israel, Japan, Sri-Lanka, and other places electoral violence of some sort (that can include but is not limited to intimidation, assassination or killing of candidates or opponents) has continued to plague the world (Rapoport & Weinberg, 2000).

### **2.3.3 Some causes of electoral conflict and violence in sub-Saharan Africa**

There are many causes of electoral conflicts and violence. The underlying causes of electoral conflicts and violence in sub-Saharan Africa, though many, can be reduced to structural factors, flawed electoral processes and weak institutions. According to Adolfo, Söderberg, Kovacs, Nyström and Utas (2012, p. 1):

first, structural factors related to the underlying power structures prevalent in new and emerging democracies, such as informal patronage systems, poor governance, exclusionary politics, and the socio-economic uncertainties of losing political power in states where almost all power is concentrated at the centre; second, factors related to the electoral process and the electoral contest itself, such as failed or flawed elections, election fraud and weak or manipulated institutions and institutional rules governing the electoral process.

Elections are formal contests for power to govern that always sets the incumbents (ruling or governing parties) against the challengers (opposition parties). The desire or aim of the incumbents is to retain power while that of the opposition is to wrestle or take away the power to govern from the ruling party. The prospect of losing power, privileges and economic security that come with being the governing party in uncertain and challenging socio-economic conditions make the governing party to abuse the power of incumbency and state resources. This gives them (governing parties) undue advantage that makes it as hard for the challengers (opposition parties) to compete fairly. For the opposition parties, the experience of suppression and exclusion makes them more aggressive and determined to defeat the ruling party. And so, the motives for the employment of electoral violence between the two differs. More often than not, according to Straus and Taylor (2009, p. 8), incumbents, “employ violence to maintain power using the coercive means of the state, while challengers use violence to protest outcomes using non-state means.”

According to the results of the study done by Straus and Taylor (2009), of the 124 cases of electoral violence in sub-Saharan Africa, the incumbents (ruling party) in their determination to keep power were the primary perpetrators of violence accounting for 105 cases compared to 18 cases for the challengers (opposition parties). Mehler (2007, p. 204) also makes a similar determination, stating that, "Compared to oppositional hostility, violent behaviour more frequently emanates from ruling parties." One of the reasons that ruling parties and groups associated with them engage in electoral violence is that they have control or access to the state security forces whereas the challengers (opposition) would risk a repressive response from the state security apparatus or even be removed from participating in the electoral contest if they engage in violent activities (Straus & Taylor, 2009).

Electoral violence is most often than not perpetuated by those from the ruling than it is by the opposition. That is not to say that there are not instances when opposition parties engage in electoral violence. It can be done by both the power holders at the time, in order to avoid defeat and it can also be done by the opposition with the aim of gaining electoral power from the governing party (Lehoucq, 2003).

Electoral stakeholders such as the voters, candidates, party agents, election workers, media and monitors are targets of violence and intimidation. Electoral violence is also targeted at electoral information systems such as registration data, voting results, ballots, campaign materials like vehicles and public address systems. Other targets involve electoral facilities such as polling and counting stations as well as electoral events like rallies (Hoglund, 2009). Electoral violence is perpetuated in the aim to intimidate, harm and blackmail political stakeholders. These acts can take place before, during or after the elections. The introduction of violence in the pre-voting period (before) is aimed at influencing, shaping how the electorates are going to vote (Strause & Taylor, 2009). This could involve a whole range of different electoral violence tactics which may be aimed at intimidating the would be supporters of opponents from participating in the voting, making it hard for opponents to organise and mobilise their supporters and voters by acts such as disrupting their campaigns. It can also happen during elections and may include snatching of ballot papers or boxes, assaults on the opposition parties or agents, and intimidation of the security agents. After the elections, violence can occur through protests against electoral rigging. The violence during

protests can be stimulated by the state's deployment of force in response to the protests (Omotola, 2010; Strause & Taylor, 2009).

#### **2.3.4 Elections and Electoral violence in Zambia**

Elections, in Zambia, like in other democratic countries in the world are the generally accepted norm and process through which citizens exercise their right to choose their government as voters or seek the mandate to govern as candidates. The re-introduction of multi-party democracy, unlike during the one-party dictatorship when only members of UNIP ran for elected office, allows eligible citizens to participate in the elections as voters, contestants or both for elected office regardless of which party they come from. Since 1991, Zambia has experienced regular general elections (presidential, parliamentary and local government), six times, every five years: 1991, 1996, 2001, 2006, 2011 and most recently 2016.

Despite the consistency in the holding of regular elections every five years, with the exception of the 1991 elections<sup>33</sup>, the subsequent elections have received damning criticism in as far as being free and fair, or being a true reflection of the will of the people as concerned by local and international observers. For instance, there is wide consensus, according to O'Donovan (2004, p. 26), that, 'the 1996 and 2001 elections were fraught with malpractice, omissions and errors, which made it questionable as to whether the will of the people was reflected in the final results.'

#### **2.3.5 Electoral Conflicts and violence in Zambia**

Elections by their very nature, anywhere in the world including Zambia are contentious as they inevitably pit different political players as candidates competing against each other for

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<sup>33</sup> The 1991 elections were not perfect but were held in an environment relatively free and fair, and without the kind of impunity with which violence and intimidation in the subsequent elections have been conducted prompting grave concern from local and international observers. This was in no small measure because of President Kaunda's determination to have a smooth transfer of power despite the negative attitude he had in the initial stages of dialogue to democratic dispensation (The Carter Centre & NDI, 1992; O'Donovan, 2004).

the right to govern. Often elections pit incumbents (ruling party) who wish to remain in power against challengers (opposition) who wish to take away power from those in government. In the context of Zambia which uses the first-past-the-post (FPTP) system, which is an exclusive system where the winner takes it all (Adolfo, *et al.*, 2012), the electoral contest is seen as a zero-sum game. A society like Zambia with a combination of an exclusive electoral system, with biased and weak institutions and where almost all economic resources and political power are placed in the winner, due to the FPTP electoral system, elections turn into a do-or-die situation (Adolfo, *et al.*, 2012). This situation tempts political parties to want to win elections at any cost and by whatever means. The end result is electoral conflicts as parties violate the electoral code of conduct in pursuit of winning at any cost.

The recently held 2016 general elections in Zambia experienced instances of political conflict and in some cases localised electoral violence before, during and after the elections. The violence was largely carried by party cadres resulting in rioting, the destruction of property, and physical assaults ending in some deaths (Carter Centre, 2016; EU-EOM, 2016).

### **2.3.6 Causes of electoral conflicts and violence in Zambia**

There are a number of issues in the electoral process in Zambia that have been a source of conflict, and sometimes open violence, between political parties (ruling parties and opposition parties) over which the opposition, civil society organisations and electoral observers (local and international) have expressed concern. Among them are the lack of independence and impartiality by the Electoral Commission of Zambia, public media, police; and in the application of the public order act and electoral code of conduct. The lack of impartiality and independence in the electoral process management emanate from a structural underlying cause related to the lack of or weak separation of power between the executive, legislature and judiciary that allows political leadership of ruling parties who control the executive through the presidency to pursue personal or party benefits (Smith-Höhn, 2009).

## **2.4 The Management of the Electoral Process - The Electoral Commission of Zambia.**

In Zambia, the Electoral Commission of Zambia (ECZ) is the body that manages the electoral processes. The ECZ has a dual responsibility of running the electoral process and ensuring



that elections in the country are free and fair (Electoral Commission of Zambia Act No. 25 of 2016). It is important for the ECZ to be independent and impartial all throughout the electoral process to ensure free and fair elections. Impartial electoral administration has a bearing on respect of the electoral outcome and peace because without it (impartial administration) the outcome would not command respect and lead to conflicts and violence. "The centrality of elections to liberal democratic politics also presupposes the importance particularly of impartial electoral administration" (Jinadu, 1997, p.1).

The ECZ has been accused of lacking independence and autonomy, and being in favour of the ruling party in the Third Republic of Zambia. This problem however is not unique to Zambia, as attested to by the SADC Parliamentary Forum (2001, p. 10):

the establishment, composition, status, independence, impartiality and professionalism of some of the Electoral Commissions have come under serious scrutiny and doubts particularly from opposition parties and members of the public. These commissions are accused of being pro the ruling party that has appointed them.

The independence and impartiality of the ECZ has time and again been questioned - before, during, after and in between general elections held in Zambia during the 3<sup>rd</sup> Republic. Many political parties, civil society organisations, local and international observers have questioned the independence and transparency of the ECZ (Carter Centre, 2001; Baylies & Szeftel, 1997). The most recently held 2016 general elections, were no different as the independence and transparency of the ECZ was again questioned (Carter Centre, 2016).

Among the reasons why the ECZ is perceived and considered to lack autonomy and independence lies in its composition, funding and conduct. As the preliminary report of the Carter Centre (2016, p. 2) notes, "the president's prerogative to appoint and dismiss ECZ members contributes to mistrust that the electoral body is free from political interference." Added to that, the fact that the ECZ relies and depends on government funding controlled by the executive who are from the ruling party and who choose when to release the money and how much makes the ECZ's autonomy and independence suspect (Carter Centre, 2002).

More than composition and funding, the conduct of the ECZ in the management of the electoral process lacks transparency that makes the suspicions appear credible. For example, the ECZ, in the 2016 general election, as stated by the European Union Election Observer Mission EU EOM (2016, p.14) report, did not allow international nor domestic observers to access a number of important activities, such as verification of results at national level, a series of stakeholder and mediation meetings, the arrival of ballot papers, nor did it provide copies of all draft regulations and an electronic list of voters per polling station, thus missing opportunities to enhance the transparency of, and trust in, the process.

There is a perception that the ECZ seems to tolerate the ruling party's noncompliance with the electoral code of conduct by failing to take punitive measure against the ruling party's violations of the electoral code. This among other factors has led the opposition parties to accuse the ECZ of both making decisions in favour of the ruling party and taking directives from them (SACCORD, 2016). The EU EOM (2016) report also observed that during the suspension of campaigns by the ECZ in Lusaka on 8 July 2016 due to violence<sup>34</sup>, the ruling party didn't fully comply with the ECZ imposed suspension<sup>35</sup>.

#### **2.4.1 Law enforcement during the electoral process – the Zambia Police Service**

Free and fair elections are a major hallmark of a liberal democracy that are almost impossible to imagine without effective law enforcement. To ensure that different political parties, candidates, citizens and organisations engage in a peaceful, secure, free and fair electoral contestation requires firm and impartial law enforcement provided by the police. The police play a vital role that ensures that citizens as voters and candidates can peacefully, securely,

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<sup>34</sup> This incident happened on 8<sup>th</sup> July, 2016 following the last minute cancellation of the rally in Chawama within Lusaka for the opposition UPND on the pretext that the security environment was not conducive. The UPND cadres and supporters marched to the venue where the campaign was scheduled to be held in defiance of the Police's late revocation. This prompted the Police to employ teargas and live ammunition against the crowd that resulted in the injury of many and killing of a young 22 year old UPND female member Mapenzi Chibulo (Zambia Elections Information Centre [ZEIC], 2016; "Police shoot dead," 2016).

<sup>35</sup> The ECZ in response to the 8 July, 2016 violence that resulted in the killing of Mapenzi Chibulo, a UPND member, ordered the entire suspension of all campaigns in Lusaka and Namwala for 10 days

freely and fairly exercise their right to vote or be voted for. Accordingly, the Zambian Police has a duty as mandated by the Electoral Process Act No. 35 of 2016, Section 107(6), to:

- (a) enforce law and order at campaign meetings and processions in order to maintain peace and order;
- (b) ensure that police officers do not abuse their authority or Government resources to campaign for the benefit of any political party or candidate;
- (c) refrain from disrupting any campaign, rally or meeting which is legally convened by any political party; and
- (d) ensure that police officers do not use their office to oppress any political party, candidate or supporter.

This Electoral Process Act requires of the police to apply the law equally and fairly to all involved in the electoral contest regardless of the party or organization that they belong to as long as they do so legally. Zambia's experience in the Third Republic with law enforcement by the police during elections has not always lived up to this constitutional prescription. Apparently, the police service is one of the critical state institutions in Zambia that disadvantages the opposition political parties (Moomba, 2005). The issue of lack of impartiality by the police in the recently held 2016 against the opposition in favour of the ruling party were noted by various monitoring groups, local and international (SACCORD, 2016; CCMG, 2017; Carter Centre, 2016; EU EOM, 2016).

One of the issues around biased law enforcement application by the police that has been a source of conflict is in their application of the Public Order Act (POA). In the 2016 elections, as noted by various stakeholders just like in other previous elections in the Third Republic, the POA which only requires notification to the police prior to public gatherings and not a permit was applied selectively. According to the report by the Carter Centre (2016: p.16), "stakeholders noted that police did not invoke the POA proportionally and that PF rallies were not prohibited. UPND rallies, on the other hand, were routinely denied or cancelled." The Southern African Centre for the Constructive Resolution of Disputes' report (SACCORD, 2016, p. 4), 'also observed with great concern the selective application and administration of the Public Order Act (POA) with a number of opposition political party rallies cancelled on the last minute with very unjustifiable reasons.' This selective application of the POA by the police led to widespread political tension and electoral violence, as was

the case in Lusaka on July 8, 2016, when the police denied the UPND permission to hold a scheduled rally resulting in the death of one of their supporters<sup>36</sup> (Carter Centre, 2016).

The second issue around biased law enforcement by the police that leads to conflict and violence is the failure or refusal by police to equally protect citizens, political parties and organisations from intimidation, harassment and violence regardless of party affiliation. Related to this is the refusal or failure by the police to stop, apprehend or deal with perpetrators of violence regardless of which party they come from. The police is supposed to “protect persons who are properly exercising their right to assemble from those that are threatening to infringe upon that right” (EU-EOM 2016, p. 12). To ensure free, fair and peaceful elections the police is, in accordance with the law, supposed to protect law abiding citizens during elections regardless of their party affiliation and apprehend or prevent those trying to intimidate, disrupt or harm legally convened political public gatherings.

The opposition, according to SACCORD (2016), felt they were not being protected by the police when they were attacked. For instance, a woman in UPND clothing was stripped naked by the PF cadres in the presence of the police<sup>37</sup> and some incidences of shooting took place without any arrests known to have been made. In cases where the perpetrators of violence were from the ruling party, ‘Police tended to act very slowly whereas in instances involving opposition party supporters, they acted very swiftly in apprehending the perpetrators of violence’ (SACCORD, 2016, p. 4). Such incidences of biased law enforcement by the police led to animosity and eventually intimidation and violence between the members of the ruling party (PF) and the largest opposition party (UPND).

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<sup>36</sup> This incident happened on 8th July, 2016 following the last minute cancellation of the rally in Chawama within Lusaka for the opposition UPND on the pretext that the security environment was not conducive. The UPND cadres and supporters marched to the venue where the campaign was scheduled to be held in defiance of the Police’s late revocation. This prompted the Police to employ teargas and live ammunition against the crowd that resulted in the injury of many and killing of a young 22-year old UPND female member Mapenzi Chibulo (Zambia Elections Information Centre [ZEIC], 2016; “Police shoot dead,” 2016).

<sup>37</sup> *Zambian opposition member stripped naked.* (2016, March 17). *News24*. Retrieved from <https://www.news24.com/Africa/News/watch-zambian-opposition-member-stripped-naked-20160317>

The harassment, intimidation and violence during elections in the Third Republic are not limited to members of the ruling party and opposition as was the case in 2016. Some journalists and media organisations were subjected to harassment and intimidation by the PF cadres reportedly in the presence of the police without any efforts to protect them (Carter Centre, 2016).

#### **2.4.2 Public Media – Zambia National Broadcasting Corporation**

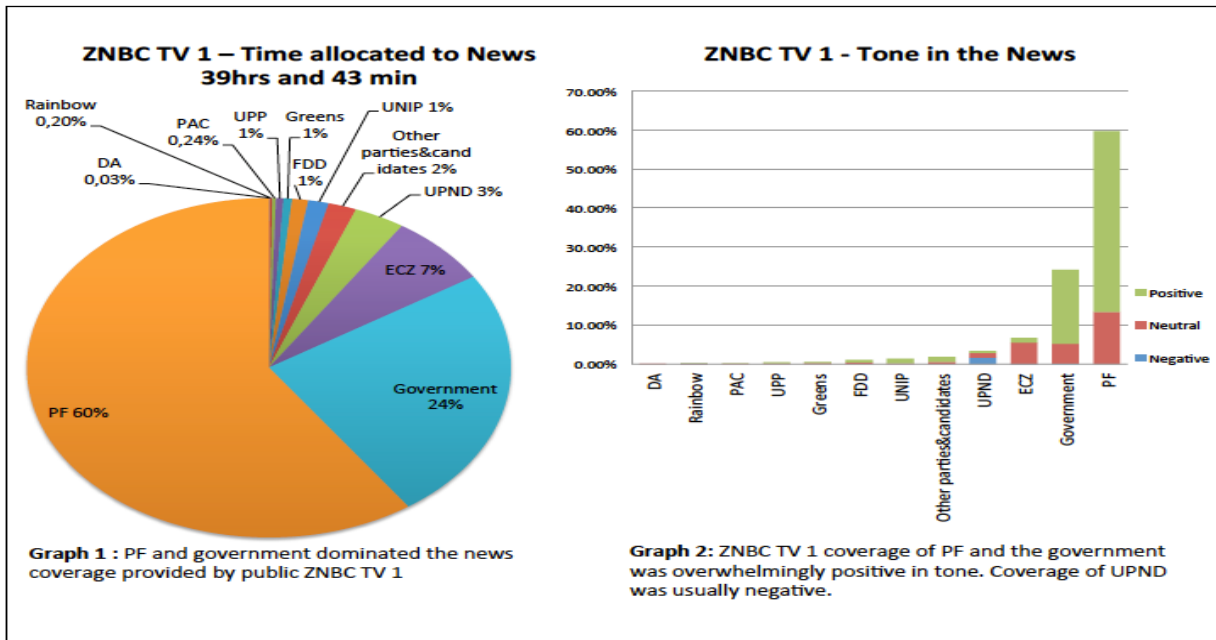
The media plays an important role in a democracy, that of exposing citizens to different and sometimes conflicting ideas and perspectives (Barber 1984; Bellah et al. 1985; Habermas 1989). Exposure to different viewpoints is essential in valid choice or opinion making as citizens would have been exposed to different or other perspectives from the other side/s (Arendt 1968; Benhabib 1992).

The media, during elections, provides a platform through which political parties and candidates can make a case to citizens as to why they should vote for them and thereby allow citizens to make an informed decision in their choice. In this way, the media does not only provide information to citizens but helps educate citizens about the parties and candidates asking for their vote. In Zambia, the Electoral Process Act No. 35 of 2016 Section 107 (7) speaks to that need by requiring print and electronic media, private or public to, "provide fair and balanced reporting of the campaigns, policies, meetings, rallies and press conferences of all registered political parties and candidates during the campaign period."

The law requires the private and public media to provide fair and balanced reporting when covering political parties and candidates during elections. However, the law makes a specific requirement of the public media, in the Electoral Process Act No. 35 of 2016 Section 107 (8) (1) stating that, "A public television, radio and electronic media shall allocate public air time equally to all political parties and candidates for their political broadcasts." Unlike the private media, the public media is funded by the government through taxpayer's money from citizens. As such, ZNBC belongs to all the people of Zambia and should be used in a way that benefits all and not just some.

While the law is clear in Zambia concerning equal coverage to political parties and candidates by the public or state owned media, in practice, it is not. This problem is not uniquely Zambian, as noted by the SADC Parliamentary Forum (2001) that the public media in most SADC countries is controlled by the government and does not offer an equal playing field through selective and short coverage of the opposition. The public media – state owned media (newspapers, television and radios) are brazenly partisan in their reporting, usually in favour of the ruling parties but rarely and negatively covering the opposition (Burnell, 2002; Carter Centre, 2002; COG, 2011; EU-EOM, 2016; MISA Zambia, 2016).

The bias by the public media has and continues to be a source of conflict often between the governing party and the opposition parties. The reach of public media (state owned), unlike the private ones is nationwide (EU-EOM, 2009). This conflict becomes heightened during campaigns as the opposition parties seek a nationwide platform that the public media's reach provides while the ruling party seeks to monopolise it while seeking to limit or restrict coverage to the opposition. According to the EU-EOM (2016) media monitoring, ZNBC TV 1, for instance in prime time news and current affairs gave 60% mostly positive coverage to the PF and its presidential candidate in the period between 6-July-2016 to 10-Aug-2016, while providing about 3% mostly less positive coverage to the largest opposition party president of UPND and less than 2% to the remaining opposition presidential candidates in the same period. Diagram 2 demonstrate the glaring disparity, bias and lack of impartial campaign coverage by the public media, contrary to the stipulation of the constitution.



**Diagram 2: Public Media (ZNBC TV 1)’s 2016 elections coverage of Political Parties**

Source: *EU EOM (2016) Media Monitoring Results*

The graphic representation of the public media’s 2016 general elections campaign coverage of the ruling party and the opposition shows how significant and overwhelming the bias was by the public media. For ZNBC TV 1 to have given 60% coverage to the PF (ruling party) and only 3% to UPND (the biggest opposition party) and the remaining parties getting 2% and below each, borders on public media blackout of the opposition. Such a blatant violation of the Electoral Process Act No. 35 of 2016 Section 107 (8) (1) should not have gone unnoticed and unchallenged by ECZ, the body that has the responsibility of ensuring free and fair elections. The second graph shows the bias in tone. While the ruling party was overwhelmingly covered in positive and neutral terms with no negative tone coverage, the major opposition party, UPND, mostly received a negative tone coverage.

Such blatant public media bias and abuse prompted MISA Zambia Chapter and Press Freedom Committee of the Post (PFCP) to petition the constitutional court in an effort to restore balanced coverage of all politicians in the run-up to the August, 2016 general elections (MISA Zambia, 2016a). ZNBC, against the electoral code of conduct, even refused to air some of the paid adverts by the opposition party the UPND’s (MISA Zambia, 2016a). The

UPND challenged the director general on ZNBC's refusal to air the advert, and on the 9<sup>th</sup> August, 2016, two days before the elections, the court ordered ZNBC to air the advert before the end of the the election campaign period (Phiri, 2016, August 3).

While the public media is biased and restricted in its coverage of the opposition during elections, the private media on the other hand offers an alternative campaign coverage to the opposition despite its lack of nationwide reach (COG, 2011). However, the private media houses have especially been a target of intimidation, harassment and threats mostly by ruling party cadres, state security agents and government officials for hosting opposition party candidates (Carter Centre, 2001; MISA Zambia, 2016a; SACCORD, 2016). Some private media houses had their licences suspended by the the government on charges of unprofessional conduct threatening "national peace and stability" (MISA Zambia, 2016a).

### **2.4.3 Abuse of state resources**

In pursuit of providing a level playing field during elections, for all candidates and political parties, the Code of Conduct 15(K) in section 107 of the Electoral Process Act No. 35 of 2016 stipulates that no person, except for the President and Vice-President, shall for the purpose of campaigns, use government or parastatal transportation and facilities. According to the Electoral Code of Conduct 3(b) in the the Electoral Process Act No.35 of 2016, the Electoral Commission of Zambia is mandated where possible and practicable to "ensure that political parties do not use state resources to campaign for the benefit of any political party or candidate." These particular pieces of legislation are among others aimed at ensuring a level playing field for all candidates in an election regardless of the party to which they belong.

Unlike the Second Republic one party system, when there was no separation between state and party, a system that allowed UNIP party officials and ministers to use government resources for campaigns, the Third Republic constitution does not. Nonetheless, the lines between state and party in the Third Republic are still blurred, especially during elections. The elections held in the Third Republic tend to be skewed in favour of governing parties as a consequence of a blatant use of public/state resources which is a violation of the electoral code of conduct and concept of fair elections (Rakner and Svåsand, 2005; Bertelsmann



Stiftung, 2020). The abuse of state/public resources by ruling parties in the Third Republic prohibited by the code of conduct includes government or parastatal property, facilities, motor vehicles, fuel and drivers except for the President and Vice-President; the distribution of money, food, *chitenge* (cloth) material and T-shirts to voters and influential people such as chiefs (COG, 2016; Simuntanyi, 2010).

The abuse of state resources during elections for the benefit of the ruling party has been, and continues to be, a source of conflict between the ruling parties and the opposition in Zambia's Third Republic. In the first presidential election petition in Zambia following the 2001 general elections, the use of state resources for the benefit of the ruling party was one of the grounds the petitioners used to challenge the presidential election results. According to the evidence submitted, the then President Chiluba in an effort to ensure his chosen successor's election victory, used state resources for campaigns to buy over 100 vehicles, used government vehicles and personnel and allowed ministers to draw government allowances (Simuntanyi, 2010). The Supreme Court, admitted, among the many electoral process flaws, "the use of the national intelligence service in a partisan way, the unlawful use of public resources by the incumbent party, and the abuse of resources from para-statal companies" (Kaaba, 2015, p. 348). The governing party, the MMD, despite a High Court ruling also used District Administrators, who are civil servants, using public resources to campaign and organise voters for the party (Burnell, 2002).

The recently held 2016 general elections in Zambia were no different. According to the report of the Carter Centre (2016) the 2016 general elections were not conducted on a level playing ground because of the malpractices such as public media bias, the harassment of private media, the abuse of state resources by the ruling party, the denial of flight clearance for the opposition, the use of the Public Order Act against the opposition party the UPND, and the abuse of office by government ministers. The 2016 Zambian elections report by the European Observer Mission (2016) equally cited the systematic bias of public media coverage in favour of the ruling party and the subsequent clampdown on the private media outlet, The Post, as an infringement of freedom of expression that crippled the opposition's reach to the voters during the campaign period.

The recently held 2016 elections were also mared by allegations of the abuse of state resources by the governing party, the PF. The independent election observers/ monitors (local and international)<sup>38</sup>raised concern over the lack of a level playing field during the elections caused by such factors as the use of state resources for the benefit of the party in power, contrary to the constitution (Carter Centre, 2016; SACCORD, 2016; EU-EOM, 2016).

The 2016 general elections also witnessed a new form of abuse of state resources through the unconstitutional continued holding of office by the ministers after the dissolution of parliament<sup>39</sup>(Carter Centre, 2016). This prompted the opposition and the Law Association of Zambia to petition the Constitutional Court. The Constitutional Court in a landmark ruling stated that the Ministers' continued stay in office after the dissolution of parliament was unconstitutional; ordered them to vacate office and to pay back to the treasury all the money they had acrued over the period (Steven Katuka and LAZ v. Attorney General and others, 2016).

The abuse of state/public resources by the ruling party also led some losing opposition party candidates to petition the election of some Members of Parliament from the ruling party. Two of the petitioned elected MPs from the governing party who were illegally serving as Ministers after the dissolution of parliament, according to the Contitutional Court ruling, were declared not dully elected by the High Court of Zambia, for among factors such as the

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<sup>38</sup> The Carter Centre, the Southern African Centre for the Constructive Resolution of Disputes (SACCORD) and the European Union Elections Observer Mission (EU-EOM) are some of the independent monitors that expressed concern over lack of a level playing field (Carter Centre, 2016; SACCORD, 2016; EU-EOM, 2016)

<sup>39</sup> President Edgar Lungu dissolved Parliament on 25th May, 2016, pursuant to Section 81 (1) (3), at the end of the 5 year term of Parliament and 90 days before the holding of general elections. But he did not terminate the positions of Ministers and Deputy Ministers, despite their loss of status as MPs with the dissolution of Parliament, a pre-condition upon which one is appointed into cabinet. Consequently, they continued to enjoy all the executive privileges and emoluments that come with the office (Steven Katuka and Law Association of Zambia v The Attorney General and 63 others, 2016).

abuse of state resources - government vehicles, drivers, fuel and facilities during the campaigns (Charlotte Scott v. Margaret Mwanakatwe, 2016).

## **2.5 Summary**

This chapter on peer-reviewed literature explored themes of democracy and peace that touch on the subject of floor-crossing and by-elections. The literature shows that the factors that motivate the inducement of floor-crossing and by-election are not based on the desire for democratic consolidation but rather on the selfish interest of politicians.

The consolidation of democracy in sub-Saharan Africa and Zambia, in particular, is under threat as a consequence of many factors. The lack of strong independent state institutions, weak constitutional frameworks and the inducement of floor-crossing (and by-elections) as the reviewed literature show are some of the factors that undermine democratic consolidation.

## **2.6 Gap in literature**

The literature also shows that the lack of democratic consolidation has a negative impact on peace. This is evidenced by the conflicts that arise out of the lack of impartial electoral process management; and application of law and order; and the electoral violence that characterize elections and by-elections. The gap missing in the peer-reviewed literature is the part that the inducement of floor-crossing (and by-elections) play in creating an adversarial and hostile political environment that is breeding grounds for conflict and violence. In the next chapter, the theoretical framework shall be discussed.

## **CHAPTER THREE**

### **THEORETICAL FRAMEWORK**

#### **3.0 Introduction**

This chapter presents the three theories that the study used: (1) the theory of Patron-Clientelism describes the nature of the relationship MPs from the opposition enter into with the President (and the ruling party) when they cross the floor. (2) The theory of Rational Choice gives the rationality that feeds and drives the phenomenon, and (3) the theory of Conflict Transformation both shows how this phenomenon creates conflict and provides a pathway towards transformation. These theories are used as a framework to guide the study, understand why the phenomenon of inducement of parliamentary floor-crossing and by-elections persists despite its unpopularity and resistance from citizens in general and civil society, and possible transformation of the conflict that arise thereof.

#### **3.1 The Theory of Patron-Clientelism**

Patron-clientelism is a relationship first and foremost between two unequal people or parties. The patron is the one with higher status, power, influence and resources to grant access and privileges. The client on the other end is of lower status who is granted access and privileges by the patron in return for loyalty, submission and support as deemed fit by the patron. The relationship is premised on a sense of mutual, reciprocal obligations the two unequal people involved have towards each other (Eisenstadt & Roniger, 1984; Piattoni, 2004). One partner involved grants a favour to the other with a reciprocal expectation (Blau 1964).

The theory of patron-client relations or patronage has gained prominence from being marginal in Political science, Sociology and Anthropology – captivating scholars in these fields (Eisenstadt & Roniger, 1980). Scott (1974: p. 92) succinctly defines patron-clientelism as:

an exchange relationship between roles – may be defined as a special case of dyadic (two-person) ties involving a largely instrumental friendship in which an individual of higher socioeconomic status (patron) uses his own influence and resources to provide protection or benefits, or both, for a person of lower status (client) who, for his part, reciprocates by offering general support and assistance, including personal services, to the patron.

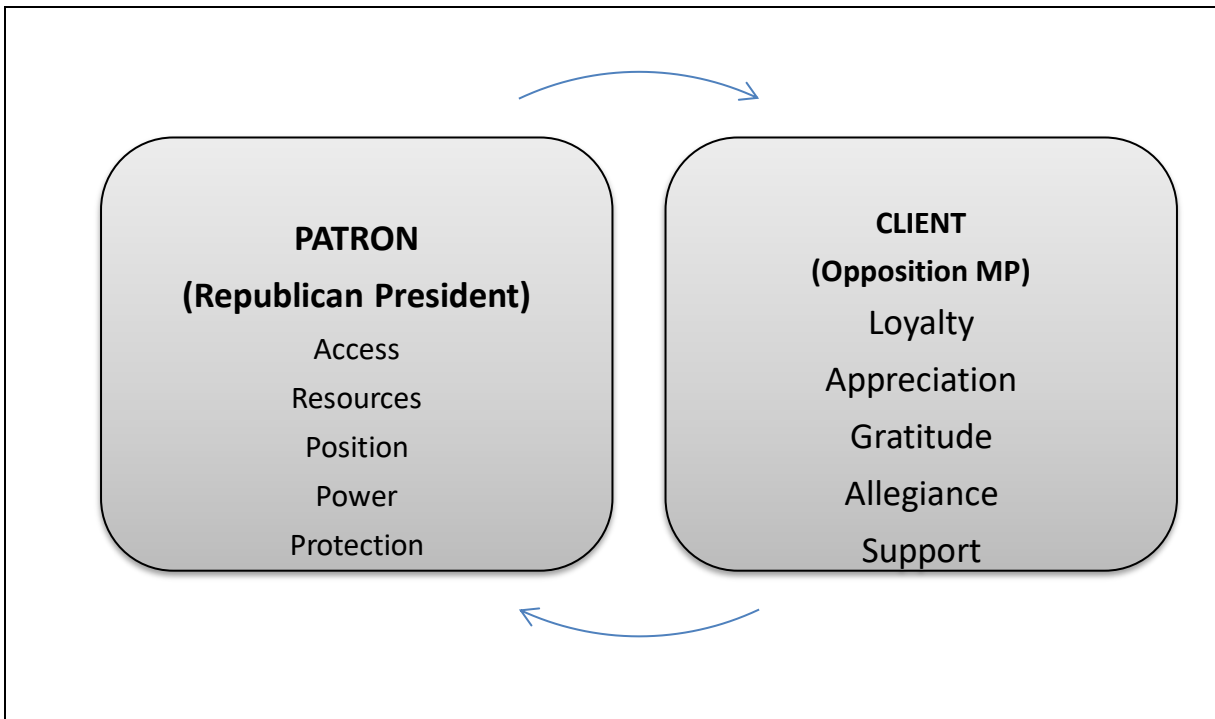
Despite the prominence it gained, patron-clientelism was not without its critics. Bentham (1996) challenged the moral and philosophical underpinning of patron-client practices. He rejected all patron-clientelism as a system that benefits a few at the expense of the many and one not based on merit; lacking openness and competitiveness.

Patron-clientelism in the modern era ‘tends to flourish in insecure political and economic environments, both rural and urban, and is integral to the “politics of survival” for both patrons and clients’ (Migdal 1988 cited by Brinkerhoff and Goldsmith (2002: p. 2). Zambia is one of the countries in the world and in sub-Saharan Africa with political and economic insecurity the kind of conditions where patron-clientelism tends to flourish. Despite some stabilisation in the economy, the decline of the Zambian economy is among the worst in Sub-Saharan Africa with high levels of poverty presenting one of the major problems in Zambia (Saasa & Carlsson, 2002). Consequently, many Zambians lack access to basic necessities, sufficient health and social services, and suffer from weak purchasing power and unemployment (Saasa & Carlsson, 2002). To survive in such harsh economic realities, patron-client relationships become tempting tools through which some politicians seek survival. They are susceptible to engage in the politics of survival or indeed politics of the belly (Bayart, 2009).

In a country like Zambia with an economy that is unstable, with high levels of poverty, the temptation by opposition MPs to abandon the electorate’s mandate and the party that sponsored them, at the offer of a position in the executive branch granting them status, access, privileges and resources not available to mere MPs, is high.

The President of the Republic of Zambia under Section 116 of the 2016 Amended Constitution of Zambia has the absolute power to appoint any person who is an MP into cabinet. These appointments are not subject to cabinet, parliamentary or party (ruling party) debates, consideration, consultation and approval. There is no parliamentary or party selection committees for public office of cabinet minister appointment. This does not mean that the Republican President cannot consult or seek the advice of some senior party members but that he is not obligated to do so.

A person appointed into the cabinet is elevated to an executive position in the government of the Republic of Zambia that confers status, power, privileges and financial security that is beyond what ordinary MPs get. Given the exclusive and enormous power the Republican Presidents hold in cabinet appointments, the floor-crossing MPs see the Republican President (Patron) as the only person who can guarantee the economic status they desire in exchange for their loyalty and service (as clients/ recipients). Diagram 3 shows the nature of the relationship between the Republican President (patron) and the opposition MPs (clients) based on mutual exchange and obligations:



**Diagram 3: Illustration of a Patron-Client relationship**

Precisely because the phenomenon of the inducement of floor-crossing and by-elections involves, on one hand, MPs from the opposition parties (clients) and on the other hand, Republican Presidents and the ruling parties (patrons), the two unequal partners, entering into an instrumental relationship that enables each to attain goals or get what they want from it (the relationship). It is an instrumental relationship in the sense that it is not value-led or ideologically based, but a tool or a means to an end which, most often, if not always, is

perceived to be beneficial to the two individuals concerned. The President in this relationship is the patron as he wields the executive power to appoint MPs from the opposition into the cabinet, the executive branch of government that grants those privileges, access and resources that ordinary MPs don't enjoy. In return, the opposition MPs as clients who floor-cross upon appointment as cabinet ministers, show their appreciation and gratitude by pledging their loyalty, allegiance and support to the Republican President (patron) through the votes they cast in Parliament in support of the Republican President (patron) and his party's agenda. They are no longer loyal to the party and people that made it possible for them to be MPs. In this relationship, unequal as it may be, the Republican President (patron) and the MPs (clients) both benefit from it. For the Republican President (patron) it is an instrument that allows him and his party to have control of the legislature. For the floor-crossing MPs, it is an instrument that opens the door to power, executive privileges, comfort and financial security.

### **3.2 The Theory of Rational Choice**

The second theory that this study used is the theory of rational choice (Hindmor, 2010; Oppenheimer, 2008; Riker, 1995; Roskin, 2016). The origins of the theory of rational choice are somewhat unclear although the age of reason is the stem of its modern roots, particularly in Thomas Hobbes' *Leviathan* (1651) whose fundamental explanation was that political institutions function through the choices of individuals (Oppenheimer, 2008). William Riker, has been identified as the founder of the theory of rational choice applying economic and mathematical reasons explaining why and how politicians form alliances (Roskin, 2016).

There are a number of reasons that motivate politicians to form coalitions. One such motivation according to Riker (1962) is office-seeking. The assumption here is that political party coalitions are motivated by the desire to enter into office; share a certain number of seats according to the value they bring to the government based on the votes each party got. The second motivation for the formation of coalitions by political parties is policy preferences. Political parties choose to join in a coalition government with a party or parties that are more aligned with their own policy preferences for the coalition to work (De Swaan, 1973; Kirchsteiger & Puppe, 1997). The third motivation for coalition formation by political

parties is vote-seeking (Downs 1957). This is based on the assumption that political parties form coalitions in order to increase the chance of getting the most votes in an election.

Rational choice theory was the dominant school of thought in political science in the late 20<sup>th</sup> century. Rather than focusing on trying to understand political behavior it was more relevant according to rational choice theorists to know ‘the actors’ interests and to assume that they pursue them rationally’ (Roskin, 2016).

Human behaviour is in part informed by purposeful choices made by individuals based on the preferences they have. Thomas Hobbes reasoned that the choices made by individuals are based on "appetites" that push them towards the desired ends and "aversions" that push them away from undesirable ends (Oppenheimer, 2008). This determination is one that was continued by many other thinkers such as Adam Smith, known as the father of modern capitalism, who memorably opined that: ‘It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own self-interest’ (Smith, 1777). The rational choice theory has deep roots in economics. It has also gained influence, over the years, in social sciences and related disciplines such as political science and political philosophy (Oppenheimer, 2008; Hechter & Kanazawa, 1997).

The theory of rational choice, among others, makes two central assumptions, that people act or make choices based on rationality and self-interest (Hindmor, 2010: p. 49). According to this theory, people can, therefore, be ‘relied upon to act in ways which best secure their goals and that these goals reflect their self-interest’ (Hindmor, 2010: p. 42).

This theory also underscores that politicians are endlessly opportunistic in pursuit of opportunities available to them, as structured by political institutions under which their actions should be explained (Roskin, 2017). Actions and decisions made by politicians form a behaviour whether contrary or in line with the expectations of voters in a democracy that is based on the end they want to achieve (perceived as good to them) and in avoidance of (what they perceive to be bad) the undesirable.

In the context of this study, rational choice theory in broad terms invites us to understand the actions of these individuals (opposition MPs and Republican Presidents) in successive administrations of Zambia’s Third Republic, that induce floor-crossing and by-elections as



most likely acting and interacting in such a manner they reckon to be in their best self-interest, considering their circumstances as they see them and the goals they wish to achieve. The elected opposition MPs and Republican Presidents in Zambia's Third Republic concerned are rational individuals who are aware of options before them and know why they choose to engage in the inducement of floor-crossing and by-elections anyway. They are not blind to how the voters and the general public, generally speaking, are opposed to their actions, neither are they blind to how detrimental their actions are on the health and growth of democracy in the country and the impact their actions have on peace. They make choices or act, having weighed the advantages and disadvantages, based on what is best for them given the political-economic opportunities available to them.

Whether their actions and choices are in the best interest of the country or their constituents is another matter. This theory helps provide a lens of understanding that the opposition MPs who cross the floor and Republican Presidents from the ruling parties that entice them are not engaged in a blind, irrational and powerless fate.

### **3.3 The theory of Conflict Transformation**

The third theory this study employed to help understand the conflict around induced floor-crossing and by-elections, and most importantly, help in the transformation of the conflict theory of conflict transformation (Lederach, 1995; Galtung, 2009; Diamond, 1994; Kriesberg, 1997; Miall, Ramsbotham & Woodhouse, 1999). Conflict transformation is a complex process that seeks to change relationships, attitudes, behaviours, discourses and interests by addressing underlying structural, cultural and institutional conditions that encourage and make violence possible, from political and social conflicts (Austin, Giessmann and Jäger, 2012).

Conflict transformation also requires a good comprehension of the concepts of peace and violence. In the 1960s, Galtung's inclusion of indirect or structural violence expanded the concepts of peace and violence. In so doing, he bridged the divide between negative and positive peace that existed in peace research with a focus on direct violence. Of negative peace, he opined, 'is the absence of violence, war', and of positive peace as 'the integration of human society' (1964, p.2). Galtung further broadened the definition of violence as being

more than just physical or direct violence but that it also includes structural violence. In other words, peace is not just the absence of direct violence (negative peace) but is the absence of structural violence (positive peace) as well (1969).

In the context of this study, the inducement of floor-crossing and by-elections does not instantly result in direct or physical violence. The perception of injustice generates anger and creates an acrimonious and adversarial relationship that though no direct violence occurs cannot but be described as negative peace. Indeed, the periods before and after elections in the aftermath of occasioned floor-crossing inducement are typical examples of periods of negative peace.

Conflict transformation goes beyond the resolution and management of conflicts. Conflict resolution as an approach focuses on resolving root causes of conflict and rebuilding relationships between conflicting parties with the help of international, national and local NGOs using dialogue projects, conflict resolution training and workshops (Paffenholz, 2009). It is about helping conflicting parties move from destructive zero-sum patterns of conflict to constructive positive-sum outcomes that are acceptable to the parties in a conflict (Azar and Burton, 1986). The conflict resolution approach has been criticized for assuming that the improvement and building of relationships between the parties to the conflict necessarily lead to the end of conflicts (Bercovitch, 1984; Miall, 2004; Paffenholz, 2009).

The conflict management approach focuses on ending conflicts by bringing to the negotiation table leaders of the conflicting parties with the power and resources, aimed at bringing short-term management to the conflict. It focuses on containing, controlling, and handling, mitigating and limiting a conflict from damaging escalation (Paffenholz, 2009; Austin, Giessmann, and Jäger, 2012). The conflict management approach has been criticized for overlooking the root causes of conflicts; and for its sole concentration on the top leadership while ignoring the facilitation of different internal and external actors in the negotiation process (Hoffman, 1995; Miall, 2004; Paffenholz, 2009).

While embracing and valuing conflict resolution and conflict management in the short and medium term, conflict transformation seeks to change relationships for the possibility of long term, sustainable peace. The study used this theory to seek an understanding of the dynamics of the political conflicts under study and how they can be transformed. The concept of conflict transformation is broadly understood to include the ‘transformation of individuals, transformation of relationships, and transformation of social systems large and small’ (Dukes, 1999, p. 48).

The two foundations of transformational perspective are the positive envisioning of conflict as a natural phenomenon with the potential for constructive growth, and a response that maximises the potential for positive change (Lederach, 2006). Conflicts have features that are life-affirming as well as life-destroying (Galtung). Violence is not inevitable in any conflict but is a result of a negative response. All conflicts are a natural phenomenon that should be responded to in a constructive manner for them to result in a transformation that leads to lasting peace.

The assumption inherent in the concept of conflict transformation is that conflicts are a consequence of ‘some identifiable asymmetry, inequality, inequity, or injustice within a given social, cultural, or economic context or framework’ (Sheehan, 2014: p. 121). Transformation of the conflict, therefore, cannot take place without transforming the identified asymmetry, injustice, inequity, and inequality in whatever environment they occur, be they economic, social, political or cultural. Conflict transformation affirms the need to promote the people involved in the conflict as the main agents of transformation and not to see them as a problem. While outsiders may play an important role, theirs is a supportive or complementary one. Conflict transformation, according to Lederach (1995, p. 212),

must actively envision, include, respect, and promote the human and cultural resources from within a given setting. This involves a new set of lenses through which we do not primarily ‘see’ the setting and the people in it as the ‘problem’ and the outsider as the ‘answer’. Rather, we understand the long-term goal of transformation as validating and building on people and resources within the setting.

Dialogue is one of the tools utilized in conflict transformation. The dialogue between conflicting parties is an essential component towards finding peace and justice at an interpersonal and structural level (Lederach, 2015). It is a much-needed tool to help parties

to the conflict chart a path towards transforming the conflict for a better peaceful non-violent future they deserve for themselves and the people they serve. Dialogue between hostile parties to be successful, may require mediation. A neutral, non-partisan, independent mediation in conflict transformation dialogue is important as it speaks to credibility and respect (Stigant and Murray, 2015). For dialogue to be meaning through mediation, there has to be trust and respect without bias and conflict of interest. The dialogue that has to take place should not be a debate about contradictions or about what/who is wrong or right but should be about a future the parties to the conflict desire for themselves and their people (Galtung, 2004). Dialogue involves face-to-face communication between the affected parties to address conflict in ways that reduce violence and injustice resulting in constructive change (Lederach and Maiese, 2015).

The inducement of floor-crossing and by-elections in Zambia's Third Republic has been a source of conflict, fraying relationships between political parties and their members. This conflict has been ongoing for much of the Third Republic, across different administrations: under former Presidents of the Republic, Chiluba (MMD), Mwanawasa (MMD), Rupiah Banda (MMD), Michael Sata (PF), and Edgar Lungu (PF). The fact that this conflict has persisted this long, and continues to affect relations between political parties and ordinary citizens, shows that it has not been resolved and needs transformation.

This conflict is acutely experienced and felt by the ruling parties and the opposition parties. It pits the ruling party against the opposition parties; floor-crossing (defecting) MPs against their (former) parties (opposition parties). This conflict does not only affect members of the concerned political parties but also affects ordinary citizens who do not belong to any political party but want to exercise their right to participate in elections and the governance of their country. The occasional physical and verbal electoral violence that engulfs politics especially during elections, and the animosity and antagonism that characterize relations between electoral cycles, speaks to the absence of constructive growth of the conflict<sup>40</sup>.

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<sup>40</sup> Every conflict has potential for destructive or constructive growth. Constructive growth of conflict is when it (conflict) becomes a driver for social change with parties to the conflict coming to a place where they acknowledge legitimate concerns and needs of each other; resolve conflict through peaceful means; address root causes of conflict; and thereby

The inducement of floor-crossing and by-elections can not solely be blamed for all the electoral violence that takes place. Nonetheless, it starts off anger, resentment and animosity between political parties and their members that in return cultivate an antagonistic, adversarial, confrontational and hostile relationship between the concerned parties. It creates breeding grounds for actual violence and hostilities that are compounded by the lack of firm and fair law enforcement that further worsens the situation. The perceived partiality and selective application of the law by state organs such as the Zambia Police and Electoral Commission of Zambia that are supposed to ensure safe, free and fair elections emboldens elements from the ruling party to engage in violent and disruptive activities while making those from the opposition feel suppressed as they are heavy-handedly dealt with. This hostile and “toxic” environment makes participation in the electoral process challenging.

The fact that the inducement of floor-crossing and by-elections and the related conflict and occasional violence resulting thereof persists, calls for understanding and addressing of the conflict not just with short term solutions but long term solutions that require an approach that theorists and practitioners of conflict transformation espouse (Lederach, 1995). Conflict transformation theory is better suited for this study as it precisely seeks to address underlying conditions (causes) as its approach for the possibility of long term peace. Short of addressing underlying causes, the conflict can only get worse and solutions can never lead to sustainable peace.

Transformation of this conflict would thus require a change in the individuals and political parties; change in relations between politicians (political parties); and the transformation of the social system (Dukes, 1999).

### **3.4 Summary**

The theoretical framework chapter presented and discussed the three theories underpinning the study, namely: the patron-clientelism theory; the rational choice theory; and the conflict transformation theory. The patron-client theoretical framework is used to show the nature of

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enhancing and sustaining peace through non-violent means (Lederach & Maiese, 2009; Austin, Giessmann & Jäger, 2012).

the relationship between the Republican Presidents and elected opposition MPs that despite opposition to the inducement of floor-crossing and by-elections draw them together. It is based on an unequal but mutually beneficial relationship between the Republican Presidents (patrons) and the elected opposition MPs (clients).

The rational choice theoretical framework is used to understand why the Republican Presidents and the elected opposition MPs in Zambia's Third Republic despite the detriment their choice of actions have on liberal democracy and peace, engage in floor-crossing and by-elections inducement. That they are not engaged in a powerless and inevitable fate they have no control over. Neither are they blind to the detriment their choice of actions have on democratic consolidation and peace. Rather, their choice of actions are rational and based on what they consider to be in their best self-interest. The conflict transformation theoretical framework, is used to understand the conflict provoked by the inducement of floor-crossing and by-elections and how it can be transformed from being destructive to being constructive.

The next chapter will examine the factors that motivate and enable the inducement of floor crossing and by-elections by the Republican Presidents and opposition MPs in Zambia's Third Republic despite the near universal opposition and negative impact on liberal democracy and peace.

## **CHAPTER FOUR**

### **INDUCEMENT OF FLOOR-CROSSING AND BY-ELECTIONS BY ZAMBIA'S ELECTED OPPOSITION MEMBERS OF PARLIAMENT**

#### **4.1 Introduction**

The inducement of parliamentary floor-crossing and by-elections has been a source of conflict in Zambia's Third Republic. It has attracted a near-universal concern, condemnation, and opposition by numerous Zambian observers such as civil society organisations, faith-based organisations and opposition parties (Geloo, 2013; Kabemba and Eiseman, 2004). This chapter presents and discusses the data from my fieldwork on the conditions that facilitate the inducement of floor-crossing and by-elections by elected Members of Parliament in the Third Republic of Zambia.

The inducement of floor-crossing and by-elections has been opposed and needs to be curbed because of the destabilisation it brings to liberal democracy as it undermines plural politics. Further, as this study shows, it creates an adversarial environment between political parties that leads to conflict and violence.

This Chapter also seeks to answer the following questions: a) why do opposition MPs cross the floor despite strong opposition; (b) what leads successive Presidents since the inception of the Third Republic to induce floor-crossing and by-elections; and c) what role does the constitution play as a deterrent or as an enabler of the inducement of floor crossing and by-elections. According to the analysis of data collected from participants in this study, there are three causes of induced floor-crossing and by-elections in Zambia's Third Republic. These are a) a permissive or porous constitution, b) Opposition MPs' desire for power and better pecuniary remuneration and opportunities, and c) the desire for power consolidation by the Presidents. These identified causes are rooted in a much deeper cultural, historical, political and economic context that makes the inducement of floor-crossing and by-elections possible and enduring, such as the one-party dictatorship, patriarchy, and the current poor economic circumstances. These create an environment that makes neopatrimonialism possible which is

a combination of strong presidents, clientelism and political legitimation through the use of state resources (Bratton & van de Walle, 1997).

## **4.2 Constitution**

The Constitution of the Republic of Zambia does not criminalise nor forbid the inducement of floor-crossing and by-elections. According to Article 116 (1) of Act No. 2 of 2016 in the Constitution of Zambia (as amended), the President of the Republic of Zambia has the legal authority to “...appoint a prescribed number of Members of Parliament as Ministers”. The President of the Republic of Zambia faces no restrictions about who he or she appoints as a cabinet minister irrespective of the party they hail from. The appointment of opposition MPs into cabinet even if done without the approval of the party they hail from or done under the motivation of dividing and weakening the opposition is still constitutionally legal.

The study found that the President is within his legal authority to appoint any MP regardless of their party affiliation, party approval or disapproval the views of civil society and other interested parties. Legally speaking, he or she can appoint any MP as a Minister irrespective of the effect of this appointment on the opposition, on the ruling party and on liberal democracy and peace in the country. Many participants in this study cited the constitution as one of the reasons floor-crossing happens in the first place. It is the one common reason that those who are opposed to floor-crossing and those who are supportive of floor-crossing agree on. The following quotations by participants in this study highlight this finding that the Constitution enables the President to draw Ministers from the opposition, as a key reason why the inducement of floor-crossing persists in Zambia’s Third Republic.

Our constitution allows the sitting president to select from among the existing Members of Parliament, people that he can use as Ministers. As a result, it becomes so easy for him to just poach MPs from the opposition and give them some positions in government (E8, 2016).

our constitution allows the president to appoint anybody. But what is bad is that the president should not appoint anybody without consulting. For example, if they are getting from the opposition there needs to be consultation despite that the constitution allows the president to do so (E2, 2016).



One of the biggest problems in terms of floor crossing has been a weak constitution, our constitution (CSO7, 2016).

What they are doing is totally legal there is nothing illegal... that it is allowed by the constitution (CSO5, 2016).

The Constitution of Zambia (as amended), Act No 2 of 2016, has some important provisions that make floor-crossing and by-elections a little bit more difficult. An MP who crosses the floor to another party by resigning from the party that sponsored them to the National Assembly now faces penalties. This MP would lose his or her seat in Parliament, not be allowed to re-contest the seat in the by-election, and is not appointable for any government position for the duration of the life of the current parliament. According to the Constitution of Zambia (as amended) Act 2 of 2016 in Article 72 (2) the seat of an elected MP shall be vacant if he/she, “resigns from the political party which sponsored the member for election to the National Assembly... [or]... is expelled from the political party which sponsored the member for election to the National Assembly.”

Article 72 (2) of the Constitution of Zambia (Amended) Act 2 of 2016 is a somewhat welcome deterrence to the inducement of floor-crossing and by-elections, but it doesn't go far enough. It narrowly describes floor-crossing as the resignation of an elected MP from the party that sponsored him or her for election to the National Assembly to join another that would trigger by-elections. The 2016 Constitution of Zambia (Amended) provides a deterrence against MPs intending to resign from their parties to join others as they would not just lose their seats but would not be legible to recontest their seats in the ensuing by-elections and would not be appointable for any government position.

Accepting a cabinet appointment by the President (who is also the leader of the ruling party), without consultation or approval from the party that sponsored them for election to the National Assembly is not considered floor-crossing under the law. The actions of the MP who associates and votes with the ruling party after the appointment into cabinet does not constitute a violation of the law as it is not considered as crossing the floor. The 2016 Zambian Constitution (Amended) is still not tight enough to deter an MP from crossing the floor or even causing a by-election for that matter.

Therefore, an MP who has for all practical purposes crossed the floor to the ruling party through a Cabinet appointment without resigning from his or her party, whom associates and votes in the National Assembly with the ruling party, is still not in violation of the constitution. This was the interpretation made by the High Court of Zambia in the *Kuchunga Edwin Simusamba v Attorney General, Greyford Monde, Richwell Siamunene, and Poniso Njeulu – 2012/HP/1561* case. The Petitioner, in this case, had argued that the opposition UPND MPs who had accepted ministerial positions in the Government led by the ruling party the PF had crossed the floor. The High Court of Zambia Judge, Hon Mr Justice C.F.R. Mchenga made the following interpretation of the meaning of Article 71 of the 1996 Constitution of Zambia which is now Article 72 in the 2016 Constitution of Zambia (Amended) as follows:

My understanding of Article 71 of the Constitution is that a Member of Parliament will be considered to have crossed the Floor when he leaves his political party or joins a political party. Can a Member of Parliament who takes up a ministerial position be considered to have crossed the floor? The answer is no. A shift in allegiance by taking a ministerial appointment or constantly siding or voting with the ruling party does not amount to crossing the Floor under the provision. Whether or not that is desirable is not a matter of interpretation, but legislation. Had that been the intention of the legislators, they would have indicated it in precise terms... (*Kuchunga Edwin Simusamba v Attorney General, Greyford Monde, Richwell Siamunene, and Poniso Njeulu – 2012/HP/1561* (unreported): 2012, p. 16).

The above interpretation of Article 72 implies that legally speaking, for elected MPs to be considered to have crossed the floor, there has to be irrefutable evidence that they have now become members of another party. This might be through holding a membership card, becoming registered as belonging to another party and/or being an office bearer for another party. In making this interpretation and ruling, Hon Mr Justice C.F.R. Mchenga also noted that this was a matter of legislation, not interpretation on the desirability or not of floor-crossing.

Further, expulsion from the party on the grounds that the person has crossed the floor doesn't render the MP's seat vacant as the MP would retain his or her seat unless the court as provided for in Article 72 (7) determines the expulsion as justified. It is highly unlikely that any court under the current constitution would nullify an MP's seat who has crossed the floor without resignation from his/her party or without formally joining the ruling party on the basis that

their expulsion is justified as any appointment of an MP irrespective of party affiliation is legal.

The 2016 Zambian Constitution (Amended) therefore only deters opposition MPs from formally crossing the floor to the ruling party. As long as an MP doesn't officially resign from their original party and join another, then legally speaking, they have not broken the law. As such, therefore, much as there are important amendments contained in the 2016 Constitution of Zambia (Amended) meant to deter the inducement of floor-crossing and by-elections, it does not go far enough to deter the inducement of floor-crossing and by-elections. An opposition MP can still formally resign from their party to join the ruling party and cause a by-election although that MP would not be allowed to contest the ensuing by-election. And it is still perfectly legal for an opposition MP to cross the floor by accepting a cabinet appointment, shift loyalty to the ruling party and vote with the ruling party all the time in parliament.

#### **4.3 The opposition MPs: the desire for power and better pecuniary remuneration and privileges.**

The overwhelming majority of the participants cited greed by Members of Parliament as one of the key reasons that make opposition MPs to cross the floor. This is because opposition MPs that cross the floor through the change of allegiance, voting, and association with the ruling party only do so after a cabinet appointment. Prior to any cabinet appointment, these opposition MPs are loyal members of their parties and make good on their oversight responsibility in parliament, holding the government of the day accountable through their debates and votes (Kiiza, 2005).

Far from being motivated to change their party affiliation through floor-crossing or by-elections because they believe in the policies of the ruling party and therefore desire to support and help their implementation, they are driven by self-interest. Their choice to change party affiliation through a change of loyalty, association, and votes (floor-crossing) or formally resign from their party (by-elections) is one born of rationality and self-interest (Hindmor, 2010). The rationality and self-interest are that the cabinet appointment offers

better remuneration, gives them executive power and status; and many other privileges that come with the office. They figure out that they (opposition MPs) cannot be considered for appointment into the cabinet without crossing the floor.

The same was also true, prior to the enactment of the 2016 Zambian Constitution (Amended), that opposition MPs only resigned from their parties to recontest their seats in by-elections after their appointment into the cabinet. This is because cabinet ministers earn more money, have more power as executives in control of government ministries and have a lot of privileges that ordinary MPs do not have. The privilege of appointing MPs as ministers lies in the President elected by eligible citizens of Zambia. The desire by opposition MPs who have no chance of becoming ministers, to earn more money, power and have access to other privileges that come with a cabinet post makes them cross the floor. The quotes below express that perception from the two interviewees cited:

We have seen our politicians cross floors from one party to another mainly to serve their personal interests; and this process takes place first of all behind the scenes where a member of parliament is cajoled, persuaded by a carrot dangled and a good life promised before they abandon their original political party. A lot of benefits are promised such as money, things such as families being given opportunities to study abroad, ministerial positions and just positions of influence (CSO6, 2016).

they would want to be enticed or accept to be invited by the ruling class because they feel that there is more honey on the other side as opposed to, you know, being in the opposition and give checks and balances. I think there is a lot of personal aggrandisement for lack of a better term. If you like, eh, people would want to be selfish as opposed to being selfless. So they want that which will benefit them quickly as opposed to what will benefit the masses and people that voted for them (CSO4, 2016).

Further, participants argued that regardless of what MPs say, they are motivated by greed and selfishness because floor-crossing doesn't benefit the country, but rather the individual MP who decides to cross after a ministerial offer is made to them. The following selected quotes from participants underscore greed as a compelling floor-crossing motif on the part of MPs without which they would not otherwise do so:

is greed – a lot of money is obviously offered to Members of Parliament who cross the line. So far there is no evidence of objectivity or reasons or national benefits for crossing the line. The benefits go to the individual. So its greed... (E14, 2016).

the reasons being given are that they do it for the love of the nation, they do it for the love of the people but we know that behind those words are selfish interests. They are looking at their own pockets rather than the plight of the people, rather than the people they are supposed to save. So, they will give good holy reasons rather but at the end of the day, we know they do it in order to save their own interests (SCO8, 2016).

The majority of people who participated in the study singled out greed or selfishness as the overriding reason that drives opposition MPs to cross the floor or cause by-elections especially prior to the 2016 Constitution of Zambia (Amended). Floor-crossing or by-elections are a form of political migration. Just as migrants are prompted by the push and pull factors, “some pull factors include the prospects for improved conditions and access to power that are perceived to prevail in the new party” (Matlosa & Shale, 2007, p.3)

In a country like Zambia with one of the worst economies in sub-Saharan Africa, ladden with high and rising poverty levels<sup>41</sup>, patron-client relationships entered into by two unequal parties, the patron (President) and the client (opposition MPs) has become all too common. The patron (President) provides a cabinet position which confers power, status and financial benefits to the client (opposition MP) who in return pledges loyalty, support and votes (Scott, 1974). The inducement of floor-crossing and by-elections in some cases, especially before the 2016 Zambian Constitution (Amended) that offer opposition MPs executive power with all the privileges and access that come with the position are hard to resist (CSO6, 2016; Saasa & Carlsson, 2002).

In such harsh economic conditions politicians (MPs) engage in the “politics of survival” or “politics of the belly” by which they seek to enhance their power and self-enrichment (CSO2, 2016; Migdal 1988 cited by Brinkerhoff and Goldsmith, 2002). The entitlements of a cabinet position include a salary three to four times higher than that of an MP, access to free government accommodation, the provision of house servants, telephone/ mobile phone talk-time, cars, and fuel. This makes floor-crossing and by-elections very attractive even though MPs who are not cabinet ministers are also entitled to privileges such as... to enable them to travel and conduct the people's business in their respective constituencies. What attracts them

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<sup>41</sup> According to the World Bank Africa Poverty Database for individual countries in Africa, the surveys for Zambia conducted between 1998 and 2006, recorded the highest poverty increase of 2.3% of the countries surveyed in Africa. (Beegle, Christiaensen, Dabalén, and Gaddis, 2016, p. 61)

to abandon the opposition parties they were elected on even as unpopular as that may be is that cabinet ministers are entitled to two types of privileges: entitlements due to all MPs as they are also MPs; and entitlements due to cabinet ministers that are even many times higher than the ones for MPs. (E2, 2016; E11, 2016; CSO5, 2016; Hobbes, 2013).

There is little national benefit for the inducement of floor-crossing and by-elections but personal or private gain motivated by greed because they are a source of intra and inter party discontentment and destabilisation; weaken parliamentary oversight; and are costly – a waste of the much needed scarce resources (E14, 2016; Patel, 2008). That is not to say that there are no highly talented, qualified and skilled opposition MPs who could contribute to the well-being of the country through appointment into the cabinet. But that the acrimony, polarization, weakening of parliamentary oversight and waste of resources does more harm than any good that might be intended. The promise of good life, benefits, opportunities, influence, and access to national resources is what makes MPs cross the floor from the opposition to the ruling party or cause by-elections (CSO6, 2016). The unflattering terms often used to describe opposition MPs who engage in induced floor-crossing or by-elections speak to self-interest (greed). Opposition MPs who abandon their parties to join or change loyalty through by-elections or floor-crossing upon offer of cabinet appointment are considered as practicing politics of the belly, being greedy, selfish, full of lust for acquisition of wealth, searching for greener pastures, “crosstitutes”, etc. (Bayart, 1993; E14, 2016; E2, 2016; Tembo, 2013; Zulu, 2013).

The inducement of floor-crossing and by-elections has been roundly condemned in Zambia by a broad section of Zambians including the Church, civil society organisations, the opposition parties, academics and ordinary citizens (Zulu, 2013). Despite the near-universal condemnation, some opposition MPs when offered a Cabinet position find it difficult to resist. Their behaviour to choose can in part be explained by what Thomas Hobbes articulated, that choices made by individuals are founded on “appetites” that push them towards some preferred end and “aversions” that push them away from the unwanted end (Oppenheimer, 2008). Though MPs are well remunerated and live a fairly comfortable life compared to ordinary citizens, the appetite for a life, by way of a cabinet appointment, that offers more wealth, comfort, power and security pushes them to cross the floor or cause by-elections.

Some opposition MPs are businessmen as well or have relatives who are in business. So, apart from wanting a bigger income, they will be receiving as ministers and other allowances, they are also motivated, according to the study, by their business interests and that of their relatives and friends. Their motivation is to enhance their business opportunities and protect their business. Their businesses and those of their relatives and friends stand a better chance of winning government contracts and tenders. According to Participant (E14, 2016), people have been offered contracts - we have seen contracts offered to such Members of Parliament.”

There is a widely reported and held perception in Zambia that, those in government (ruling parties) often use government tenders and contracts to enrich themselves acting as gatekeepers allowing or denying access. Through their gatekeeping role in government in charge of government departments, they (ministers) can deny businesses owned by members and supporters of the opposition access to government tenders and contracts while allowing their own, those of their supporters and those who can pay kickbacks (Szeftel, 2000; Moonga, 2018; Habasonda, 2018). Public office such as minister is used as a means to access state resources for personal gain (Momba, 2007). As such, therefore, opposition MPs who are also businessmen and interested in enhancing their business opportunities would be inclined to accept to join the government / ruling party through floor-crossing or by-elections.

Opposition owned businesses or businesses owned by individuals that are critical to the ruling party do not just get sidelined as explained above, they are also subjected to selective strict scrutiny by government agencies. Government agencies such as the Zambia Revenue Authority (ZRA) and Police are often used to harass, frustrate and in some cases close down their businesses for non-compliance to some regulations or failure to pay their taxes to the fullest extent (MISA Zambia, 2016a). Opposition MPs who are businessmen might be inclined, under such circumstances, to accept joining the ruling party so as to protect their businesses from being unfairly targeted by government agencies. So joining the ruling party either through floor-crossing or by-elections in order to protect their business is based on self-interest and a choice made out of rationality (Hindmor, 2010). It is about protecting their businesses as well as improving their business prospects, “some people would like to protect their businesses; to do business with the government” (MP9, 2016).

The key thing is that the ruling party tends to buy by either promising the crossing parliamentarian with ministerial position or even just some monetary value in terms of even giving their relatives contracts or other businesses (E3, 2016).

The opposition MPs who engage in the inducement of floor-crossing or by-elections often claim to be doing so out of love for the country, a desire to work with the government of the day to bring development in the country, a desire to work with the Republican President because he is good or because of the good policies being pursued by the party in power (SCO8, 2016; MP7, 2016). Contrary to these assertions made by floor-crossing MPs the study argues that, rather, they do it out of regard for their own self-interest (SCO8, 2016; Smith, 1777). The fact that the only time opposition MPs cross the floor or resign and go for by-elections is when they are offered a cabinet portfolio is indicative of a love for self-benefit rather than that of the country or the people they represent.

#### **4.4 Presidents' (Ruling parties) desire for power consolidation**

Presidents also happen to be the leaders of the ruling parties. They play a pre-eminent role in the inducement of parliamentary floor-crossing and by-elections. The inducement of parliamentary floor-crossing and by-elections would almost be impossible without the agency of the President. The President is the only person with the legal authority as mandated by the constitution to appoint members of the executive branch of government, from among the Members of Parliament. According to Article 116 (1) of Act No. 2 of 2016 of the Constitution of Zambia (Amended), "The President shall appoint a prescribed number of Members of Parliament as Ministers."

Opposition Members of Parliament only cross the floor once an offer of cabinet appointment by the President has been made to them. The President induces floor-crossing or a by-election when he appoints MPs who belong to opposition parties into his/ her cabinet. Almost all cases of floor-crossing and by-elections involve the appointment of an opposition MP into the cabinet as either a minister or a deputy minister. As one participant put it, "most of the time, we don't have people crossing for the simple reason of crossing, normally when they cross they are offered a position" (MP2, 2016).



The findings from this study show that Presidents in Zambia's 3<sup>rd</sup> Republic do not just induce parliamentary floor-crossing or by-elections for benign national considerations only as they claim. While it might be for some benign national considerations sometimes, ruling parties, in some rare moments of truth have been quite open about doing it for the purpose crippling the opposition even if that would mean that there would be no opposition MPs left at all (Bureau of Democracy, Human Rights and Labor, 2014).

They often claim that they are aimed at having an inclusive government that brings into the cabinet, the people's representatives (MPs) from regions their parties (governing) never won any seats so as to attain national unity. Or that they do it to tap talent and skills from the opposition for the sake of development for the country. Their claims are premised on national unity and development (CSO7, 2016; E1, 2016).

There is some truth to the claims such as the tapping of skills and talent from some brilliant minds from opposition MPs and that it broadens inclusivity in the cabinet. While that might be true in some cases, it is not the whole truth. Because given that Presidents are allowed under the 2016 Constitution of the Republic of Zambia (Amended) in Article 68 (2) (b) to nominate eight Members of Parliament, they would have been using that provision to nominate talented and skilled people from regions they never won seats. This way, they would both have a cabinet drawn from all regions of the country as well as having some of the brightest minds heading government ministries. In fact, Article 69 (1) explicitly says, "The President may nominate a person referred to in Article 68 (2) (b) where the President considers it necessary to enhance the representation of special interests, skills or gender in the National Assembly."

The appointment of opposition MPs by the President into the cabinet that prompts them to cross the floor or cause a by-election generates widespread condemnation and opposition. Presidents do it anyway not because they are unaware of the opposition and condemnation it generates or the harm it does to democracy and peace. They do it because it accords them more power, allowing them to have control over the Legislature and to strengthen their party while weakening the opposition. It is also plausible that they do it with a purpose having an

inclusive cabinet drawn from all regions of the country while also tapping into the talent and skills found among MPs from the opposition. And it would also be possible that the President might through this singular act of appointing opposition MPs into cabinet aiming at four goals of weakening the opposition (strengthening the ruling party); getting control over the Legislature; having an inclusive cabinet, and getting the talent and skills from the opposition.

#### **4.4.1 Control over the Legislature**

Past and present Presidents in Zambia's 3<sup>rd</sup> Republic do not just induce floor-crossing and by-elections out of the goodness of their hearts (for the good of the country) or because they are not aware of the opposition it generates or the harm it does to democracy and peace. They gain, through the inducement of floor-crossing and by-elections, 'total' loyalty and support from the opposition MPs they offer cabinet positions, through votes, they cast in Parliament. These opposition MPs consistently vote in favour of the Presidents agenda, alongside the MPs from the governing party, in the National Assembly, in line with the collective responsibility principle (Momba, 2007).

Zambia has a first-past-the-post electoral system by which candidates for MP and President seek their mandate directly from the electorate. This electoral system is therefore open to the possibility that the party whose presidential candidate wins the Presidential contest may not end up with the majority of seats in the National Assembly. This does not mean that the only remedy open to the President and the ruling party is the inducement of floor-crossing or by-elections. It is possible for the ruling party to form a coalition government or have an agreeable arrangement with an opposition party. The ruling party can also have their bills and legislation pass in the house without being in a coalition with the opposition; and through the inducement of floor-crossing or by-elections by seeking consensus with the opposition in the formulation, refinement and passage stages.

Presidents, according to the participants in the study, induce floor-crossing and by-elections because they want their party to have the majority of the MPs in the house so as to have control over the Legislature. The more MPs the ruling party has in the National Assembly the easier it becomes for the President and the ruling party's agenda to be implemented. The

fewer MPs the ruling party has especially if the outcome of the general elections is a hung parliament, the more difficult it gets for the President and the ruling party to pass bills and legislation without support from the opposition. And so to go around this perceived problem, the President offers cabinet positions to some opposition MPs thereby inducing floor-crossing or by-elections so as to boost their numbers. This is how one interviewee put it,

the party in government they want to boost their numbers in parliament. So they will approach members of parliament from opposition political parties, usually with the promise of a cabinet job; people don't just cross the floor to the ruling party for no reason at all. Usually, it is accompanied by an appointment to cabinet, that's the other thing government wants to raise his numbers (CSO3, 2016).

The inducement of floor-crossing and by-elections by the President is meant to allow for the control of the house. Without control over the house, the President and the ruling cannot just push through any piece of legislation without challenge as it would require consent by some members of the opposition. The control of the National Assembly through the inducement of floor-crossing or by-elections then allows the President and the ruling party to pass bills in the house with little or no challenge and scrutiny.

they want to control the parliament, and when they have controlled Parliament whatever bills they want to pass in Parliament they will have the majority votes (E2, 2016).

they want the numbers in parliament it's just an issue of saying we need to have numbers to pass bills if they don't they feel bills will be shot at by the opposition with their majority (CSO2, 2016).

The above quotes, one from one of the electorate and the other from one of the civil society organisation leaders both cite the President's quest for increasing the number of MPs under his/ her control for the purpose of legislation as motive for the inducement of floor-crossing and by-elections. While the ruling party gets the majority seats in the National Assembly from the general elections, there are few times like was the case in when the opposition parties and independents had a combined majority. While a hung Parliament is likely to lead to the inducement of floor-crossing or by-elections, there are other ways of getting a majority support in the National Assembly that does not require the inducement of floor-crossing or by-elections. Dialogue and consensus building over certain bills or even entering into

coalition government could still give the ruling party the governing majority required for passage of bills.

There are various reasons that motivate Presidents to seek control over the Legislature, in the face of stiff opposition and popular sentiment, continue the inducement of floor-crossing and by-elections. One of them is to simply garner for a simple majority for the sake of governance; and the desire to implement the programme of action or manifesto on which they were elected. Some other reasons may include, but not limited to, the desire to garner for total control over the legislature so as to exercise arbitrary rule without meaningful checks and balances, and to weaken or even destroy the opposition parties (E1, 2016; MP1, 2016).

#### **4.4.2 President's (and ruling party's) desire for easy passage of their agenda in parliament.**

Presidents and their political parties run on a particular programme of action or manifesto during elections that they want to implement during their tenure in office. Yet, if they do not receive a simple majority seats in the house despite winning the presidency and the most seats in parliament, they cannot action their plans without the support of opposition MPs whose votes are not guaranteed. When the opposition has a combined majority in parliament over the ruling party, their scrutiny over government leads to confrontations that can be frustrating to the President and the ruling party. The easiest of routes Presidents take to avoid such confrontation, scrutiny or the obligations that coalition governance requires is the inducement of floor-crossing, to secure support from individual legislators (Lembani, 2007).

Some of the reasons include their desire to have a simple working majority in the National Assembly if the outcome of the elections results is a hung parliament (MP1; 2016). This is important to the Republican President because the National Assembly as one of the three co-equal arms of government, is charged with the responsibility of passing bills, and oversees the functions of the executive through expenditure appropriation, equitable distribution of national resources, public expenditure scrutiny, public debt approval, and international agreements and treaties approval (Constitution of Zambia (Amended) Act No. 2 of 2016,

Article 23). The government cannot function without legislative authorization, such as budgetary approvals, from parliamentarians through the provision of a majority vote.

The desire for power consolidation that allows the President and the ruling party to have control over the legislature so that the outcomes of the deliberations in Parliament don't go against his (and his party's) agenda, is one of the consideration for the inducement of floor-crossing or by-elections. The inducement of floor-crossing or by-elections by the President, according to the findings of this study is, among other factors, to allow the President to rule without much scrutiny or being held accountable. This allows the agenda of the President, irrespective, of its merits or lack of it, to pass with little challenge or without meaningful scrutiny. This is not to say that the opposition cannot challenge bad pieces of legislation, amendments or try to hold government accountable, but that they cannot stop them if the ruling party is so determined as it comes down to numbers in the house that count. Neither is it to say that any majority in government (anywhere in the world) means a lack of meaningful scrutiny but that a minority government is much more amenable to compromise and consensus building as it cannot simply impose its will in the National Assembly as a majority one could.

This does not also mean that in all circumstances, MPs in the ruling party and even those who happen to be in the cabinet always support the President as was the case in President Chiluba's attempt to change the constitution to allow him to run for a third term (Simutanyi, 2005). These instances where the MPs from the ruling party and those in the cabinet can openly refuse to go along the President's stated proposal are not common-place. Even in this particular incident (desire by the then President Chiluba for a third term constitutional amendment) there are other factors such as a massive opposition by the church mother bodies, civil society organisations, academics and also the desire by some high ranking ruling party members (MPs and cabinet ministers) to vie for the Presidency. Nonetheless, whatever the motives and pressure, it shows that ruling party MPs and cabinet ministers can still oppose the President on some issues.

It turns Parliament into a rubber stamp where no meaningful scrutiny of bills and oversight over the executive take place as votes are assured for the President. This then allows him/ her

and the ruling party to govern, change laws they don't want, and pass bills and expenditures they want in the house without any credible or meaningful oversight.

#### **4.4.3 Weaken the opposition/ strengthen the ruling party**

Presidents in Zambia's Third Republic are also leaders of their political parties. As leaders of the governing parties, they are concerned with not just having the necessary votes or control over the Legislature, they are also aiming at growing their parties, by increasing party membership as they look towards the next elections. Opposition MPs who join the ruling party do so alongside their ardent supporters, family members, and some friends. So, whilst the inducement of floor-crossing guarantees them votes in Parliament, it also serves them a dual purpose of strengthening the ruling party while weakening the opposition parties.

The Presidents in Zambia's Third Republic care about the strength of their parties as they rely upon them for election to the highest office in the country and support for passage of bills in the National Assembly. It is in their self-interest to weaken the opposition and strengthen the ruling party. One way of strengthening the ruling party is by inducing of floor-crossing or by-elections through the offer cabinet positions to some of the most important MPs the opposition has. While there may be plausible benign reasons for cabinet offers to MPs from the opposition, it is also possible that Presidents make the offer because it is in their self-interest. They do not make the offer for the goodness of the country but out of regard for their own good or self-interest and that of their party (Smith, 1777).

In order to strengthen the ruling parties that Presidents lead, they induce floor-crossing or by-elections not for the benign stated purposes but to weaken the opposition or even totally destroy them. This is the perception of the interviewees from the following quotes:

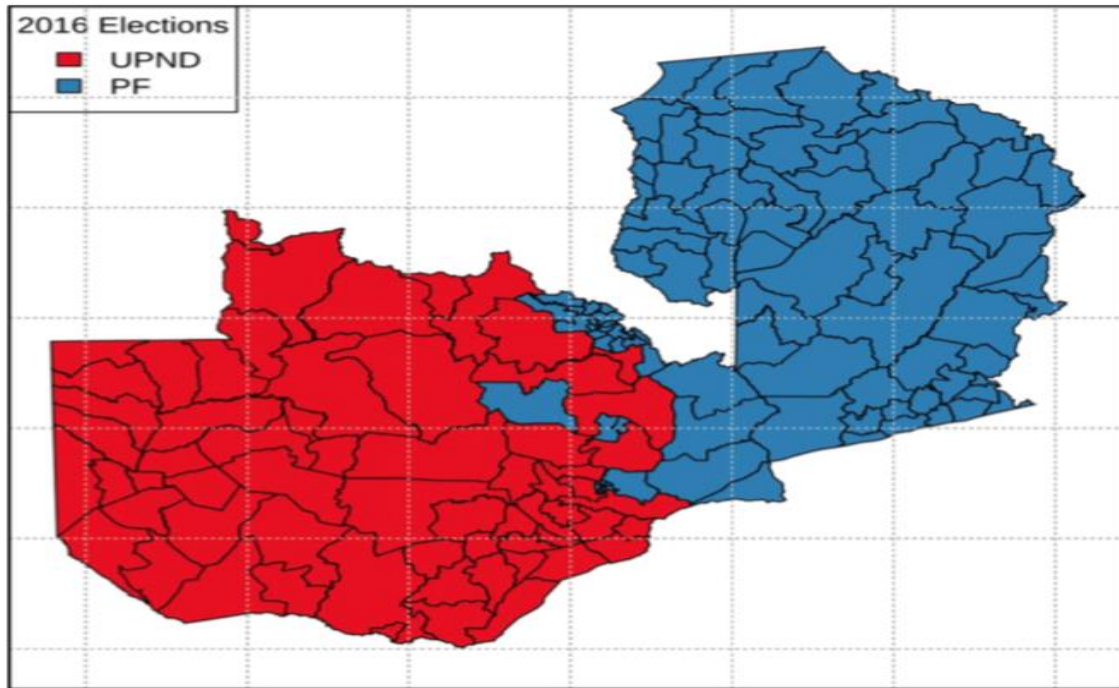
they will say, look, we are a very inclusive government. So as an inclusive government we want to reach out to every other sector. We don't promote tribalism. So we want to ensure that even in the areas where we don't have members of parliament we are able to get members of parliament from the opposition to come into government. Those are some of the reasons they are going to give. But primarily the basic thing why they do that is all about weakening the opposition political party. So they will weaken it as much as possible by getting some of its finer brand to come to the ruling party (CSO7, 2016).

they want to destabilize the opposition. You weaken the opposition, you have a fair chance of staying there for a very long time [E16, 2016].

One of the reasons is to weaken the opposition. You know, democracy must have elections from time to time, for instance in our country, those elections should take place every five years. Now in that five years, you would discover that if the ruling party is not performing well, one, it will have to find ways of weakening the opposition. So the only way to weaken the opposition is to poach the MPs from the opposition parties. So that when those MPs cross over to the ruling party, definitely the ruling party will become stronger. Then the opposition parties will remain vulnerable (E6, 2016).

There is no doubt in the minds of participants of this study as the cited quotes above show and other studies such as the one done by Momba (2007) have shown that the inducement of floor-crossing weakens the opposition parties. In some instances (especially under the late president, Levy Mwanawasa), the intent to weaken the opposition can be seen in the choice of MPs from the opposition who were the most senior and able leaders (Momba, 2007). By luring the most senior and able MPs to the ruling party through cabinet appointments, division and confusion ensue in the opposition. In some instances, it has led to the total destruction of some opposition parties as was the case with the Heritage Party (HP) whose MPs were co-opted into the then ruling party, the Movement for Multi-Party Democracy (MMD) through cabinet appointments, and weakening of the United Party for National Development (UPND) (Goeke and Hartmann, 2011).

It also negatively affects voters and supporters who normally, in the case of Zambia, vote for candidates based on the political party they support. Political parties have strongholds in different regions of the country where their candidates are almost guaranteed to win because of the popularity of the party on whose ticket they stand for election (Erdmann, 2007). The map in figure 4, the 2016 presidential contest results between the two major parties in Zambia, the ruling PF, and the opposition UPND illustrating the regional party strongholds that influence the voting pattern in Zambia.



**Figure 4: 2016 Presidential Election Results in Zambia**

*Source: Electoral Commission of Zambia (2016).*

The regions in blue are the ruling party PF’s stronghold where the ruling party’s presidential candidate won the most votes while the regions in red are the opposition UPND’s stronghold where its presidential candidate won (ECZ, 2016). Likewise, these two political parties won the overwhelming majority of parliamentary seats from the same regions, blue for the PF and red for the UPND.

The thought that an MP they supported and voted for, based in part, on the party affiliation of their choice, can arbitrary cross to the ruling party without their consent makes voters cynical and apathetic about participating in the electoral process (Swart, 2007; ). The low voter turnout in the by-elections that ensue following a cabinet offer to opposition MPs that lead to their expulsion or resignation is a testament to the cynicism and apathy that affect the electorate (Swart, 2007).

The support for the opposition suffers, as evidenced by the losses they suffer when by-elections are held over opposition MPs who after being appointed into the cabinet without



approval from their party are expelled by their respective parties or opt to join the ruling party formally (Moomba, 2007). The Patriotic Front, in the 2011 general elections got 60 parliamentary seats out of the 150 seats and through among others, the inducement of by-elections had increased the number to 79 seats by the year 2016 (ECZ, 2011; National Assembly, 2016). This is to say nothing about those who were appointed to serve as deputy minister, 13 of them by 2013 (Geloo, 2013). This is largely due to the huge advantage the ruling party brings to bear in the subsequent by-elections through the use of state resources among others.

But also, the idea that the people's choice of a candidate for MP, in part, based on the party ticket of their choice can choose to join the ruling party though not formally (through crossing the floor) or formally after (expulsion or resignation) makes them question the wisdom of voting for another opposition candidate in the ensuing by-election. They might, after all, do the same if offered a position by the President and join the ruling party by de-facto (floor-crossing) or formally if they resign or are expelled (by-election).

#### **4.5 Summary**

This chapter presented and discussed data on the perceived reasons/drivers of the inducement of floor-crossing and by-elections in Zambia's Third Republic. While there may be other drivers, the study identified three main drivers namely, the weak constitution; the desire by opposition MPs for power and better pecuniary remuneration; and the President's quest for power consolidation.

The constitution of Zambia despite some amendments over the years still has some loopholes that make the inducement of floor-crossing and by-elections possible. The Constitution does not constrain the President and opposition MPs from engaging in patron-client relationship through an informal change of allegiance after the offer of a cabinet position that results in floor-crossing. It also does not do away with by-elections that can be caused by an MP who decides to join the ruling party even if they are ineligible to re-contest.

The opposition MPs desire for power and better pecuniary remuneration and privileges that are far more than what ordinary MPs get or are entitled to as one of the underlying drivers that attract them to accept cabinet appointments without approval from their parties. While the study does not rule out other considerations opposition MPs may have, it deems this as one of the factors if not the major factor. The President is the only person in the Republic of Zambia with the constitutional power to appoint members of the cabinet from among MPs appoints opposition MPs in a way that helps him consolidate power and strengthen his party. The inducement of floor-crossing or by-elections helps the President to have control over the Legislature, weaken the opposition while strengthening his party.

The findings from this study on what the real reasons that make the inducement of floor-crossing and by-elections even possible despite the fierce opposition from the majority Zambians, stand in sharp contrast with those advanced by the proponents. The proponents of this phenomenon cite benign reasons such as having a bipartisan and inclusive cabinet with members from regions the ruling party never won parliamentary seats; desire to serve the country and bring development.

The study does not preclude some of the aforementioned benign reasons as drivers for the inducement of floor-crossing and by-elections. But that a weak porous constitution; desire for power and better pecuniary remuneration and privileges by opposition MPs who are driven by self-interest; and the desire for power consolidation by the Republican Presidents intent on strengthening the ruling party and having control over the legislature, are major factors if not the major drivers. The opposition MPs and the President engage in a patron-client relationship despite strong opposition and condemnation because they make a rational choice that it is in their best self-interest to do so and that it is beneficial to both parties, the patron (President) and the client (opposition MPs) (Eisenstadt and Roniger 1984; Piattoni, 2004; Hindmor, 2010; Roskin, 2017).

## **CHAPTER FIVE**

### **THE IMPACT OF THE INDUCEMENT OF PARLIAMENTARY FLOOR-CROSSING AND BY-ELECTIONS ON DEMOCRACY**

#### **5.1 Introduction**

The inducement of floor-crossing and by-elections has become a common feature in Zambia's Third Republic. It has been a source of controversy, debate and conflict. It is seen by its many critiques as an affront to multiparty politics that undermines liberal democracy. It creates a de facto one-party state by weakening the opposition and parliament that play an important part of the basis of separation of powers and a system of checks and balances liberal democracy is anchored on.

This chapter presents and discusses data that was collected on the participants' responses and thoughts on the impact of the inducement of parliamentary floor-crossing and by-elections on democracy in Zambia. It shows explores ways in which the basis for plural politics and liberal democracy is undermined. According to the analysis of data collected from participants, this dissertation identifies four ways in which liberal democracy is impacted upon. These are namely a) the weakening of the opposition parties; b) the strengthening of the ruling parties; c) the voter apathy and cynicism; d) and the weakening of Parliament.

#### **5.2 Weakened Opposition parties**

The inducement of floor-crossing and by-elections, according to the participants, has a negative effect on democracy. One of the common observations made by most of the participants in the study is that it weakens democracy by weakening the opposition political parties who play a vital role in its health. The study has identified two ways in which the inducement of floor-crossing and by-elections has a negative effect on democracy: the weakening of the opposition's oversight role in parliament and; the weakening of the opposition's viability.

### **5.2.1 Weakens opposition's oversight role in parliament**

Liberal democracy is premised on political liberties by which people are allowed to participate or form a political party; and democratic rule by which people are entitled directly or through representatives and in which the government is accountable to people (Bollen, 1993). Political parties (opposition and ruling) play a vital role in a functioning liberal democracy. The opposition's main function revolves around ensuring that government is held accountable so that it (government) is responsive to the public and is serving their interests (Lawson, 2010; Blair, 2000). An effective opposition, therefore, is one that enforces accountability; provides oversight; serves as a watchdog; guards against the abuse of power and state resources, corruption, breaches of human rights, nepotism; and ensures that government does not conduct its business outside the confines of the law (Blair, 2000; Lawson, 2010; Lekalake, 2017).

The inducement of floor-crossing and by-elections reduces the number of MPs the opposition parties receive after general elections. The reduction in the number of opposition MPs weakens the opposition's ability to meaningfully play their oversight role in the legislature. The weakening of the opposition, as participants are aware, through the inducement of floor-crossing and by-elections, robs the country of the much-needed checks and balances so critical in a liberal democracy's health. Here are a few selected quotes from participants that underscore that view:

It weakens the opposition parties... they have depleted the numbers of the opposition to provide the checks and balances. So when you go into parliament they have actually bought enough members on their side. So any voting becomes just an academic exercise. So we have lost our voting powers (MP1, 2016).

it really weakens the opposition and it robs the nation of the much-needed checks and balances too. We need a stronger and vibrant opposition who provides those checks and balances. So, over time if the thing is left unchecked you could end up with a very weak opposition and that allows the government of the day to do whatever they want (CSO3, 2016).

it is weakening our democracy. Uhm and that's why if you read the pastoral letters of the church mother bodies, in particular, the Zambian Episcopal Conference we have

been emphatic in terms of saying we must go beyond saying we are practising democracy. We must live by the values of democracy (CSO8, 2016).

The inducement of floor-crossing or by-elections weakens the opposition by reducing the number of seats they hold in parliament. The opposition's loss of seats means that their power to provide oversight is further eroded and any bill or legislation brought by government, good or bad, is all but guaranteed to pass. This is so because the opposition's ability to provide meaningful oversight in parliament ultimately lies in the number of seats they hold. A weakened opposition cannot meaningfully challenge and stop bills or laws that do not serve the common good as they are all but guaranteed to pass. Neither can the opposition compel the government to improve, change or withdrawal bad bills.

The lack of a strong and vibrant opposition deprives the country of the checks and balances necessary to rein in arbitrary rule and excesses by those in government. The separation of powers necessary for an accountable government in a vibrant democracy is compromised when the control of the executive and the legislature is in the same hands (Lawson, 2010; Blair, 2000). The government of the day will feel unrestrained from using power and be prone to abusing it (power) and government resources in pursuit of selfish party and personal interests without watchful oversight by parliament (Blair, 2000; Lawson, 2010; Lekalake, 2017).

The opposition Members of Parliament form a force that checks the party in government from the excesses and abuse of state power and resources. Through their Members of Parliament, they offer alternative ideas through debates in the house and can stop abuse by voting against bills that do not serve the common good. As good as debates are in the house, in the end, it comes down to the votes cast that counts. The loss of opposition MPs through the inducement of floor-crossing or by-elections to the ruling party weakens their voice and renders them powerless as they can't, through votes, stop legislation that do not serve the common good and cannot stop abuse of power by those in the executive. This renders them (opposition parties) ineffective as they are prevented from playing, through parliament, their role of exposing corruption, and of holding government accountable and responsive to the public interest (Lawson, 2010).

### **5.2.2 Weakens the opposition's viability**

The effectiveness of the opposition in the legislature, in a party-based system, depends on the strength of the number of loyal MPs they have. Apart from the loss of effectiveness in the house, the viability of the opposition parties also suffers as a consequence of the inducement of floor-crossing and by-elections. The loss of an MP is more than just one member lost in terms of numbers. Each MP comes with the support of their family members, relatives and strong supporters (cadres) some of whom are likely to follow them to the ruling party they now owe their loyalty and support. Therefore, the inducement of floor-crossing or by-elections doesn't just weaken the opposition's effectiveness in the house but it is also a threat to their viability. Every political party draws its strength from its membership. So, the loss of loyal members from a political party is also a loss of potential votes during elections. (CSO3, 2016; E14, 2016; MP1, 2016).

Political parties in Zambia do not receive any funding from the government. An attempt through legislation was made in 2003 to provide funding to all political parties but did not succeed as the then President Mwanawasa rejected it citing Zambia's lack of finances to make that possible (Transparency International 2004; Simutanyi 2005, Kabemba & Eiseman 2005, 15). Political parties rely on the generosity of their supporters (members), well-wishers and levies on their Members of Parliament, for those that have MPs (E14, 2016; Kabemba & Eiseman, 2005; Momba 2005). A political party with MPs has a fair and steady source of funding coming from the levies on its MPs. The MPs, therefore, apart from the role they play in the house add value to their parties through the financial contributions they make. The loss of an MP through floor-crossing or by-election inducement robs the opposition party of the financial resources that makes the running or sustainability of the party difficult. This consequently impacts on opposition's ability to effectively compete against the ruling party during elections.

The loss of funding, members and morale the opposition suffer from the inducement of floor-crossing and by-elections does not just affect the opposition's ability to win elections. It also affects its sustainability and even its existence. If unchecked, it can lead to a *de facto* one-party state. Opposition parties whose MPs' loyalty shifts due to floor-crossing or by-elections to the ruling party can, and in some cases have, led to their party's demise. A number of

participants cited among others, the demise of a once vibrant and promising opposition party, the Heritage Party (HP) as a result of the inducement of floor-crossing and by-elections after the 2001 general elections to underscore its lethality to the opposition and liberal democracy in Zambia's 3<sup>rd</sup> Republic. Here are a few selected quotes from the participants:

Of Course they lose members, they lose membership... if you recall in the 2001 elections, we had a political party called the Heritage Party (HP) which had, I think, five MPs, and (President) Levy Mwanawasa appointed all of them into government, and that was the end of that political party in terms of being effective on the ground. So, he poached all the Heritage Party members and Brigadier General Godfrey Miyanda (Heritage Party president) remained without a member of parliament. And henceforth he has never produced a member. So, they weakened that party which had life---if those members of parliament had remained in parliament and continued to advance the policies and the programs of the Heritage Party (SCO2, 2016).

The Heritage Party (HP), a new opposition party which participated in the first elections (the 2001 general elections) after its formation managed to win four (4) seats in the National Assembly. But lost the four seats to the ruling party, the MMD, two due to floor-crossing by way of appointment as deputy ministers and the other two through by-elections (Momba, 2007; Simutanyi, 2005). This loss left the HP without any MP and 2001 was as it turned out to be, the only time it ever won seats in Parliament. The loss of the MPs through floor-crossing and by-elections to the ruling party that could have helped in giving the party a voice and seat on the national stage through debates and votes in the National Assembly led to the destruction of the Heritage Party. To date, the Heritage Party has never won a single seat since the 2001 general elections and is a far cry from 8% share of the national vote to the 0.2% share in the 2011 general elections (ECZ, 2001; ECZ, 2011).

The inducement of floor-crossing and by-elections leads to the weakening and in some cases destruction of the opposition political parties. The study also asserts that the inducement of floor-crossing and by-elections by the ruling parties leads to making Zambia a *de facto* one-party-state contrary to what she is by Legislation, a multi-party state.

The ruling party begins to create a pseudo-one-party state. And they can actually use this floor-crossing by enticing these MPs to finish them. There are some political parties which were actually completely annihilated in this country. For example the Heritage Party they had 4 MPs in 2001. Before the next elections, they had no MPs.

They were all enticed by the ruling party, and that was the end of the political party. From that time they have never won a seat, not even a councillor. A political party that was promising was completely destroyed (MP2, 2016).

Zambia reverted to a multi-party state in 1990 after being a one-party state from 1972 (Baylies & Szeftel, 1992). The inducement of floor-crossing and by-elections by ruling parties weakens and destroys the ideals of multi-partyism where the opposition's strength is vital and plays a critical role especially in the National Assembly. It leads to the creation of a *de-facto one-party state* without legislation as the opposition is weakened to the extent that they cannot hold the government of the day accountable.

The creation of a de-facto one party state through the inducement of floor-crossing and by-elections as this participant argues leads to the weakening of the opposition, renders them meaningless as they cannot perform their function in a democracy,

The effect of floor-crossing on the opposition is that some opposition political parties go into extinct, meaning that they will cease to exist. And that becomes a threat to democracy, because democracy cannot survive without the opposition. So other than those opposition parties going into extinct, the opposition parties become meaningless because they will not be able to perform their functions in a democracy (E6, 2016).

A vibrant liberal democracy requires among others, a vibrant opposition for the purpose of a system of government where there are checks and balances. A weak opposition that comes about from the inducement of floor-crossing and by-elections makes that task by the opposition not possible, and makes abuse of power and state resources by the government of the day possible without oversight in parliament by the opposition. The inducement of floor-crossing and by-elections is a threat to liberal democracy.

The inducement of floor-crossing weakens the opposition parties' ability to exercise its oversight role in parliament. It also negatively affects its viability by denying it a steady source of funding through which to operate effectively, diminishes its chances of winning elections and threatens its demise, as has been the case with some opposition parties in Zambia's 3<sup>rd</sup> Republic.



### **5.3 A Strengthened Ruling party**

Many participants in the study were of the view that the inducement of floor-crossing and by-elections is a zero-sum-game that benefits the ruling party at the expense of the opposition. The study has shown above, how it weakens the opposition. This section seeks to show how it strengthens the ruling party. The study findings show that the ruling party increases the pool of the number of MPs under its control in parliament and that, further, it increases its party membership support base.

#### **5.3.1 Increase in number of MPs – Control of the Legislature**

Parliament plays a vital and critical role in a liberal democracy such as being a watchdog over the executive branch, the passing of bills and the authorizing of government expenditure (Africa All Party Parliamentary Group, 2008; Diefenbaker, 1949; Blair, 2000; Lawson, 2010; Lekalake, 2017). The more Members of Parliament a political party has, the more power and control it has over parliament and the decision and bills that get to pass. Hence, every political party that participates in parliamentary elections desires to have as many Members of Parliament as possible.

In Zambia, all political parties that manage to win seats in the National Assembly after the general elections are determined to ensure that their party policies and instructions are followed and supported by their MPs (Simutanyi, 2005). The ruling party whose presidential candidate wins the presidential contest during the general elections, likewise, seeks to have control over parliament by having as many MPs as possible. The ruling party through its leader, the President of the Republic, would not induce floor-crossing if that were to result in the weakening of his own party he relies upon to be in power. He induces floor-crossing through the offer of cabinet positions so as to add more MPs on top of the MPs his party already has. This gives the ruling party numerical superiority in the number of MPs the President and the party (ruling) can rely upon to drive any agenda they want that requires a parliamentary stamp of approval. The study found, as the selected quotes, hereunder speak to, that the ruling parties induce floor-crossing to increase the number of MPs for control over the Legislature.

It gets numbers in parliament it strengthens their capacity to influence laws that are passed and not passed (CSO3, 2016).

The ruling parties in Zambia's Third Republic induce floor-crossing and by-elections so as to have the numbers in the National Assembly necessary for passage of bills based on the policies of their party.

Political parties strive hard to have as many MPs as possible during elections. This is so because the party that wins the most seats during elections has a bigger say in influencing or shaping legislation. The President induces floor-crossing or by-elections in part to strengthen the ruling party's capacity to determine what gets to pass or not in the National Assembly.

the government acquires all the numbers like you have seen now, the government has managed to pass the constitution against, by and large, and the opposition political parties that were against partial amendments. They wanted the whole constitution to go through because those provisions were from the people. I can tell you, in the last 4 years, the ruling party has propped up the numbers by poaching these chaps who are crossing the floor (MP1, 2016).

The more numbers ruling a party amasses through inducement of floor-crossing and by-elections the easier it becomes for it to have the power to even change the constitution. For example, the Patriotic Front led government did not pass all the amendments presented by the Technical Committee Drafting the Zambian Constitution (TCDZC) in 2016. Using the numbers it had in the National Assembly including those from the opposition serving in the cabinet, the PF rejected a few but popular constitutional recommendations widely favoured by a cross-section of society. These include the rejection of appointment of cabinet ministers from outside Parliament; a system of devolved governance; and a mixed member representation system (Munalula, 2016). The recommendations left would have strengthened democratic governance as the MPs both in the ruling party and opposition would concentrate on doing the jobs they were elected to do without aspiring to be ministers.

The rejection of the popular recommendations by the ruling party ensured that the concentration of power would remain in the hands of the President who is leader of the ruling party to the benefit of the party he/she is head of. This allows the status quo where the

President uses the power to appoint ministers from Parliament as a way of making the MPs appointed into cabinet indebted to him/her. It also makes ordinary MPs (both in the opposition and ruling party) seeking to please the President for possible appointment consideration into cabinet instead of providing oversight to the executive in the National Assembly. So, while the rejection of the popular recommendations is beneficial to the President and the ruling party, it “leaves the desire by Zambian people for a democratic constitution unfulfilled” (Ndulo, 2016, p. 18).

The need to get opposition MPs becomes an acutely felt need if the outcome of the general elections doesn't give the victorious party (ruling) the simple majority of votes in the house that are needed for the passage of bills and majority governance. The added number of MPs the ruling party gains through the inducement of floor-crossing allows it to pass bills and govern easily without challenge and scrutiny. It also allows it, sometimes, to obtain a two-thirds majority that would give the ruling party the legal basis for changing some parts of the constitution that requires more than just a simple majority vote.

The strength of the ruling party is enhanced, whether driven just by the desire to get a simple working majority or aiming at getting a two-thirds majority in Parliament. Theoretically, the strength it gets can be used to operationalise their programme of action (manifesto) upon which they were elected. This then would allow the ruling party to fulfil the promises they made to the people who elected them into power. The fulfilment of campaign promises generates trust and respect from the electorate; makes the party popular and makes them more likely than not to give the ruling party another mandate in the next elections.

The study found that the change in the balance of power brought about by the inducement of floor-crossing leads to the concentration of power in the same hands (governing party) controlling the Executive and the Legislature, making the system of checks and balances anchored on the principle of separation of power in a liberal democracy wanting. It incapacitates the Legislature from being a place of independent debate and expression; where bills and decisions are critically examined, challenged and improved; where abuse of state resources and power is kept in check; and where ultimately the government is held

accountable (Blair, 2000; Diefenbaker, 1949; Lekalake, 2017; Lawson, 2010; Simutanyi, 2005). This allows the party in power to pass any agenda they want as parliament simply becomes a rubber stamp approving any bills and decisions made by the Executive. Hereunder are some quotes underscoring parliament's lost status and relevance:

I don't think our parliament is relevant we are just wasting our resources to sustain an institution that does not represent the interests of the people. It's just a club and a ritual that we continue to support and it doesn't really make sense to anybody because what goes on at parliament could be done by cabinet alone without coming to parliament. Because what they do in parliament is simply a formality (CSO6, 2016).

The inducement of floor-crossing and by-elections turns Parliament into a rubberstamp for the executive. And if Parliament becomes a rubberstamp which can not hold those in the executive accountable, the maintenance and sustenance of such an expensive arm of government is a waste of the taxpayers money.

Parliament exists as one of the three co-equal arms of government that among others is supposed to check or hold government accountable for the common good of the people (the electorate) on whose behalf, the MPs hold power. The maintenance and sustenance of Parliament as an institution among which among others require payment of salaries and allowances for MPs and various office bearers comes at a very high cost on taxpayers. Therefore, if Parliament fails or is unable to perform its due functions such as representing the interests of the population then, it is a waste of resources as people do not get value for their money.

The inducement of floor-crossing or by-elections allows the ruling party to amass numbers that allows them pass bills without any meaningful challenge by way of debate and vote:

The effect is that at the end of the day they amass the necessary numbers to do what they want to do. In 2011 if you check through the numbers it was almost a balanced house so much so that there was a lot of enthusiasm, a lot of ummmm, from independent observers including myself that brought real interesting debates to the house, that no bill could easily pass through without being ironed and argued out, that the government could not easily get away with some of these decisions which are sometimes rushed through parliament simply because the government of the day or the ruling party has a majority of the numbers (SCO8, 2016).

Part of what is lost due to the inducement of floor-crossing or by-elections according to this participant is the importance of quality debate that leads to improved legislation. When there are very few voices challenging bills on the floor of the house so that they are improved or even removed if they do not serve the common good is that such bills will just be rushed through. Whereas, if there is robust debate and many voices challenging or calling for improvements to bills, then the government listens as it would need votes from those MPs. Quality debates in the house also has the potential of light on abuse and deficiencies in the bills that can sway government to root out abuse and amend bills.

Further, as the participant in the following quote notes, a government that amasses all the numbers needed for passage of any legislation cares only to bring bills that favour their agenda:

if it is not addressed, then we will find situations where you have a government that will not be respecting anything because they will come to the house, and with no opposition, pass bills, pass legislation that will just favour them. So this is an issue that needs to be looked at (MP9, 2016).

The inducement of floor-crossing or by-elections, according to this participant begets lack of oversight that goes beyond that of just legislation. Thus inducement begins a long-term demise towards corruption and dictatorial rule as government only cares to advance legislation in its favour as there is no push back or credible opposition to challenge, check or reign in government overreach and abuse of power.

The ruling party's control of the Legislature made possible by the inducement of floor-crossing has a negative effect on liberal democracy. It takes away the oversight role the Legislature is supposed to play over the Executive and allows the passage of bills desirable to the governing party without substantial parliamentary debate and irrespective of the harm it may cause to democracy and to the economic development of the country. The ability to change the constitution also has long-term implications that can lead to the further centralization of power, thus impacting on liberal democracy into the future.

### **5.3.2 Increased party membership/ support**

The inducement of floor-crossing further benefits the ruling parties in that it increases party membership. Part of the calculation on the part of the ruling parties is to have control over the Legislature; and gain membership and popularity from the floor-crossing opposition's base. After all, political power to govern and executive power is conferred on the basis of the number of votes in an election or referendum that a political party or candidates receive. 'Politics is about numbers', the more members and supporters a party gains the better the chances it stands to win elections and the right to form government (Rose, 1991).

Every successful candidate contesting the elections to become a Member of Parliament has their family, relatives, friends and personal ardent, the die-hard supporters behind them who follow and support them irrespective of which party they belong. These are the people a floor-crossing opposition MP brings to the governing party. Among the reasons that make some members of the opposition to follow their MP to the ruling party lies in part due to a political culture of belonging, reciprocal networks and communities (Chabal, 2016; Berenschot, Nordholt, & Bakker, 2016).

Sometimes the number is significant especially when those targeted happen to be popular and influential opposition MPs in their parties and constituencies. Regardless of how significant or insignificant their followers are, they are still an addition to a pool of supporters and potential voters for the ruling party that increases their chance of victory in elections. Hereunder are some quotes from the study that underscore the gain in numbers and implications for potential electoral success for the ruling party:

the ruling party benefits because the person leaving the opposition is getting to their side. The first thing is that their numbers are bulging, their numbers are getting bigger and bigger. At the same time they bring a type of MPs from the opposition with qualities they don't have in the file and rank of their political party (CSO4, 2016).

Opposition MPs have family members, relatives and friends who are close to them that leave with them to the ruling party they join through floor-crossing or by-elections:

When an MP crosses from the opposition to the ruling party he goes along with his family, close friends; that adds numbers to the ruling party. It means on the ruling party side they benefit. They are giving themselves more chance of winning even in the next elections (E17, 2016).

The opposition Members of Parliament who join the ruling party go with some family members, relatives and friends who do out of is a sense of belonging that, while not guaranteed, binds their fates with that of the MP from which their support is based. An MP has relationships within a community, that include a core of supporters (family, relatives, friends and die-hard supporters) who are connected or bound to him/her through reciprocal clientelistic network norms and solidarity (Berenschot, Nordholt, & Bakker, 2016; Chabal, 2016). The MP and his/her supporters who join the ruling party increase the number of members of the ruling party increasing the ruling party's chances of winning elections.

The ruling party's chances of winning the next elections as this participant suggests also lies in the popularity of the MP, saying:

I think it provides with an advantage in the next election because it can be the case that a particular individual might be popular... So, the party in government are increasing their numbers but also if they look to the next election then they know that the chances of winning are very high because that person is perceived to be popular in those areas and it is true in majority of cases (CSO3, 2016).

Opposition MPs who join the ruling party through floor-crossing or by-elections add numbers to the ruling party of those who follow them. But, popular opposition MPs who join the ruling party bring another level of support on top of the support from their core supporters (family, relatives, friends and die-hard supporters) because of the place they hold in the community (Chabal, 2016). Popular opposition MPs with whom people identify themselves with and have a sense of belonging makes it more likely to vote for them which is a vote for the ruling party they may not actually like.

The ruling parties in Zambia's Third Republic have been inducing floor-crossing and by-elections in part because it strengthens their parties at the expense of the opposition. The strengthening of the ruling party and weakening of the opposition also has a negative impact on Parliament – it is weakened.

### **5.4.1 Weakens Parliament**

Parliament, the Legislature is one of the three co-equal arms of government. It is the National Assembly where the elected people's representatives, Members of Parliament, from all the constituencies of the Republic of Zambia and those nominated by the President, meet to make decisions of national importance after careful examination, scrutiny and debate. Parliament legislates by passing bills and oversees the executive branch's functions such as, ensuring equitable national resources, appropriating funds, scrutinising expenditures, and approving public debt and international agreements and treaties (Zambia Constitution (Amended) Act No. 2 of 2016, Article 63). The government cannot function without the necessary authorisation for legislation and resources by Parliament.

### **5.4.2 Checks and balances**

The inducement of floor-crossing and by-elections alters the composition of parliament that was decided by the electorate during a general election. As already pointed out by some interviewees who were participants, in the 2011 general elections, the party that won the elections, the Patriotic Front (PF) had almost an equal number of MPs with opposition parties but has since increased their numbers as a result of the inducement of floor-crossing and by-elections [SCO8, 2016; MP1, 2016].

The candidate who wins the presidential contest during the general elections or presidential by-elections becomes the Head of State and Government. He/she has the constitutional authority to appoint members of the executive branch he is head of. In order to govern, he needs Parliament's authorization for bills and expenditures. Presidents in Zambia's Third Republic understand the power that the National Assembly holds for, without it, they wouldn't be able to govern. Most of the bills require a simple majority vote by MPs in Parliament and a Presidential assent. It is for this reason that, according to this study's findings, successive Presidents in Zambia's Third Republic, have repeatedly engaged in the inducement of floor-crossing and by-elections to have control over the legislature for among others, to secure or guarantee passage of whatever bills and decisions they want that require parliamentary approval with little or no scrutiny, challenge and accountability. Hereunder, are a few selected quotes from the study highlighting the perceptions of participants that this



motive is one of the reasons for inducement to join the ruling party:

First and foremost, they want to control the parliament; when they have controlled Parliament whatever bills they want to pass in Parliament they will have the majority votes. (E2, 2016).

According to this participant, one of the reasons that compels the President to induce floor-crossing or by-elections is to have control of Parliament allowing for passage of any bill the government wants. This would not be possible without having the majority vote made possible by the majority MPs in the National Assembly.

The ruling party, through the President, induces floor-crossing or by-elections in order to have a majority of Members of Parliament. According to these two participants:

the party that is in power always wants to have the majority of MPs and one of them is to entice MPs from the opposition to come and join them. Usually, the party that wins elections sometimes does not necessarily have the majority of MPs because of the number of political parties that we have. So you find that immediately they get there they would like also to have the majority after having been voted by the majority they would want to also have the majority members of parliament. So they will do everything possible to make sure that they entice Members of Parliament from the opposition (E11, 2016).

the electoral system we have in Zambia works on the simple majority vote. So when the party in government is faced with a crisis on the numbers of MPs they have in the house then they decide to induce floor-crossing and by-elections because they want to have the majority in the house, so that it becomes very easy for them to pass bills. Their main objective is to make sure that they have the majority in Parliament (E6, 2016).

The lack of winning a majority of seats by the ruling party in the general elections is one of the driving force that leads to the inducement of floor-crossing and by-elections. Thus, the ruling party's desire to be able to govern effectively without a coalition government is a driving motive.

The strength and credibility of parliament in a liberal democracy lie in, but is not limited to, its independence from the executive branch of government. The accumulation of all executive and legislative powers in an individual (i.e., the President), a group of people or organization

(i.e., party) regardless of how it is obtained, even if it is obtained through elections is a path to abuse, and undemocratic rule (Madison, 1788). Parliament forms part of a system of checks and balances in a liberal democracy aimed at separation of power to guard against arbitrary rule, abuse of state power and resources by those to whom the power to govern has been given them by the people (Kiiza, 2005; Madison, 1788)

The inducement of floor-crossing and by-elections, as this study has already established, further alters the balance of power in the Parliament in favour of the governing party which already controls the executive branch of government. By co-opting opposition Members of Parliament into the Executive branch through the offer of cabinet positions that lure them into floor-crossing in the first place, the Republican President and the governing party now have control over the Executive and Legislative branches of government. This weakens and strengthens the opposition and ruling party respectively; allows the executive branch of government to have control over the legislature. The control of the legislature by the very hands that control the executive undermines one of the fundamental principles that underpin liberal democracy, separation of powers that ensures a system of checks and balances (Madison, 1877). A weak parliament that is controlled by the executive cannot offer meaningful oversight over the branch it is supposed to supervise. Parliament's supervisory role over the executive is seriously hamstrung, thereby undermining the system of checks and balances. As noted by one interviewee in the study:

we have spoken very clearly and we have been against floor crossing in Zambia for a very simple reason that one, it is very costly but also two, it weakens our democracy. When you want to understand the doctrine of separation of powers and because of the floor crossing we have seen the separation of powers become so weakened in the country so much that some people have questioned whether parliament is effective and if it actually keeps the necessary checks and balances on the executive aspect and proper functioning of democracy (SCO5, 2016).

#### **5.4.3 Control of Parliament by the executive (governing party)**

Parliament has an important supervisory responsibility of representing the people's views and interests and, on their behalf, holding government, the executive, accountable; scrutinizing expenditure so as to expose and prevent waste, abuse and misuse of power and national resources (Africa All Party Parliamentary Group, 2008; Diefenbaker, 1949). It is the

people's house where their representatives (MPs) regardless of which political party they hail from are supposed to make decisions through the votes they cast in support of, or in opposition to, motions moved in the house, in the best interests of the people they represent (their constituencies) and the country at large.

While MPs are expected to consider and be guided by the views, interests and wellbeing of the people they represent in their deliberations and voting, they also take into consideration the views and positions of the political parties they come from. The MPs from the party in power almost always support all the decisions of the executive. They are driven by loyalty to their party and the desire to implement programs based on the manifesto they campaigned on during the run up to the elections. But they are also motivated by the desire for appointment as Minister or Deputy Minister, positions that offer executive power, access, privileges, allowances and better pay (Hobbes, 2013). They want to be in good standing with the President so as to stand a chance of future appointment into the cabinet or maintain their positions if they are already serving in cabinet. Likewise, the opposition MPs are almost always critical of the ruling party in parliament; engage in robust debates and scrutiny of bills presented by the ruling party in parliament. But the moment the once vocal opposition MPs cross the floor and take up a cabinet position they cease being critical and turn into unconditional supporters of whatever bills the ruling party proposes.

In a healthy, strong and independent parliament, bills are supposed to be scrutinised, challenged and made better for the benefit and good of the people and the country at large. On the other hand a weak parliament compromised by the control of the executive through the inducement of floor-crossing becomes nothing more than a rubberstamp, part of or an extension of the executive. The co-opted opposition MPs together with the governing party MPs turn parliament into a rubberstamp that robs Parliament of its oversight role, as their loyalty as 'clients' lies with the President as 'patron' to maintain positions; and for ordinary MPs, the possibility of being appointed in the future (Eisenstadt and Roniger 1984).

The inducement of floor-crossing or by-elections turns Parliament into nothing more than a rubberstamp. According to this participant,

floor crossing diminishes accountability; it also allows for making laws in such a way that they do not take into account the divergence within parliament. So in a way, floor crossing has maintained the culture of one dominating party thereby making parliament a rubber stamp (SCO6, 2016).

Parliament is supposed to be a place where bills presented either by the ruling party or opposition are subjected to debate and scrutiny. This process is designed to ensure that bills that get to pass speak to or serve the majority and not just narrow interests of a few. The inducement of floor-crossing or by-elections on the other hand ensures that Parliament does not get to play its right role of oversight but one where bills moved by the executive are all but guaranteed to pass.

The inducement of floor-crossing or by-elections makes Parliament irrelevant and a waste of resources because it does not perform its real function. Here is what one interviewee said to that,

I don't think our parliament is relevant we are just wasting our resource to sustain an institution that does not represent the interests of the people. It's just a club and a ritual that we continue to support and it doesn't really make sense to anybody because what goes on at parliament could be done by cabinet alone without coming to parliament. Because even if they do it what they do to parliament simply is a formality. There is nowhere in the history of the records I have read where I have found that our Zambian parliament has rejected a law or better more budget from the executive all the years they always pass what the government or the executive want no matter how bad it is. That's what tells you that we are actually misplacing our resources on the people's parliament (SCO6, 2016).

The true worth of any institution such as Parliament has to be measured by whether it lives up to its core functions. One of the core functions of Parliament is to, on behalf of the people they represent, legislate or make laws. The failure of Parliament to make good laws or legislate against bad conduct such as corruption is double huge loss to the country. This is so because, tax payers' money used to run Parliament as an institution that fails to carry out its core functions is in itself a waste of state resources as people (tax payers) do not get value for their money.

The failure by Parliament to pass legislation such as was the case with the rejection of the popular recommendations for appointment of cabinet ministers outside Parliament; and the

mixed member proportional representation (Munalula, 2016), adds a second layer of cost or loss for tax payers. These two popular amendments would have done away with the costly and unnecessary by-elections caused by the appointment of ministers from among MPs or death of a serving MP costing approximately US\$1.4 million per parliamentary by-election (Motsamai & Chipenzi, 2013). And freed from any desire of serving as Ministers because of the would-have-been constitutional barrier for appointment of MPs as Ministers, MPs, from the opposition and the ruling party would perhaps be motivated to do their only job they were elected for. In so doing, they would hold members of the executive branch of government, thereby saving tax payers money that would have been lost through corruption and abuse of state resources by those who hold high public office.

The lack of oversight over the executive by Parliament allows some in government to engage in corruption that makes the country even lose more money on top the expenditures on the National Assembly itself. According to the Financial Intelligence Centre (2018) the Government of the Republic of Zambia lost ZMW 4.9 Billion through among others public procurement corruption by holders of public office.

The inducement of floor-crossing and by-elections, according to one participant, also deprives the country of critical objective thinking, analysis and evaluation that makes public institutions moribund. The participant states that,

because of the crossing of the floor there is a lack of critical thinking, lack of critical analysis, there is a lack of objective evaluation or performance of public institutions including the government itself. So you will end up with institutions which are supposed to critique singing praises (laughs) of the powers that be. To some extent people have argued we have moribund institutions moribund powers, moribund judicial powers that may be taken ... (laughs) it's because of the weakened democracy (CSO8, 2016).

The inducement of floor-crossing and by-elections results in a weak Parliament. The consequences of a weak Parliament renders decisions that are proposed by those in the executive simply pass through the house for approval without being meaningfully challenged and scrutinized. The bad decisions and lack of accountability and critical thinking associated

with easy passage and lack of checks and balances has a domino effect on other important state institutions citizens rely on.

Institutions such as the judiciary upon which people rely on for settling of disputes; the Zambia Police Service upon which people rely on for equal application of the law and protection; and the Electoral Commission of Zambia upon which people rely on for a fair and even playing field in the management of the electoral process are compromised. The ability to discharge their responsibilities fairly and impartially to citizens according to the dictates of the law are impaired due to the political interference brought about by the concentration of government power of supposedly co-equal branches of government in the same hands of people. For example, four Zambia Police officers were fired or “retired in the national interest” by the Police Service Commission acting on behalf of the President of the Republic of Zambia, in the aftermath of the electoral violence in a Parliamentary by-election in Sesheke, Zambia. These four Police officers were relieved of their duties for allegedly beating up machete-armed ruling party cadres (Chisenga & Mbulo, 2019). This in return makes the Zambia Police Service moribund as individual police officers fear to arrest members of the ruling party for fear of losing their jobs. This makes true what Madison (1787) said, that tyranny, results from such.

It affects good governance, public institutions, and democracy. It leads to loss of trust and cynicism by citizens in the institution of parliament that is supposed to be a place where their voices and interests are heard, defended and upheld. Citizens question the wisdom of spending huge sums of money in maintaining a branch of government that is in practice part of the executive as its loyalty lies with the President (executive).

### **5.5.1 Electorates**

Elections are one of the defining features of a healthy democracy. They are a process through which the people, exercising their sovereignty, either as candidates contest for power as people’s representatives or as voters choose their own representatives to form a government. “A government of the people, by the people and for the people” (Lincoln, 1863), is not even possible without elections. The people (electorate) are at the centre of any democratic

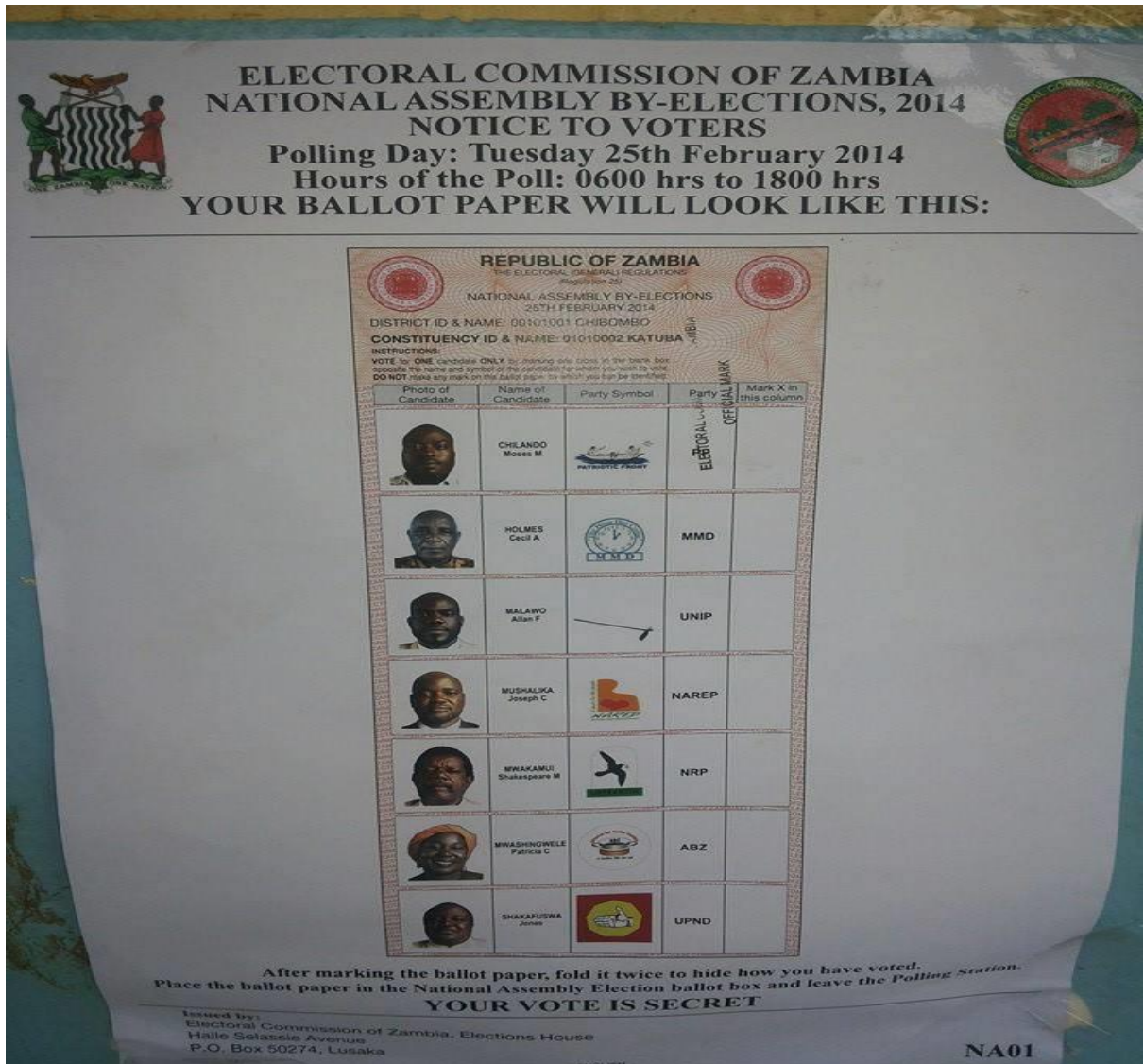
governance, and those who are elected to hold power do so as the people's representatives; holding power on their behalf. The people, are the ones that confer power on an individual/s or party, to form a government through free and fair elections.

Every five years, Zambia holds tripartite/ general elections (Zambia Constitution (Amended) Act No. 2 of 2016 Article 56) during which the people as sovereigns vote for their Members of Parliament from different political parties and independent candidates too. The outcome of free and fair elections in a democracy should be respected precisely because it is an expression of the will of the people.

### **5.5.2 Violation of the people's sovereignty**

The findings in this dissertation indicate that the inducement of floor-crossing and by-elections is a violation of the will and sovereignty of the people as expressed in the outcome of a free and fair election. Save for the fact that the inducement of floor-crossing and by-elections is orchestrated without regard to the electorate, it changes the expressed will of the people who voted for a particular candidate or party, in no less measure based on the party ticket or platform on which they contested the elections.

The voting pattern in Zambia indicates that while personal qualities of candidates are no less important in influencing the people's decision making, the electorate tends to consider more than not to vote for candidates based on the party they support or identify with (Erdmann, 2007). And ballot papers do not only show the names and photos of candidates contesting parliamentary elections but they also clearly show the names and symbols of political parties candidates stand on for election to Parliament. For some voters, when they have the ballot paper in the voting booth, the only the only thing they are looking for is the symbol of the party and not the name or photo of the candidate they want to vote for. Figure 5 is a picture of a ballot showing the party names and symbols as well as the photos and names of candidates that help to guide voters in choosing who to vote for.



**Figure 5: 2014 National Assembly By-Election Ballot Paper**

*Source: Electoral Commission of Zambia, in Phiri (2016, April 22)*

The study found that self-interest is at the centre of the consideration by the MPs crossing the floor, and at the expense of the needs of the people, the voters. The regard for their own self-interest is what drives the MPs to cross the floor and not the good of the people who made it possible for them to be MPs through their support and votes (Matlosa and Shale, 2007; Patel, 2008; Smith, 1777). This arbitrary disregard for the electorates' choice and interests by the MPs who cross the floor or cause by-elections makes the voters angry and frustrated. There is a sense that once a candidate has been voted into power as an MP, the electorate is then



treated as mere spectators as an MP can makes decisions such as crossing the floor or causing a by-election for his/ her own benefit without any regard for them.

Politicians are seen not only as interested in their personal self-enrichment and not there to serve the interests of those that sent them to parliament but also as abusing the trust placed in them. This, according to the findings of this dissertation, makes the electorate angry and frustrated. Some of the interviewees expressed this perception clearly. One said,

It violates their mandate because these MPs were elected on a particular party ticket, and usually when crossing, they don't even conduct any form of consultation with the electorates. They just cross at will without consulting; and so it has ended up violating the trust and actually abused the voters' trust... (E15, 2016).

The inducement of parliamentary floor-crossing and by-elections alters the outcome of general elections held every five years. This being primarily a result of a patron-client relationship entered into between the President and the MPs for their own benefit leaves out (ignores) the voters on whose mandate they (MPs) were elected to the National Assembly (Scott, 1974). The electorate do not just lose trust in politics but also feel abused as MPs once elected on a party platform of their choice feel free to abandon it in pursuit of power and opportunities that come with cabinet appointments.

Apart from the loss of trust, the study found that the inducement of floor-crossing and by-elections leads to frustration and loss of representation for the electorate, saying:

Yes they are spectators but they also play a role in that they become frustrated and also they lose representation because now instead of speaking on behalf of the people on the promise of what you are elected for, you begin to defend the ruling party. So actually that MP loses legitimacy. He begins to abandon the aspirations of the people that put him in that office. So that's why they become angry and disgruntled. And also begin to stop trusting politicians. One of the problems is that it has led to a lot of mistrust for politicians. Most of the voters now think that politicians have no principles, they have no integrity; they are corrupt. So, it has actually dented the image of politicians and MPs (MP1, 2016).

The inducement of floor-crossing or by-elections by their elected MPs for whom they voted in part due to the party affiliation leads to frustration because of loss of representation. The electorate view politicians as being without principles and just opportunistic self-interested

people with little regard for the wellbeing of the electorate who elevated them to the office of Member of Parliament.

The concerned MPs gain executive power, access and privileges in the bargain for loyalty to the President, while the people lose a voice and power vested in the person (MP) they elected as their representative to speak on their behalf and hold government accountable to them (Lekalake, 2017). The MPs shift/transfer their loyalty and support from the people and party upon whose platform and support they were elected into Parliament as the people's representatives in their respective constituencies to the President to whom they now become accountable. Whereas the people use votes to earn loyalty from the person they elect as their representative, tax payers' money, the people's money in the form of a salary, allowances and entitlements, are used to buy off their representative's loyalty to the President (CSO6, 2016). This leads to frustration, anger, cynicism and voter apathy.

### **5.5.3 Voter cynicism and apathy**

The inducement of floor-crossing leads the electorate to resentment, anger and loss of trust that leaves them cynical and apathetic about politics and participation. The perception that politicians will say anything to earn their votes on the pretext that they seek to champion and work for the good of their people is nothing but a stepping stone to achieve their own selfish ambitions. This affects their desire for participation in the political processes such as elections. It leads to voter apathy as people see no need of voting for people that cannot be trusted and have no respect for the sacrifices they make to have them elected. As one interviewee claimed,

the moment you cross floor you are dampening the morale of your supporters... So, that creates voter apathy that creates mistrust towards elected leaders by the electorates who feel like these people want to use us so that they get money from the government (CSO2, 2016).

This phenomenon of floor-crossing and by-elections inducement makes these elected MPs, the people's representatives, become perceived as more interested in securing their own economic comfort and enrichment without regard to the mandate for which they were elected. They become viewed as opportunists who dupe them into voting for them thinking their loyalty would be to them. Contrary to what MPs are supposed to be, being responsive and

accountable to the people, the electorate, they become responsive and answerable to the appointing authority, the President. As opposed to being servants of the people, they now become servants of the president at whose mercy and pleasure they now serve in the cabinet in exchange for financial/ economic security.

The inducement of floor-crossing or by-elections makes the electorate to lose interest in the elections and perceive participation as waste of time. According to one interviewee,

People begin to shun participating in elections. They think going to vote for these guys is a waste of time; they will stay away. And you had experiences where for example one thousand people had voted in the next time that elections are held, maybe one hundred people or even less than the initial people that had voted or cast their votes. So this has negatively impacted on the interest of the voters to be able to vote for these candidates (E15, 2016).

The inducement of floor-crossing and by-elections makes the electorate become cynical about politics. They lose trust in politicians and the political process, making them question the importance of their participation because they have seen that once politicians have been voted into parliament, people don't seem to matter any more as MPs can decide arbitrarily, in pursuit of power, financial/ economic gains and security. This loss of trust leads to a loss of interest in the electoral process ultimately leading to voter apathy.

Voter apathy diminishes one of the foundations of democracy, majoritarian rule. It allows the minority who participate in the elections to make decisions for the majority as opposed to having a majority-based rule and decision making (Bannon, 2003). This undermines trust in the political institutions that are supposed to regulate and process conflict, and raises the possibility that politics might start to take place outside of the formal institutions.

## **5.6 Summary**

This chapter discussed presented and discussed four ways in which the inducement of floor-crossing and by-elections undermines multi-party politics and liberal democracy in Zambia's Third Republic. That it weakens and in some cases can lead to the destruction of the opposition viability and ability to check the party in power through oversight in the National Assembly. On the other hand it strengthens the ruling party to the extent that it has no need

for consensus building and thereby creating a quasi-one-party state by *de facto*. The consequences of the weakening of the opposition and strengthening of the ruling party weakens Parliament as an independent co-equal branch of government that can provide checks and balances to the Executive. Further, the inducement of floor-crossing and by-elections is a violation of the electorates as sovereigns on whose behalf MPs hold power that makes them cynical and apathetic in voting.

The inducement of floor-crossing and by-elections negatively impacts on liberal democracy as it leads to the arbitrary change of the balance of power in the Legislature without the consent of the party and the electorate under whose support and votes MPs were elected to the National Assembly. It weakens, and in some cases destroys, opposition parties rendering them incapable of challenging the incumbent and providing horizontal accountability in its provision of checks and balances in the Legislature. The system of checks and balances anchored on the principle of separation of powers in democratic governance is undermined by putting the control of the Legislature, which is supposed to be independent, in the hands of the same people and party controlling the Executive branch of government. It undermines the people's trust in politics and government leading to cynicism and apathy among the electorate making possible the rule of the minority over the majority which is antithetical to democracy.

## CHAPTER SIX

### THE EFFECTS OF THE INDUCEMENT OF FLOOR-CROSSING AND BY-ELECTIONS ON PEACE

#### 6.1. Introduction

This chapter presents and discusses data on the impact of the inducement of parliamentary floor-crossing and by-elections on peace in Zambia's Third Republic. The analysis of data collected in the study shows that the inducement of parliamentary floor-crossing and by-elections is a source of anger, division, antagonism and hostility within political parties, between political parties and between the electorate and politicians that leads to conflict.

As defined by transformation theorists, a conflict is the clash of mutually incompatible ideas, interests or goals being pursued by people, groups or states (Galtung, 2009; Austin, Giessmann, & Jäger, 2012). According to the concept of conflict transformation, conflict arises from some identifiable injustice, inequity, asymmetry, mistrust and unfairness within a given social, cultural, political or economic context or framework (Martinelli and Almeida 1998; Sheehan 2014).

This chapter presents and discusses how this conflict is experienced by the electorate the opposition parties and the ruling parties; and how it has a bearing on political conflicts and electoral violence that have come to characterise politics and elections in Zambia's Third Republic.

#### 6.2.1 Electorate: Loss of trust/faith

As the previous chapter has shown, the inducement of floor-crossing has a negative impact on democracy and affects the electorate in ways that lead them to be cynical and apathetic about politics and participation. This is a result of the loss of trust and faith in politics as representatives seem to be more interested in self-enrichment, entitlements and power once elected as MPs. Elections in a liberal democracy are about trust being put into the hands of individuals to exercise it on their behalf. Members of Parliament likewise are entrusted with

power from the people as lawmakers as well as to provide checks and balances in the Legislature on their behalf so that government doesn't abuse power (Duncan, 2017).

Candidates who get elected to Parliament during the general elections are a product of a proud hard-won effort, support and sacrifice of their parties and the electorate, some of which are party members while others are not. Regardless of party affiliation, all candidates seeking the people's mandate to be their representative make a promise or pledge to be loyal and at the service of the people. They pledge to represent the electorate in the National Assembly; to champion their causes. The electorate, therefore, have an expectation that their MPs will be responsive and answerable to them and keep their campaign promises they were voted into office.

The inducement of floor-crossing on the other hand, as this study has already established, runs counter to that expectation that leads to loss of trust in those MPs entrusted with the power they hold on the electorate's behalf. This leads the electorate to more than just being cynical and apathetic. It makes them angry, resentful and discontented at being (ab)used and cheated by the floor-crossing MPs who are supposed to be servants of those on whose behalf they hold power. Hereunder are a selected few quotes expressing the anger, frustration and discontent at the abuse felt by the electorate.

The electorate become angry and discontented at their Members of Parliament in the inducement of floor-crossing or by-elections. One of the interviewees described the anger and discontent, saying:

there is a lot of anger and discontent that is created by the voters. Here are the voters who put in so much to make sure this particular Member of Parliament is voted on this political party and soon or later he crosses without consultation. And so there is anger that builds up and usually, violence has erupted and some of these MPs have actually been threatened with beatings if they ever went back to constituencies where they came from. So it is mainly being a source of conflict (E16, 2016).

The anger and discontent felt by the electorate emanates from the perceived betrayal of trust and lack respect by the elected MPs who choose to induce floor-crossing or by-election. Parliamentary candidates who seek the people's mandate in an election on a given political party platform are in part, elected as MPs based on their party affiliation. A change of party

affiliation or loyalty through floor-crossing or by-elections before end of the five year term generates anger and discontent among the electorate which is a source of conflict.

Further, the findings from the study indicate that the electorate lose trust in the concerned MP who cross the floor or induce a by-election; they also become frustrated by the perceived loss of representation. The following quote from one interviewee highlights the perceived loss of trust and representation and the ensuing frustration by the electorate, saying,

they become frustrated and also they lose representation because now instead of speaking on behalf of the people on the premise of what you are elected for, you begin to defend the ruling party. So actually that MP loses legitimacy. He begins to abandon the aspirations of the people that put him in that office. So that's why they become angry and disgruntled. And also begin to stop trusting politicians. One of the problems is that it has led to a lot of mistrust for politicians. Most of the voters now think that politicians have no principles, they have no integrity; they are corrupt. So, it has actually dented the image of politicians and MPs (MP1, 2016).

The perceived loss of representation by the electorate they had voted for themselves, based on what they perceive to be out of selfish and corrupt motives leads to frustration and anger. The realisation that an MP they voted into office can change allegiance from the opposition party they were elected on to the ruling party based on a high paying cabinet position fuels the anger and frustration among the electorate. The interest the electorate have in having their area MP representing their interests in the National Assembly is lost as their MP now becomes a defender and supporter of the government of the day as opposed to holding government accountable on their behalf. This puts the interests of the the electorate and those of their MP at variance resulting in a conflict.

Another important finding from the study concerning the inducement of floor-crossing or by-elections by MPs as perceived by the electorate is that it does not do justice or honour the sacrifices born by them (electorate) to get them (MPs) elected to the National Assembly. The decision to cross the floor or cause a by-election by an MP is personal, often without due regard for the electorate and their sacrifices:

So the electorate is disappointed because I make an individual decision for myself at the expense of the electorate. The electorates are punished heavily. During the campaign time, they are told a lot of lies, a lot of promises are made which are not

fulfilled. Secondly, the environment in which our elections take place is very pathetic. The electorate walk long distances abandon their fields, they abandon their animals, they abandon their ordinary work...business comes to a standstill. So why should somebody make such a personal decision (E14, 2016)?

In a country like Zambia where people are subjected to high levels of poverty and economic hardships, political campaigns during the general elections and induced by-elections come at a very high cost to them. The electorate during campaigns invest their scarce precious time and resources, putting their own needs and lives on hold believing the candidates they are supporting and voting for, based on their promises will honour their pledge. In part, candidates get the people's votes on the basis or hope that they are trustworthy and would deliver on their campaign promises once elected.

The inducement of floor-crossing and by-elections is perceived as an abuse and betrayal of the trust and faith that people place in those they have elected as their representatives. During the general elections, candidates seek the mandate to be the people's representatives on a given political party platform/s or as independents and also on a set of promises; and the understanding that they seek power for the benefit, service and good of the electorate.

Once elected, however, MPs through the inducement of floor-crossing, arbitrarily change the will of the people as expressed in the outcome of the general election. This is done in pursuit of opportunities that come with an appointment in the cabinet. This disregard and lack of respect for the people's will in pursuit of power and self-interest by their elected representatives make people apathetic and cynical about politics and democracy as it goes against the very definition of democracy which is rule by the people (Dahl, 2017; Ober, 2008; Konrad-Adenauer-Stiftung, 2011). It further makes them angry as they feel abused by politicians who seek their votes ostensibly as servants, clients and representatives of the people to whom they should be subordinated.

The perceived abuse created by this phenomenon leads to a conflict between the electorate and their representatives. This conflict is generated by the anger over being cheated and used by the people they voted for. There is a sense of injustice, cheating and being duped by politicians who claim to be what they are not and think that once elected as MPs, the people



who elected them become irrelevant for the duration of their term. The arbitrary disregard and shift in loyalty and allegiance from the electorate and the party on whose platform and support they were elected as MPs to the new patron, the President and governing party leads to a conflict as it makes the electorate feel angry over what they consider to be unfair and an injustice (Martinelli and Almeida 1998). It makes people angry, as they feel abused and cheated by politicians for whom they would have endured and sacrificed so much to get them elected; and then having been abandoned in pursuit of trappings of power, comfort, better remuneration, benefits and opportunities that cabinet positions offer (Blau, 1964; Eisenstadt and Roniger 1984; Hobbes, 2013; Piattoni, 2004).

During general elections, political parties, apart from independents, put forward their preferred candidates to compete for parliamentary seats on their party platform. The parties, their members and supporters invest their time, and scarce resources to ensure that their preferred party's candidate wins. Though candidates' personal attributes matter, seats are won in large measure; sometimes in all measure due to the popularity of the party that sponsored them in addition to the human, financial and material support received. In Zambia, voters tend to vote for candidates based on their party affiliation and not just on the strength or quality of a candidate.

### **6.2.2 Electorate: Abuse and waste of resources**

The Zambian economy, in Sub-Sahara Africa, is among the worst with high levels of poverty at 58% of Zambia's 16.6 million (2015) population earning less than \$1.90 per day below the international poverty line compared to 41% across Sub-Saharan Africa (The World Bank, 2019). The majority of the Zambian population is subjected to insufficient health and social services, lack of access to basic necessities of life and employment (Saasa and Carlsson, 2002). The administration of elections in a country like Zambia, a highly indebted, least developed and poor country (Burnell, 2000) is very expensive, costing the country around US\$1.4 million per parliamentary by-election (Motsamai and Chipenzi 2013).

In a poor country like Zambia, the idea of inducement of floor-crossing and unnecessary by-elections that follow costs the country so much in the aftermath of the expensive general elections doesn't sit well with the people.

According to this study's findings, the lack of appreciation for the waste of resources by the governing party that induces floor-crossing and by-elections; and the opposition MPs that accept to be co-opted is a source of conflict in the country that negatively affects peace. One of the primary reasons why the electorate become angry and resentful over these politicians is the fact that it is an abuse and waste of their resources all for the selfish benefit of politicians as by-elections don't come cheap and are not for their well-being. Resources that should be used for economic development to make a difference in their lives is wasted for the sake of personal ambitions, power, control and wealth for politicians.

One of the overriding perceptions expressed by the interviewees was the indignation felt by the electorate over the waste of limited resources on by-elections instead of deploying them to remedy the high levels of poverty afflicting citizens. According to these two interviewees,

It's a waste of resources... one by-election is closer to about seven million Kwachas and in the old currency we are talking of seven billion Kwacha. So the question is why should we be wasting resources over a by-election? So resources are being wasted and also we have seen that the campaigns themselves cost a lot of money... and that also becomes a conflict now with the people because they feel that money is being wasted when it is supposed to be used for education, for health, for other developmental projects in the community (SCO1, 2016).

It's not good. I am talking of tax payer's money that goes to by-elections; that money should have gone to build hospitals, to buy medicine in hospitals, to sponsor people that may not have a sound financial background within the country (E17, 2016).

The two interviewees express the frustration felt by citizens questioning the wisdom of spending scarce resources on unnecessary by-elections when there are no resources for the real needs of people in a poor country like Zambia. Tax payers' money should not be used for such self-serving and unnecessary causes when there is no money for services such as health and education.

The inducement of by-elections is a drain on the national resources. The scarce resources, tax payer's money which should be used for national development programmes such as health and education in the country is instead used to run expensive by-elections for the benefit of the very people (politicians) who are privileged. This is considered as unjust and a source of anger that is cause of conflict between the electorate and the politicians.

The inducement of floor-crossing and by-elections is therefore, perceived as a perpetuation of poverty as it takes away national resources from the needy for the benefit of the privileged few (politicians). As one interviewee put it:

The consequences of floor crossing in terms of conflict has been that they have created more poverty for people in the sense that money that is not intended for by-elections has been taken for by-elections (SCO6, 2016).

The conflict emanating from the inducement of floor-crossing and by-elections is that it is unjust and unfair. It takes away the resources that are supposed to alleviate poverty among the majority poor thereby perpetuating rather than reducing it.

The most worrying thing about these induced floor-crossings and by-elections is that these people do not care about how much it will cost the treasury, as long as one side wins (E10, 2016).

The anger and frustration felt by the people are that despite the full knowledge of how costly these induced by-elections are on the country, and how hard life is for citizens because of the poor economic status of the country, politicians don't seem to care. The immediate singular most important thing for the ruling party driving them in the inducement of floor-crossing and by-elections is control over the Legislature, and for the opposition MPs who are co-opted is the cabinet positions and all the executive privileges and entitlements that come with it.

The study found that the use of tax payer's money, the people's money, in non-productive and wasteful activities such as the inducement of floor-crossing and by-elections is about the management of the scarce resources available in the Zambian economy. One of the fundamental environments that breeds conflict is competition over scarce resources (Ramsbotham, 2010).

The fact that politicians have no qualms and hesitation to spend the people's money (taxpayers') in order gain more political power (ruling parties) and secure more access and privileges (opposition floor-crossing MPs) while the government has no money to meet the people's needs and access basic necessities of life makes the electorate angry. The powerful feelings of anger, unfairness, injustice and mistrust lead to conflict (Martinelli and Almeida 1998). Politicians' quest for power consolidation and access to privileges at the expense of ordinary citizens' quest for a better life leads to conflict.

The inducement of floor-crossing or by-elections by opposition Members of Parliament leads to a conflict between the electorate and politicians. This conflict is driven by the feeling of injustice, anger and mistrust born of the perceived abandonment of the mandate for which and on which the MPs were elected on; and abuse or waste of resources used to conduct unnecessary by-elections for the benefit of politicians (Martinelli and Almeida 1998; Sheehan, 2014). The electorate expect their MPs to be faithful to the mandate on which they were sent to the National Assembly, namely being their representatives, holding government accountable so that it (government) serves the people's interests and protects their rights. When opposition MPs cross the floor through the offer of cabinet positions, they are perceived as pursuing contradictory and incompatible goals with those of the electorate, on which they were elected as they now become defenders of government they are meant to hold accountable on their behalf and for their benefit (Galtung, 2009; Austin, Giessmann, & Jäger, 2012).

### **6.3 Intra-party Conflicts**

The findings of the study show that the inducement of floor-crossing and by-elections is a source of intra-party conflicts. Members of the affected parties especially those in the opposition experience discontent, divisions, mistrust and fights. In the opposition parties, they feel betrayed and abused by the floor-crossing MPs, while in the ruling party, they consider them opportunists who take away what loyal members deserve.

### **6.3.2 Opposition Perceptions: Betrayal of trust, sacrifice and support**

In Zambia's Third Republic, the voting patterns indicate that candidates who contest elections in areas or regions where their party is popular are more likely than not to win as compared to those who contest in areas where their party is not popular. The popularity of a party in a given constituency (area or region), subject to other considerations, often determines the winner. A Member of Parliament wins a seat, in no small measure, due to the party platform and support (Erdmann, 2007).

The expectation on the part of political parties in return for placing their MPs on the party platform in the elections is that they will be loyal to their party and the people who laboured, endured and sacrificed to make it possible for them to win the seat. The party selects a candidate through a party process, pours in resources, mobilises its membership and supporters, and drums up support for the candidate. They do all that with the expectation that if they win the seat, they will be loyal and represent the party and the people who sent them to parliament.

Political parties, members and their supporters have a self-interest in wanting their MP to be supportive of their ideas, ideals and views in Parliament, and to contribute towards the wellbeing of the party and the people they represent (Hindmor, 2010). All that is lost when MPs cross the floor to another party as they now change their loyalty to another. The MPs that cross the floor become trapped in a different patron-client relationship by which they are required to shift their loyalty and support to the President and his party (the ruling party) in return for the power and privileges that come with cabinet position appointment (Eisenstadt and Roniger, 1984; Piattoni, 2004; Blau, 1964).

The seats (MPs) mean so much to opposition political parties as they are a product born of endurance, sacrifice and hard work. So they don't take the loss of their seats (MPs) lightly and kindly especially through induced floor-crossing and by-elections. They react with anger towards the concerned MPs for betrayal. The MPs that cross the floor or cause by-elections are considered as traitors and opportunists who are in some cases not only insulted and called names but threatened with lynching by disappointed party members and supporters who voted

for them owing to among others, their party affiliation. It creates an atmosphere of tension, mistrust, division and sometimes even violence towards the MPs and their supporters within the opposition in their constituency that undermines peace.

The following quote from one interviewee underscores the sense of betrayal and anger felt by the party that loses MPs due to floor-crossing or by-elections and the division and conflict it precipitates within the opposition that at times results in violence:

on the opposition we see also a lot of the antagonism. The ones that have crossed the floor now become a problem – yah, you find that now the one that has crossed the floor, now becomes a rebel member of parliament. It means that he cannot now go and mingle with the people he is claiming to represent. You will find that within the constituency there is division and clashes between those that are opposed with him and those that have remained with him (CSO1).

Political parties and their supporters and members vote for candidates selected by their party for Member of Parliament with the assumption that they would be loyal to the electorate and the party on whose support and platform they were sent to the National Assembly. The sudden change of party and allegiance from the party they were elected on triggers feelings of resentment and betrayal by some party members. This leads to intra-party division and conflict in the opposition in the constituency the MP hails from between some party members and those party members such as family, relatives, close friends and die-hard supporters of the MP.

An MP who crosses the floor changes party allegiance and loyalty and so do those within the opposition who choose to endorse or support him/her. On one hand, those angered by their area MP will direct their anger and hostility towards their MP and those defending him/her from within the opposition. The opposition party members who during the general elections and aftermath were united in support of their MP are now divided into two camps pursuing goals that are not compatible (Galtung, 2009; Austin, Giessmann, & Jäger, 2012). The goal pursued by one group is to oppose the MP while the other group's goal will be to defend and support the MP. The antagonism and hostility that ensue from this conflict sometimes lead to violent clashes between the two groups within the opposition that further destabilises and weakens it (opposition party).

The crossing of the opposition Members of Parliament to the ruling party through appointment into cabinet without consent from their party starts off a conflict between the opposition and the ruling party. According to one interviewee,

usually these quarrels we see in the political parties are basically created by bitterness started by political parties whose members have been poached. So the political system becomes unstable; instability starts and this is why even those who have been appointed they start in disparaging their political parties on whose tickets they are serving. So that is the cause of confusion, that is the cause of conflict and that threatens the stability of the political system and the peace of the country because when this person goes somewhere or maybe in his constituency members would want to even lynch them for betraying them (CSO2, 2016).

The crossing of the floor by opposition MPs to the ruling party ultimately leads to instability in the political system that required a strong and vibrant opposition. It equally affects peace in their respective parties and in the country as opposing camps both within the parties and between them.

### **6.3.3 Threat to the opposition's viability and existence**

The inducement of floor-crossing and by-elections is perceived as a threat to the opposition parties' viability and existence. It reduces the human capital and capacity of the opposition by targeting some of their most high-ranking and capable leaders that does not just reduce the numbers in the opposition but also leaves a leadership vacuum. It also leaves a trail of confusion, mistrust, tension and instability in the opposition as a rift or divide ensues between those supporting the floor-crossing MP and those opposed to it; and in some cases leads to splits in the party (Momba, 2007; Simutanyi, 2005). This division demoralizes the rank and file of the party who question the value of voting for politicians who can switch their loyalty without rank and file consent once they become MPs.

In some cases it has led to permanent divisions in some opposition parties and in others has led to their complete demise. Opposition political parties from whom MPs have crossed to the ruling party have become plagued by divisions that have made them weak. In some cases, as the following two interviewees illustrate, the inducement of floor-crossing or by-elections

does not just lead to the loss of membership but can also lead to the destruction of the affected opposition political parties.

The inducement of floor-crossing and by-elections is a threat to the viability and existence of the opposition. This two interviewees make an example of the Heritage Party about how it was destroyed through floor-crossing and by-elections, saying:

Of Course they lose members, they lose membership... if you recall in the 2001 elections, we had a political party called the Heritage Party (HP) which had, I think, five MPs, and (President) Levy Mwanawasa appointed all of them into government, and that was the end of that political party in terms of being effective on the ground. So, he poached all the Heritage Party members and Brigadier General Godfrey Miyanda (Heritage Party president) remained without a member of parliament. And henceforth he has never produced a member. So, they weakened that party which had life---if those members of parliament had remained in parliament and continued to advance the policies and the programs of the Heritage Party (SCO2, 2016).

And they can actually use this floor-crossing by enticing these MPs to finish them. There are some political parties which were actually completely annihilated in this country. For example, the Heritage Party. They had 4 MPs in 2001. Before the next elections, they had no MPs. They were all enticed by the ruling party, and that was the end of the political party. From that time, they have never won a seat, not even a councillor. A political party that was promising was completely destroyed (MP2, 2016).

The once new and vibrant party, HP, now exists in name only. It was destroyed due to the loss of their MPs through floor-crossing to the ruling party. The HP was now left without its most influential members, the MPs who could have been the face of the party inspiring others to want to join it.

The destruction of the opposition parties through inducement of floor-crossing and by-elections does not just negatively affect the opposition. According to tone interviewee,

The effect of floor-crossing on the opposition is that some opposition political parties go into extinct, meaning that they will cease to exist. And that becomes a threat to democracy because democracy cannot survive without the opposition. So other than those opposition parties going into extinct, the opposition parties become meaningless because they will not be able to perform their functions in a democracy (E6, 2016).



Liberal democracy suffers the most when the opposition is destroyed. The opposition play a vital role, that of checking the party in power so that it does not abuse power or resources. Without a vibrant opposition, no meaningful oversight by the legislature is to be expected.

The loss makes the opposition party, its members and followers become hostile and antagonistic towards the concerned MPs and the ruling party. One example of hostility opposition MPs experience from members of the party they were elected after crossing the floor is that of Hon. Greyford Monde, the then opposition UPND MP for Itezhi-Tezhi constituency who was appointed as Deputy Minister under the PF led government without approval from his party. As quoted in the media, he said that for working with government, “UPND is being hostile to me, they were looking for me so that they can even kill me. Even if you see for example the way we operate, as I am working with government... (UPND should get rid of HH. (2014, August 25).

Another case involves a UPND opposition MP, Hon. Richwell Siamunene, who had crossed to the ruling party the PF and was appointed as Minister of Defense without consent, consultation or approval from his party (UPND). He contested the seat in the 2016 general elections under the ruling PF party and lost to a UPND candidate. He petitioned the electoral outcome on among other grounds that his campaign faced instances of intimidation and violence. Though the court did not overturn the electoral outcome, it did however confirm based on evidence that, “There is overwhelming evidence that on nomination day, the UPND supporters attacked and assaulted PF members who had accompanied the Petitioner to file in his nomination” (Richwell Siamunene Vs Gift Sialubalo, 2016, p.65).

This antagonism and hostility impacts inter-party relationships on issues of common ground. The MPs who cross the floor or induce by-elections receive a hostile reception and become recipients of threats such as beating and verbal abuse in their constituencies. This antagonism and hostility within and between political parties are what sets the ground for intra and inter-party conflicts made manifest in the political and electoral violence that has become all too common during the electoral process.

#### **6.4. Ruling Party Perceptions: Loss of deserved opportunities**

The study found that although the inducement of floor-crossing and by-elections benefits the ruling party by increasing the number of MPs and weakening the opposition, it comes at the cost of internal party cohesion. This is more so among the senior high-ranking members of the party such as MPs who are not ministers and their close followers, who feel a sense of loss of opportunities that they deserve or have earned.

The senior members of the ruling party, like other human beings and politicians, have goals and ambitions for being loyal to the party. Votes, office and policies make them join and be loyal to a political party (Desposato, 2006; Heller and Mershon, 2005; Reed and Scheiner, 2003). These members, especially those that get elected as MPs during the general elections are loyal to the party and work as hard as they possibly can to ensure their personal and party victory and expect in return to be rewarded by a grateful party and eventually fulfil one of their highest aspirations, to gain the position of minister.

The idea of seeing their party reward the very same opposition MPs who during the general elections did their very best to ridicule, discredit and destroy their party and members with the highest positions in government, is something they find reprehensible. Here are a few selected quotes from the study that show the conflict and discontentment that ensue in the ranks of the ruling party.

There is a perception by older members that the new members that join the ruling party through floor-crossing and by-elections are coming to take positions that should be theirs. Two interviewees express this perception saying,

there is a conflict because the founder members of the ruling party believe that people that have come are taking their own privileges; again, they resent these people who have crossed the floor (SCO6, 2016).

there is no full acceptance of a person coming from another party...like they have come to take their positions (MP6, 2016).

While the ruling party through the President may bring in new members through cabinet appointment from the opposition for the “good” of the party, some older members are filled with resentment and anger. Their being passed-by for appointment into cabinet by the President makes view the new comers as taking away opportunities that rightly belong to them.

This creates discontent among some members of the ruling party who feel that their loyalty and support to the party is not appreciated or recognized in preference for strangers. According to this interviewee,

There is a lot of discontent...the members who are there feel their space is being occupied by the so-called strangers...and that has brought a lot of discontent amongst Members of Parliament from the ruling party (E15, 2016).

Discontent among some ruling party Members of Parliament ensue. This is due to their expectation that they deserve to be rewarded with such positions by a grateful party for their loyalty, service and support to their party.

The new members who come to the ruling party through floor-crossing and by-elections are not completely welcome but instead stir resentment and anger that creates infighting within the ruling party. One interviewee explained the in-fighting that ensue saying,

Here is a person who was our enemy and is today our boss. They are not welcome. We have seen pronouncements, in-fighting within the ruling party about these new entrants, these strangers in the house. They have not been welcomed but they have been tolerated because it is the Head of State prerogative and then if I talk too much, I will be disciplined (E14, 2016).

This leads to in-fighting within the ruling party. Some members though opt to conceal their anger afraid of being punished by the president. Their anger and frustration are rooted in the feeling that loyalty and sacrifice to the party, and not opportunism, should be appreciated and rewarded through promotion by way of appointment into the cabinet.

Though many senior MPs would be reluctant to voice their anger publicly and show disapproval of the President’s actions for fear of being blacklisted or even risking expulsion,

some have been brave enough to vent their frustration and or even resign from the ruling party. Even those not brave enough cannot wholeheartedly commit themselves to help grow that party as they feel the party doesn't honour their loyalty and sacrifice. It leads some members to quietly undermine the party.

The opposition MPs co-opted into the ruling party through the inducement of floor-crossing while being seen and called 'traitors' by the parties they hail from are seen as and called 'opportunists' by some members of the ruling party. They are regarded as opportunists who have no regard and loyalty to the ruling party.. These MPs may be tolerated due to fear of backlash from the president but are hated by some members in the ruling party who see them as opportunists who only come to "reap where they did not sew" (MP6: 2016; E14, 2016).

### **6.5.1 Inter-party Conflicts**

The study also found that the inducement of floor-crossing and by-elections undercuts the peaceful co-existence and healthy contestation of power in a liberal democracy among political parties as it inevitably creates a particular form of conflict that is not ideological or policy oriented. The opposition is driven by the view that it is an injustice to the investment and sacrifices they made and endured respectively and a threat to their viability and existence. The ruling party, on the other hand, consider it perfectly legal as it is not at variance with the Zambian constitution.

### **6.5.2 'Theft' of their seats by the ruling party**

Opposition parties view the inducement of floor-crossing and by-elections, according to the study findings, as a form of theft of their hard-won seats. The common term often used to refer to this phenomenon as 'poaching' and 'stealing'. There is a notion that a seat belonging to a party after a hard-won contest in the general elections is being taken by another without consultation, dialogue, permission or authorization from the owners. This 'stealing' or 'poaching' is a source of anger emanating from the perceived 'unfair' or 'unjust' loss of the seat in the form of the MP; and is perceived to be an injustice that starts off a conflict (Sheehan, 2014).

The loss of a seat (MP) through the inducement of floor-crossing or by-elections brings much anger, resentment and frustration to the opposition parties, their members and supporters. They feel angry and become agitated in part because, unlike the ruling party that uses state resources for campaigns (Baylies and Szeftel, 1997; Burnell, 2001; Rakner and Svasand, 2004). This is contrary to the electoral code of conduct in Section 107 (3) (1) (b) of the Electoral Process Act No. 35 of 2016 which empowers the Electoral Commission to prohibit political parties from using “state resources to campaign for the benefit of any political party or candidate.” The opposition make heavy investment of their personal hard-earned scarce resources, to provide transport, food, campaign materials, and reach voters through rallies, door-to-door campaigns, radio, newspaper, television and social media to ensure their party candidate wins the seat.

Despite the Constitution of Zambia requiring public media: electronic, print, television and radio to equally allocate public air time to all political parties’ political broadcasts (Section 107 (8) (1) of the Electoral Process Act No. 35 of 2016) opposition parties are often denied access to public media and have to rely on their own resources (Burnell, 2002; Carter Centre, 2002; COG, 2011; EU-EOM, 2009; MISA Zambia, 2016). Even for paid for political adverts, the public media, Zambia National Broadcasting (ZNBC) refuses to cover the opposition and sometimes has to be ordered by the court to do so. In the 2016 general elections, ZNBC had to be compelled through a Lusaka High Court order to air a UPND political documentary after initially refusing to do so (Court orders ZNBC, 2016).

They endure the hardships that characterize campaigns such as a hostile campaign environment including violence in the form of intimidation, threats, beatings, disruptions and insults. Opposition parties are often than not on the receiving end of the electoral violence aimed at intimidation (Mehler, 2007). They endure many hardships and abuse to ensure that their party candidate wins the seat in their respective constituency as their representative in Parliament. They do this knowing that without seats in parliament, they risk becoming irrelevant if not extinct as they cannot influence decisions, laws, and exercise checks on the power of the government.

The opposition parties whose Members of Parliament cross the floor to the ruling party or are 'poached' by the ruling party are incensed. Hereunder are a few selected quotes that show anger, resentment and hostility the opposition parties feel over the inducement of floor-crossing and the tension between political parties that ensue. There is tension between the opposition parties and the ruling party. The opposition parties that lose MPs resent the ruling party as they do not just lose an MP but also the investment they made to win the seat.

The inducement of floor-crossing and by-election have heightened tension between political parties. According to one interviewee,

it has heightened the tension between political parties. Because these are human beings who have invested to end up having MPs in the house. I believe that no real leader in the political parties would be happy to see his or her MPs crossing the floor, no one will celebrate that except those who are receiving (laughs)! So because of that, we see the increased tension between some political parties especially those who have lost members to the ruling party (CSO8, 2016).

The opposition through their individual members and collectively as a party make critical investment in their candidates to ensure they secure as many parliamentary seats as possible. They spend their hard earned money, resources, time and energy to garner support for their candidates. The loss of an MP through inducement of floor-crossing or by-elections means that the opposition lose not only a seat but also all the investment, effort and sacrifices they would have made. This is the source of resentment and anger they have towards the ruling party. This generates a conflict between the opposition and the ruling party because the opposition consider it as an injustice or unfair that the ruling party can take away what they got through investment their money, other resources, time and hard work. They actually consider it as theft (Sheehan, 2014).

They also lose support from some of its members that follow the MPs and lose a source of steady funding the party would have been getting from the levy they have on their MPs (Kabemba & Eiseman, 2005; Momba 2005). They also have to contend with the divisions and mistrust among their members creating an atmosphere of apathy and cynicism that makes their chances of winning future elections much harder. All told, this puts the standing of the opposition in a weak and precarious position.

The ruling parties induce floor-crossing and by-elections sometimes for the purpose of sowing chaos and division or weakening the opposition. It is also the case that inducements to cross the floor are driven by lack of sufficient numbers in Parliament from the general elections to be able to govern without fear of the opposition making it hard for the ruling party to govern the country. Besides, Article 116 of Act No. 2 of 2016 of the Constitution of Zambia (Amendment) does not forbid the appointment of opposition MPs with or without the consultation, permission or blessing of the party they belong. Regardless of whether they just seek sufficient numbers for easy governance or in a desire to weaken the opposition, the consequences for the opposition and their perception of the threat and reaction is the same.

### **6.5.3 Adversarial and antagonistic relationships**

In a liberal democracy, political conflicts arising from irreconcilable disagreements based on different party interests, objectives and ideologies do not preclude a harmonious existence and interaction between political parties (Pondy, 1967; Schmidt and Kochan, 1972; Gurr, 1980; Bush and Folger, 1994; Skoog, 2015). Indeed such conflicts are healthy in a vibrant liberal democracy as parties explore and present different approaches to challenges and socio-economic problems in society.

The inducement of floor-crossing and by-elections, as the findings of this study suggest, engenders a negative political conflict that is destructive. The ruling party's confrontational behaviour of seeking to advance its own interests and objectives that denies the opposition from achieving their own objectives produces a destructive political conflict that leads to antagonism between political parties (Mack and Snyder, 1957; Fink, 1968; Deutsch, 1973; Skoog, 2015). The opposition responds with indignation to the inducement of floor-crossing and by-elections by the ruling party setting off an adversarial and antagonistic relationship between the opposition and the ruling party. Harmonious co-existence and contestation for power suffer as a result of the perceived injustice (Sheehan, 2014). Political parties who in a healthy liberal democracy should be competitors now see each other as enemies.

The common terms, most participants in the study used to describe the nature of the relationship that ensues as a result of the inducement of floor-crossing and by-elections

between the ruling party and the opposition parties are, *confrontational, antagonistic, sour, adversarial, acrimonious, and enmity*. Hereunder are a few selected quotes from the study that highlights the nature of the relationship that emerges from the inducement of floor-crossing and by-elections.

The inducement of floor-crossing or by-elections far from promoting harmonious and peaceful co-existence between political parties, according to this interviewee, it leads to acrimonious and antagonistic relationship:

I think that it has brought about a certain sense of antagonism and acrimony, accusations and counter-accusations. It has certainly not promoted harmonious relations between parties, and it's a shame really. I think it has worsened relations between political parties (CSO3, 2016).

The inducement of floor-crossing or by-elections is a source of conflict between political parties that goes beyond normal contestation and competition inherent in a liberal democracy. The opposition view the inducement of floor-crossing, while not illegal under the constitution, but, as an unjust and unfair way of getting seats that sets of a conflict between the opposition and the ruling party (Sheehan, 2014).

The conflict that ensue sets a confrontational relationship between the opposition and the ruling party. As noted hereunder by one interviewee:

These parties become confrontational, those in the opposition and the ruling. When someone gets what you treasure, you begin to hate that person. And if you begin to hate that person, at one time given an opportunity, when the opportunity presents itself there would be a lot of antagonisms, there would be even a fight. So it has created a lot of tension between the two blocks: the party in power and those in the opposition (E11, 2016).

The opposition as the aggrieved party, that perceives the ruling party to have stolen their prized possession, MPs, become angry and resentful towards the ruling party. The ruling party on the hand determined to get as many MPs as possible past general elections argues that the President of the Republic is within his/her constitutional authority to appoint any MP irrespective of party affiliation. The opposition and the ruling party hold incompatible goals,



ideas and views that bring them into a conflict. For the opposition, MPs that stood under their party platform and on whose support got into Parliament must for the 5 year period of their tenure must remain loyal to the electorate and their party. The ruling party on the other hand insist that for as long as it is not illegal under the constitution of the Republic, the President can appoint any MP regardless of party affiliation, approval or effect on the opposition. The pursuit of mutually irreconcilable and incompatible ideas and goals inevitably result in a conflict between the opposition and the ruling party (Galtung, 2009; Austin, Giessmann, & Jäger, 2012).

This conflict leads to enmity and strained relations between political parties making it extremely hard, according to one interviewee, to agree on anything:

So the relationship is always strained, such that it's very difficult to agree on anything even on progressive ideas that may come across because of that enmity (E10, 2016).

The conflict between the ruling party and the opposition parties that lose MPs makes the possibility of parties peacefully co-existing and working together even on issues where they agree on very hard. Political parties develop antagonistic, adversarial and confrontational relationships that impacts negatively on their interactions in and outside parliament. The enmity between the opposition and the ruling party comes to full manifestation during elections and by-elections as they compete against each other for the right to govern. The next section on electoral conflicts and violence highlights the nature of conflicts around elections the inducement of floor-crossing or by-elections precipitate.

### **6.6.1 Electoral Conflicts and Violence**

The study findings reveal that conflicts and violence have become some of the most alarming common features of elections in Zambia's Third Republic. The cause of electoral conflicts and violence in Zambia's Third Republic cannot be ascribed to one source or one party. The inducement of floor-crossing and by-election is but one of the contributing factors that provides a foundation for violence. Lack of professionalism, independence and impartiality in the management of the electoral process by the Electoral Commission of Zambia and law enforcement by the Zambia Police Service also play a part.

### **6.6.2 Lack of impartiality in the electoral process management**

The Constitution of Zambia in Act No. 2 of 2016, Section 42 (2) calls for an electoral process and administration that ensures elections are free and fair; free from violence, intimidation and corruption; independent, accountable and efficient. The responsibility to direct, supervise and regulate the process in a fair and impartial way is entrusted to the Electoral Commission of Zambia under Section 4 (Electoral Commission of Zambia, Act No 25 of 2016).

Further, to ensure impartiality and fairness in the electoral process which is key to credible elections upon which lies one of the foundations of liberal democracy and peace, the Constitution of Zambia provides an electoral code of conduct meant to guide the electoral process. Among others the enforcement of the code of conduct by the Electoral Commission of Zambia is supposed to ensure that the Zambia Police Service enforce law and order professionally and impartially; ensure media television, radio, print and electronic allocate equal air time to all political parties and candidates for political broadcasting; ensure no political party or candidate uses state resources for campaigns; etc (Electoral Process Act, No. 35 of 2016).

The study findings suggest that far from providing free, fair, secure and impartial credible electoral process in line with the dictates and spirit of the constitution, Section 4 (1) of the Electoral Commission of Zambia Act No. 25 of 2016), the Electoral Commission of Zambia (ECZ) fails the test. As a consequence of impartial electoral process management, electoral conflicts and violence have found an enabling environment. The conduct of elections in an environment that is not perceived to be fair or inclusive to all parties and unresponsive to corruption as a result of weak democratic institutions as exhibited by ECZ and the police motivates the aggrieved to sometimes use violence as a way of seeking or demanding fairness (Timmer, 2012; Ndulo and Lulo, 2010; Fischer, 2002). It also encourages the ruling party to engage in violence with impunity in the absence of consequences and costs.

The Electoral Commission of Zambia, according to the study findings cannot ensure professional and impartial law and order enforcement by the Zambia Police Service; cannot ensure equal and fair access to public media by all political parties and candidates, and cannot ensure that political parties or candidate do not use state resources for campaigns. Here are a

few selected quotes from the study that highlight failure or inability of the electoral management body to ensure enforcement of the electoral code of conduct professionally and impartially. As noted by one interviewee, the Electoral Commission of Zambia has been a failure at impartial elections process management, saying:

I think you have heard our local Electoral Commission of Zambia has been condemned as toothless. It cannot implement the electoral code of conduct during the campaign period and at the poll and even before. It is biased towards a particular party and in this case the incumbent ruling party (E14, 2016).

The Electoral Commission of Zambia which has the overall supervision of the electoral process under whose supervision even the Zambia Police operates has failed to ensure a level playing field during elections. As a result of the failure, biased and selective enforcement of the code there has been abuse of state resources and impunity by cadres in the ruling party. The ruling party takes full advantage of the electoral commission's failure or refusal to manage the electoral process in an impartial manner. One interviewee, describes the abuse of state resources that ensue, saying,

And you would also find that during elections, when the date for elections has been announced, the party in power, you'll find that they are using government vehicles and government resources - you talk of the vehicles, you talk of the fuel and other state machinery would move in siding with the party that is in power. So the organ that conducts elections for me does not take a keen interest in such matters (E11, 2016).

The failure by ECZ to manage the electoral process impartially makes it possible for the ruling party to not only use violence to harass and intimidate the opposition but further abuses state resources. This makes the electoral contestation very difficult and unfair for the opposition provoking more anger and resentment over the perceived injustice.

The above-cited quotes from the study point to serious problems with the management of the electoral process by the institutions that are supposed to ensure independence, impartiality and professionalism; free, fair and secure elections which are a hallmark of liberal democracy and peace (Baylies and Szeftel, 1997; Carter Centre, 2001; Carter Centre, 2016). The public media – state owned media - contrary to the Electoral Code of Conduct (Electoral Process Act, 2016 Section 29 (2)) rarely and negatively give coverage to the opposition while giving

full and positive coverage to the ruling party (Burnell, 2002; Carter Centre, 2002; COG, 2011; EU-EOM, 2016; MISA Zambia, 2016). The Zambia Police Service, contrary to the electoral code of conduct, does not only partially and unprofessionally (Electoral Process Act, 2016, Section 3 (1) h) and selectively apply the Public Order Act (Public Order Act, 1955) but allow or ignore acts of intimidation or violence by the cadres from the ruling party while being heavy handed on the opposition (Moomba, 2005; SACCORD, 2016; CCMG, 2017; Carter Centre, 2016; EU EOM, 2016).

The inability and failure of adherence to the main virtues of the electoral process such as transparency, accountability, participation and adherence to electoral laws can cause electoral violence while adherence leads to peacebuilding (Laakso, 2007; Omotola, 2010). The failure or inability of the ECZ to enforce the electoral code of conduct in an independent, impartial and professional manner emboldens the cadres from the ruling party to use violence towards the opposition as an intimidation tool because there are no consequences. The high ranking members of the ruling party and the cadres they send or incite to engage in electoral malpractices such as intimidation and electoral violence do so because there is no disincentive to perpetrators (from the ruling party) and don't expect any form of punishment to be incurred for their actions (Dutton and Alleblas, 2017).

The study findings show that the Zambia Police Service which is supposed to ensure law and order, protect people's rights to freedom of assembly, speech, and association is selective in its discharge of that responsibility. Far from being professional, independent and impartial, the police tends to be biased in favour of the ruling parties against the opposition. The police according to the study is swift and heavy-handed in dealing with opposition members violating the electoral code of conduct, but is restrained at best and does nothing at worst in dealing with violations by the members of the ruling party.

The Zambia Police Service's failure to be professional and impartial is among others, due to political interference. The Inspector General of Police in Zambia, who is Chief of the Police in Zambia is appointed by the Republican President who is a leader of the ruling party. The Inspector General of Police, other senior police officers and the rank and file are afraid of dealing firmly with members of the ruling party such as cadres if they break the law for fear

of demotions, being overlooked for promotion or being fired (retired in national interest). A good example of why police fear to enforce the electoral code of conduct is that of the firing or retiring of three most senior police officers in Sesheke district who allegedly beat up the ruling PF party cadres, allegedly "...armed with machetes and other offensive weapons on voting day who, according to reports, had been taunting them to step aside so that they do their work because the officers had allegedly failed to carry out their duties" (Chisenga, 2019). This incident happened in Sesheke, Zambia, on 12th February, 2019 during the campaigns for a parliamentary by-election. As the dismissal order in figure 6, indicate, they were retired in the name of the President of the Republic of Zambia allegedly in the national interest.

ZAMBIA POLICE SERVICE  
MESSAGE FORM

In Register No: 18/69      Our Register No: 4/51

Call sign instructions	Priority	No. of groups or words 60	Date and time handed in	Transmission instructions	Message
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**ABOVE THIS LINE FOR SIGNALS ONLY**

TO: (For action) Telegraphic address <b>COMPOL WESTERN</b>	
FROM: (Originator) INGEPOL ADMIN	Date and time of origin 161220
INFO: (Information)      Telegraphic address <b>DIG OPS ,COMPOL ADMIN ,STAFF RECORDS AND PERMIC</b>	

SHQ 53 /15/14 OF 16/02/19 XX BE INFORMED THAT THE POLICE SERVICE COMMISSION ACTING IN THE NAME OF AND ON BEHALF OF HIS EXCELLENCY THE PRESIDENT HAS WITH IMMEDIATE EFFECT DIRECTED THAT THE FOLLOWING OFFICERS ARE RETIRED IN THE NATIONAL INTREST

1986 MR. SHAAPA WAKUNGUMA S/SUPT OFFICER COMMANDING SESHEKE DISTRICT

2672 MR. CHILONGO FLEMING SECOND OFFICER COMMANDING SESHEKE DISTRICT

2865 MR. LENGWE BORNIFACE A/SUPT OFFICER IN CHARGE SESHEKE POLICE STATION

40453 CONST MUKELA FRIDRIC OF SESHEKE POLICE STATION

THEIR LAST DAY OF WORKING WAS ON 15/02/19 XX LETTERS OF RETIREMENT IN POST XX INFORM THE CONCERNED OFFICERS ACCORDINGLY XX

This message may be sent as written	No:45318 Rank: W/ CONST Name :BIEM
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*Signature: DCP*

**Figure 6: Zambia Police Service dismissal order**

*Source: Zambia Watchdog (2019, February 16)*

In fact, the police is perceived to be afraid of apprehending ruling party cadres involved in electoral violence and other intimidation activities aimed at the opposition as highlighted in these quotes from the study.

According to this interviewee quoted below, the police swiftly take action against opposition cadres who break the law but are afraid of taking on law breaking cadres from the ruling party for fear of losing their jobs:

the application of the law has been very stiff on the opposition as compared to the ruling party. The moment it has been heard that it is the opposition party that has been involved in violence, the police will take swift action and probably prosecute those cadres. But on the ruling party, even the police or the law enforcement agencies, they will be afraid because the cadres will publicly tell the law enforcement agencies that ‘we belong to the ruling party and who are you to detain us?’ ‘If you don’t want to lose your job or to be transferred or to be demoted it’s better to leave us’ (E6, 2016).

Police officers in Zambia face the same problems ordinary Zambians do, that of lack of jobs due to high levels of unemployment in the country. Therefore, if their impartial and professional conduct in the line of duty as police officers threatens their jobs from which they earn a living, then they will act in a way that they believe is in their best self-interest and away from undesirable ends (Smith, 1777; Oppenheimer, 2008). In so doing cadres from the ruling party feel emboldened and can act with impunity.

The inducement of floor-crossing and by-elections enables the ruling party to amass more power that enables the cadres of the ruling party impunity as their party becomes more powerful. This power is intimidating to the police and ECZ. According to the two interviewees,

Unfortunately, because of the crossing of the floor, we see that one political party, for example, gained more and more power and that they can even unleash carders to insult the police to insult anybody. And they can do anything in full view of our security officers and the security officers sometimes feel incapable of disciplining those people, the carders. So ECZ, for example, is not able to discipline the perpetrators of electoral malpractices (CSO8, 2016).

following this Public Order Act we see that a ruling party is free to do whatever they want...the police will feel intimidated by the political cadres belonging to the ruling party. (CSO8, 2016).

The inducement of floor-crossing enables the ruling party to have the kind of majority in Parliament that gives it (ruling party) control over the Legislature. With the Legislature and the Executive branches of government under the control of the same hands of the ruling party, it becomes much harder for one Legislature to provide oversight on government such as abuse of power even in government agencies such as the police. The supposedly independent state institutions or agents such as the Electoral Commission of Zambia or the Zambia Police Service cannot operate in a manner that is independent, impartial and professional as they are vulnerable to abuse to those who hold the most power in the country.

The failure by police from being impartial and professional in enforcement of law and order during elections allows cadres in the ruling party to act with impunity. One interviewee narrates an incident that happened during the 2016 general elections campaign in the Eastern Province of Zambia to illustrate how cadres behave when police fail to act:

We have come from the eastern province and what has happened in the Eastern Province is a disaster, where PF cadres were going to fish out an opposition leader. He had to run away, he had to scamper. They stopped a live paid-for program and the police have not done anything up to now. So the police definitely have been very unprofessional and because of their lack of professionalism, there has been a lot of electoral violence (CSO7, 2016).

The ruling party cadres behave with impunity when there is lack of professional and impartial law enforcement during elections. As a result cadres carry out acts of electoral violence and intimidation on opponents of the ruling party as they do not expect consequences for their actions.

The result of this inability or failure to conduct elections impartially where all participants irrespective of party affiliation are protected and allowed to participate freely leads to electoral violence as impunity in the ruling party and frustration in the opposition abounds. The opposition becomes frustrated and enraged that they cannot count on equal coverage by the public media; see the abuse of state resource for campaigns by the ruling party; and are being denied equal protection under the law and are in fact denied the freedom of assembly and speech under the selective application of the Public Order Act. This forces the cadres from the opposition to sometimes take “self-defensive” measures by retaliating or attacking the ruling party in their strongholds or in places and times when the police may not be present.

### **6.6.3 The Inducement of floor-crossing and by-elections leads to electoral violence**

The study findings indicate that the adversarial and confrontational relationship cultivated from the conflict around the inducement of floor-crossing and by-elections leads to a hostile campaign environment. The inability and failure by the state institutions tasked with the responsibility of managing the electoral process in an impartial manner makes conditions for electoral violence more likely than not. The frustration on the part of the opposition from the lack of impartiality and protection builds upon the already existing anger, resentment and frustration from the conflict generated by the inducement of floor-crossing and by-elections. The study does not claim that without the inducement of floor-crossing and by-elections there wouldn't be electoral violence in Zambia's Third Republic. What it claims is that the environment for electoral conflicts and violence is made more likely as a result of the hostilities, adversaries, anger and frustrations that they bring to the campaign field. The study asserts that this conflict around the inducement of floor-crossing and by-elections is one of a breeding ground for political and electoral violence in the country. As noted by these selected quotes from participants, violence has come to characterize many elections held as a consequence of the adversarial relations induced floor-crossing and by-elections have engendered.

According to this interviewee, floor-crossing is a factor in the inter-party violence that happens during elections:

This inter-party violence is about floor-crossing. It's a pattern, one thing leads to another. We call it the domino effect, right? Today you cross the line, tomorrow it's the campaign period, and in a campaign, people have to kill each other and insult each other; that's breaking the peace. Tomorrow there is an election outcome which people do not accept because of the suspicion of rigging and so on. Floor-crossing is a factor in this election violence (E14, 2016).

The inducement of floor-crossing starts a conflict between the opposition and ruling parties that goes beyond feelings of anger and resentment. It leads to not just exchange of hurtful feelings, exchange of insults and lack of civility in interactions but results in actual acts of violence. The anger and resentment the parties have for each other coming from the perceived injustice provides a hostile environment that easily explodes into violence when they meet on the field of campaigns for elections.



The inducement of floor-crossing and by-elections leads to the use of violence to intimidate opponents as both parties are desperate to win to show how popular they are. As observed by these two interviewees,

where they are induced there is some expectation that some people want to make money out of it and those who have defected want to ensure that they retain their seat and in the process they become desperate, and when they become desperate they use unorthodox ways of campaigning such as intimidation, vote-buying; therefore you find that such ways of intimidation are more violent on the basis of campaigning (CSO6, 2016).

as you go to the campaign, you will not have kind words about each other. So the exchange of words during the campaigns, the mudslinging will obviously strain the relationship between the political parties and indeed between the individuals from the two political parties or the political parties. The other part is that it also brings about violence because the supporters of the candidates would want to show that they are more popular than the others that they are more powerful and in the process, violence erupts (MP8, 2016).

The inducement of floor-crossing starts off a conflict between members of the opposing parties. For the MPs who cross the floor, they want to show the party they defected from that they did not just win the previous election because of the popularity of the party but also because they are popular candidates. So their desire to prove that point and with the support of the party in power they now belong are desperate to win the seat at any cost. The opposition also wants to win the seat at any cost because they equally believe s/he won the seat because of the popularity of the opposition party. The two parties with animosity and irreconcilable and contradictory ideas and goals end up in a conflict that unfortunately involve violence to get their way (Galtung, 2009; Austin, Giessmann, & Jäger, 2012).

The enmity between the political parties and the adversarial and antagonistic relations that ensue as a result of the inducement of floor-crossing and by-elections come to play out on the campaign trails. The hostilities between the opposition and the ruling party are exposed as they compete for votes and ultimately power. Both approach the campaigns with a determination to win the elections by whatever means possible.

The opposition carry with them the anger and frustration from the perceived injustice or “poaching” of their MPs by the ruling party, that weakens their party; sows discord, mistrust and discontent among its members and robs it of a voice in the house and steady source of funding. They approach the campaigns with a strong determination to regain their “stolen” seat by whatever means possible. The ruling party also comes with a strong determination to get or keep the seat and makes use of public resources such as media, money and transport to ensure victory (Rakner & Svåsand, 2005; Simutanyi, 2010; Kaaba, 2015). The ruling parties and the opposition are in a non-compromising mood in their search for victory. Both parties have irreconcilable and contradictory ideas and goals that result in a violence about who is more popular and who should win the electoral contest in a zero-sum-game manner (Galtung, 2009; Austin, Giessmann, & Jäger, 2012).

#### **6.6.4 Electoral Violence in Zambia’s Third Republic**

The study findings have revealed that electoral violence is a common feature in Zambia’s Third Republic. It takes place in an environment of heightened tension, polarization and hostility between parties so determined to ensure victory that they are willing to stop at nothing to achieve it. Electoral violence has become one of the most preferred tools deployed mainly by the ruling parties to intimidate, frustrate, disorganize and demoralise the opposition in their quest to retain or gain as many parliamentary seats as they possibly can. On the other hand, to a lesser degree, the opposition also engages in electoral violence as a way of fighting back, revenge, resisting, standing up and “protecting themselves” as police won’t protect them and apprehend law breakers from the ruling party.

In 2016, August 8 in the run up to the 2016 general elections, the ruling party PF cadres brutally assaulted the opposition UPND supporters on a campaign bus which they stoned and damaged in Mtendere. The Zambia Police did nothing to protect the UPND supporters, never made any arrest of even one identified suspect. In the Judgement, *Mwamba vs Nkandu Luo 2016/HP/EP/021*, the High Court for Zambia in Lusaka in its ruling observed that it became apparent that police officers could not protect the opposition UPND supporters who were attacked. According to the High Court Judge Hon. Musona, “This was proved when the UPND supporters were attacked on their campaign bus. The matter was reported to police

and one suspect was identified but no action or arrest was taken by state police officers” (p.53).

The 8<sup>th</sup> August 2016 attack by the ruling PF party cadres on UPND supporters that took place in Mtendere within the Munali constituency which was being petitioned by the losing opposition UPND parliamentary candidate was followed by another. Two days later, on 10<sup>th</sup> August 2016, UPND cadres attacked a home of a PF cadre that resulted in the damage to the house and vehicles. The High Court Judge Hon. Musona, in the same judgement also noted that, “two (2) days after PF cadres attacked the UPND campaign bus, UPND supporters also attacked the home of M/Watson Mtonga who was RW4 in this petition on 10th August, 2016” (p. 54).

This has resulted in several serious incidents of electoral violence that is characterized by attacks on the opposition supporters, candidates and has in some cases resulted in death (EU-EOM, 2016). Here are a few quotes from the study that highlight the tension, polarization and hostility; and the desire to win at any cost that result in electoral violence:

The inducement of floor-crossing creates an atmosphere of tension, conflict that makes violence possible. According to this interviewee,

by the time of the elections, the tensions will be high and there will be conflicts; in some instances, we have seen some rampant acts of violence – well-documented instances of political or electoral violence in Mufumbwe and Livingstone. I mean other places where we have had by-elections with instances where it had led to the loss of life (SCO8, 2016).

The high level of tension emanating from the inducement of floor-crossing leads to actual violence between political parties. The induced by-elections that ensue from induced floor-crossing have particularly violent and in some instances leading to the loss of life like in the 2013, February 23 in Livingstone during the run-up to the by-election that led to the death of a cadre of the ruling party, PF. The violence and intimidation between the major contending political parties: the ruling party (PF) and the opposition (UPND) led to the postponement of the by-elections (U.S. Department of State, 2013; Political parties regret, 2014).

The ruling party, particularly is singled out, as the two interviewees suggest, to be the main instigators of electoral violence, saying:

the ruling party wants to win the position (seat) by all means, by any means. So you find that they use any means, violence, there is panga (machete like bladed tool) use here in Zambia. There is killing of one another during campaigns because the ruling party does not want to lose the position even if it was for the opposition. They want to take it by whatever means (E8, 2016).

Particularly the ruling party wants to retain at all cost an election where they have induced a by-election. They don't wish to lose. So there are militants involved; young men are hired to ensure that they intimidate, they insult, they beat up, and sometimes they maim their opponents (CSO6, 2016).

The ruling party cadres are the ones mainly used to foment violence against the opposition. They use weapons such as panga (machete like bladed tool), stones and sometimes guns to intimidate, harass and beat-up the opposition. This is meant to disrupt opposition campaigns, instil fear in the supporters of the opposition so that they do not turn up for opposition campaign activities or at worst fear to go out and vote as they consider it too risk to do so. All this violent campaign is meant to achieve a favourable political and electoral outcome for the ruling party (Adolfo, *et al.*, 2012).

#### **6.6.5 Party cadres, hired thugs and police**

The ruling party uses party cadres, hired thugs and instruments of state power such as the police to restrict, intimidate, harass, disorganize and demoralize the opposition from meaningfully participating in the electoral process. The intimidation curtails the opposition's freedom of movement, assembly and speech, and hampers their ability to organize, reach and be heard by the electorate to win their votes. Special focus has been on disrupting and harassing opposition political party electoral campaign rallies and media broadcasting (CSO1, 2016).

#### **6.6.6 Violence around campaign rallies**

The study found that campaign rallies by the opposition are particularly targeted by the ruling parties for disruption. The disruption involves the use of party cadres, hired thugs and the police to make it hard and dangerous for the opposition to organize campaign rallies. This is

aimed at instilling fear in the opposition, their supporters and electorate. It makes it hard for the opposition to be heard and for their supporters and electorate to participate in the electoral process without fear (Charlotte Scott Vs Margaret Mwanakatwe, 2016).

Intimidation is used to scare supporters of opponents from participating in the campaigns and most importantly from even casting their votes (Adolfo, Kovacs, Nyström, and Utas, 2012). There have been reported instances of use of gunfire to intimidate and disrupt political gatherings of opponents, instil fear in them and ultimately frighten them from voting. Unfortunately, in some instances, human life has been lost as a result (EU-EOM, 2016).

Electoral violence takes many forms. Sometimes it is verbal in the form of abusive language and physical in the form of attacks such as beating political opponents, damaging their property and disrupting their campaign gatherings. Some public spaces such as markets and bus stations have become no-go areas for opposition parties or spaces where they cannot openly express their political views or symbols of the party they belong to. Opposition party members seen in their party t-shirts are verbally abused and physically beaten by cadres from the ruling party. Because of this violence by way of intimidation, few if any opposition members would dare to put on their party's t-shirts or dare to campaign in these public spaces (Charlotte Scott Vs Margaret Mwanakatwe, 2016).

The electoral violence is mainly instigated by political parties using party cadres, hired thugs and unemployed youths. These, according to participants (SCO8, 2016) are intoxicated and paid to brutalise, instil fear and disturb opponents. They do so using an assortment of weapons such as knives and machetes to attack and intimidate opponents. Apart from the abusive language, physical violence and intimidation of opponents the conflict around inducement of floor-crossing and by-elections brings, the action is also taken against their possession and property. Party cadres and in some cases hired thugs and youths would attack, damage or seek to destroy property belonging to political opponents by dismantling, stoning or setting them on fire (Charlotte Scott Vs Margaret Mwanakatwe, 2016).

The attacks on the opposition by cadres and thugs involve the use of stones, pangas, machetes and sometimes guns (CSO8, 2016; E14, 2016). The use of such weapons in some have become all too common. Supporters and sometimes ordinary citizens coming to hear the opposition leaders and candidates make their case as to why they should be voted for are attacked and sometimes physically beaten and or have their cars smashed with stones (Charlotte Scott Vs Margaret Mwanakatwe, 2016).

Candidates are also in some cases attacked or prevented from campaigning. In the Charlotte Scott Vs Margaret Mwanakatwe (2016) petition ruling, there was credible evidence that on two occasions, in June 2016 in the run up to the general elections, the opposition UPND candidate for Lusaka Central, Charlotte Scott's campaign team had their campaign disrupted by the ruling PF regalia clad youths. The High Court in Charlotte Scott Vs Margaret Mwanakatwe (2016, p. 41), ruled that, "The Acts of preventing the Petitioner and her campaign from conducting their intended campaign programmes in the city centre by PF regalia clad persons greatly affected the Petitioner's ability to reach out to potential voters in that part of the constituency."

The following selected quotations highlight how the ruling party cadres and hired thugs using stones, pangas, machetes and guns attack and disrupt opposition campaigns and scare the electorate and opposition supporters. The two quotes from two interviewees speak to the hiring of cadres aimed at attacking opponents during campaigns so as to instil fear in them from participating in the electoral process:

We have seen a pattern of violence in Zambia where the cadres seem to have been given specific instructions. They have been heavily funded, they have the fuel... Where are they getting the guns, the fuel, the pangas; they are leaving in lavish hotels just to disturb the peace. And these are the behaviours: political and artificial stage managed behaviours during the campaigns, ferrying of party cadres from across the country; hired thugs to destabilize peace and order (E14, 2016)

...we have also seen that during the campaigns there are attacks. We see people using guns to threaten members of the opposition, and there is no free canvassing. People fear to campaign; even those that are supposed to go and vote, there is fear. Even electoral commissioners are harassed by the cadres (CSO1, 2016).

The electoral violence happening in Zambia's Third Republic mainly features the use of cadres and thugs who are moved from different parts of the country to those areas where they are supposed to see chaos. These cadres are hired, funded and armed to intimidate and destabilise campaigns of opponents. Their aim is to instil fear in opponents so that they are not as free as they would be to campaign thereby decreasing the opponents' chances of winning elections while increasing the perpetrators' chance of winning. The intimidation is meant to make supporters of the opponents fear to not only attend campaigns but also fear to cast votes. The reason, according to this interviewee (CSO8, 2016) why there has been an increase in the use of violence is the fight for power and control of resources:

They organise our youth, intoxicate them with drugs and alcohol. So that they can go out there and cause havoc. And we have seen an increase in the use of pangas and machetes – something that is quite unfortunate and this is because at the end of the day there is a struggle for power, battle for control and eventually and essentially a struggle for money; and those who have money who are in control of resources will do everything to cause people to lose their interest sometimes through violence, through acts of intimidation and actual acts of violence (CSO8, 2016).

At the centre of the intimidation and actual acts of electoral violence is the fight for power and the control of resources. Those who are in power and in control of the resources do not want to lose elections as they fear losing power and control over the resources as well. They understand that to lose elections means that they will lose power and ultimately control over the resources. In an effort to make sure they do not lose power and control over resources, they use means such as violence on opponents and their supporters so as to make them fear, lessen their zeal for participation.

As noted by the interviewee below, citing the Livingstone by-elections that took place in June 2013, violence is used to lower voter turnout as supporters of the opposition feared for their safety:

...scaring people from taking part in voting so that the powerful people, those with state machinery may carry the day. Like what happened in Livingstone when there was a by-election some people did not come out to vote because they were scared of violence. Live gun shooting took place that day. People were shooting in the air and you find that...back here in Zambia we don't know wars. We have never been involved in civil wars. A gun in Zambia is very scary to our people. So they decided to keep away from voting because of the same violence (E9, 2016).

The use violence to intimidate the electorate, like the use of guns to a population in Zambia that has no experience of war is so frightening to the people. As fear for their lives grips the people especially those for whom it is intended, they, as in the case of the Livingstone by-election keep away from voting thereby giving the ruling party an edge over the opposition. These electoral violence acts are an intimidation tactic meant to send a message to the leaders and supporters of the opposition that they will be putting themselves in danger if they organize or come to opposition rallies. This makes the opposition's prospect of getting their message to as many people as possible very difficult. The electorate is less likely to support and vote for a party or candidates who have not given them a reason why they should. The electorate is also less likely to participate in elections if doing so puts their own lives in danger. The attacks on the opposition campaign rallies are aimed at preventing the opposition's message from being heard (a reason why they should be voted for) and sending a message of fear in their supporters of the risks they might be inviting to themselves through their participation or supporting the opposition.

The study also found that the police has been both an enabler of and perpetrator of electoral violence whether acting at the behest of the ruling party (or out of fear) in selectively applying the Public Order Act. The police under the cover of the POA an instrument meant for the security and protection of peaceful and lawful public gathering, uses it to stifle the opposition's ability to campaign by denying it 'permission' on frivolous grounds (Eiseman, 2004). While the ruling party can organize meetings and rallies without informing the police as required by the POA, the opposition meetings and rallies are heavy-handedly disrupted with the use of force. The police swiftly and heavy-handedly do not only employ battons and teargas to disrupt meetings and the campaign rallies but have in some instances used guns (SACCORD, 2016). Hereunder are a few quotes that show violence being used by the police against the opposition during elections using the POA and bias application of law and order that is a source of frustration and anger among the opposition.

The opposition has been complaining about the way in which the Public Order Act is administered – it is very, very selective! When the opposition wants to go and hold a rally in a particular area they are attacked. In the Eastern province, they had a rally there. Just to hold a meeting they were attacked (CSO1, 2016).



we see the behaviour of the police favouring the ruling party. Anytime the opposition wants to have a meeting they want to teargas them even if it's an indoor meeting; they require a lot of notifications (CSO4, 2016).

following this Public Order Act, we see that a ruling party is free to do whatever they want...the police will feel intimidated by the political carders belonging to the ruling party. It's not easy for opposition MPs to campaign because they will be denied permits even if you don't need a permit...at the end of the day because of this selected manner in which the Public Order Act is implemented, there are people who are getting frustrated (CSO8, 2016).

look at the issue of Sesheke, Mulobezi where some people were shot and the law was not applied fairly despite that the police knew the people responsible there were no arrests. It may not generate violence at the time or not disturb peace now but this rings in the mind of the people and they may take the law in their own hands. And they may try to use other means of disadvantaging other people and try to disturb peace within their own local community (E2, 2016).

law enforcement agents are being used as tools to frustrate the opposition. The army, the intelligence, the Zambia Police – the entire law enforcement establishment,...So our security is compromised because instead of our law enforcement agencies enforcing peace, they are enforcing discipline on our political parties for standing up for what they believe (E14, 2016).

Opposition leaders, candidates and their supporters are sometimes beaten, teargassed and arrested for 'violating' the POA and yet the ruling party doesn't get the same treatment for the exact 'violation' of the POA. In some instances, even when the notice has been given by the opposition to the police, they still can and have their campaign rallies disrupted with force by the police. The use of force involving live ammunition by the police to disrupt opposition rallies has on one occasion resulted in the killing of an opposition supporter (Carter Centre, 2016; Zambia suspends election campaigning over violence, 2016).

The partiality exhibited by the police and their inability to reign in cadres and thugs attacking opposition leaders, candidates, supporters and those perceived to be sympathetic to them is a source of frustration that leads them to take matters into their own hands. In an unforgiving environment where the police are clearly biased, won't protect the opposition or bring to book the ruling party cadres involved in electoral violence, the opposition's frustration and anger build. The aggrieved opposition cannot turn to the police for justice (Eiseman, 2004).

The frustration and anger felt by the opposition over the police's perceived inability, failure or unwillingness to protect them and arrest law breaking ruling party cadres and thugs leads to two types reaction from the opposition. The first reaction is a negative one in which they equally employ violent means as a way of taking revenge, standing up, countering or as they see it protecting themselves and their right to participate lest they give up and lose.

The second reaction is the legal route taken in the aftermath of an electoral process through which they petition the electoral outcome characterized by electoral violence. The courts of law in Zambia's Third Republic have annulled a number of parliamentary electoral outcomes petitioned by losing candidates based on among other electoral irregularities, violence. In the recent general elections, the courts in Zambia have annulled electoral outcomes some which were marred by violence, such as Munali Parliamentary seat. The Munali Constituency parliamentary electoral outcome in which the ruling PF candidate Nkandu Luo emerged the winner was successfully petitioned by the losing opposition UPND candidate Doreen Sefuke Mwamba. The High Court Judgement in part cited violence in annulling the electoral outcome saying, "There is evidence that the campaigns in Munali Constituency Parliamentary elections were marred with violence" (Doreen Sefuke Mwamba Vs Nkandu Luo & 2 Others, Nov 2016, p. 52).

#### **6.6.7 Violence around media campaign broadcasting**

The study also found that in Zambia's Third Republic violence is directed at media houses giving coverage to the opposition campaigns. The ruling party cadres and hired thugs during campaign periods attack (storm) media houses hosting live programming to the opposition leaders and candidates. In the same way, they seek to disrupt, intimidate and impair the opposition's ability to hold campaign rallies, attention has also been paid on the opposition's media campaigns especially live radio call-in programmes.

Media houses and journalists covering the opposition and alleged electoral irregularities have also been subjected to threats and actual attacks. This violence is meant to intimidate the media from covering the opposition and exposing suspected irregularities and electoral malpractices being carried out by the ruling party. Hereunder are quotes from the study

showing the ruling party's determination to disrupt and intimidate media programming covering the opposition leaders and candidates.

The ruling party cadres and hired thugs according to the two interviewees cited below seek to disrupt live radio programming featuring opposition leaders and candidates during campaigns:

The Rainbow Party leader Winter Kabimba when he had a radio programme in Chipata he was attacked by cadres there he couldn't manage to hold that radio programme. So there are many other leaders from the opposition including members of parliament. When HH (Hakainde Hichilema) went to Kasama he was attacked there for him to have a radio programme; he was in Kitwe to address his members at his own office he was attacked in Ndola (CSO1, 2016).

We have come from the eastern province and what has happened in the Eastern Province is a disaster, where PF cadres were going to fish out an opposition leader. He had to run away he had to scamper they stopped a live paid-for-program and the police have not done anything up to now (CSO7, 2016).

The quotations reference incidents regarding two opposition leaders Winter Kabimba of the Rainbow Party and Hakainde Hichilema of the United Party for National Development whose live-radio-programming campaigns were stopped after coming under attack by the ruling PF party cadres in the run up to the 2016 general elections. The disruption of opposition radio programming campaigns is aimed preventing the opposition from taking their campaign message through radio in areas they may not be able to reach physically or to those people who may not be able for whatever reasons to come to campaign rallies.

Radio stations and journalists who host and cover opposition parties and their dissenting views to the public during campaigns also come under attack from the ruling party cadres and hired thugs. The two quotes from the two interviewees highlight attacks on the radio stations and journalists giving coverage to opposition campaigns:

the media coverage of certain events has made some of the media houses and journalists to be attacked. A journalist, Peter Soko was attacked in Petauke and other journalists from the Post were attacked. There was a bullet at the newsroom at The Post just because they gave negative coverage to the ruling party; we have even seen the harassment at The Post (CSO1, 2016).

The police have administered injustice on two young journalists Calvin and Peter Soko from Feel Free Radio and from Post Newspapers. They beat them up. These PF cadres did this in the eyes of the police. It reached a point where the cadres were urinating in the mouth of the journalist and the police were there watching (CSO7, 2016).

The attacks on private media organisations and journalists is meant to intimidate them from covering the opposition campaigns. This is intended at making media houses and journalists to think of the consequences of giving coverage to the opposition's divergent views to the electorate to their business and personal security respectively.

Political parties know that the use of media allows them and their candidates to reach and seek the people's vote in many, distant, difficult and different places. The media platform therefore has become a battlefield on which campaigns are fought. Despite the constitutional requirement for the public media to give equal coverage to all political parties during elections, the opposition is not given that kind of coverage, as established by various international elections monitoring teams to Zambia and the Media Institute of Southern Africa-Zambia (Carter Centre, 2002; COG, 2011; EU-EOM, 2016; MISA Zambia, 2016). This therefore, makes the reliance on the private media of vital importance to the opposition.

The fear of losing elections, power and privileges push the ruling parties to deny or make it hard for the opposition to reach the electorate through the media, whether it is a public or private media house. It is in their self-interest to lessen the opposition's chances of winning elections by not allowing them the freedom to campaign through the media (Oppenheimer, 2008; Roskin, 2016). The ruling parties intent on denying the opposition a chance of winning elections seek to deny them coverage by the private media they have no control over, by resorting to intimidation, harassment and sometimes violent means. Party cadres and thugs are let loose on the media houses hosting live call-in campaign programming for the opposition leaders and candidates. The opposition leaders and candidates are threatened, sometimes physically blocked, hounded and or assaulted in the process of trying to access private media campaign programs.

In 2014, April 12, Hakainde Hichilema, the leader of Zambia's largest opposition party UPND was scheduled to feature on a private radio station, Sun FM to discuss the political landscape in Zambia under the then President Micheal Sata. He was forced to stop the radio program for criticising the then President Michal Sata and left the Sun FM radio station through the roof after the ruling PF cadres armed with guns, pangas and other weapons stormed the radio station (HH attacked, 2014, April 14).

The private media, according to the study findings have also not been spared by the ruling parties for giving coverage to the opposition. Private media houses giving the opposition campaign coverage and exposing alleged electoral malpractices and irregularities have been subjected to intimidation, harassment, attacks, assaults on their journalists, threats of closure by the government through the ruling parties (Carter Centre, 2001; MISA Zambia, 2016a; SACCORD, 2016; Allison, 2016). Some have not just been threatened with closure but have actually had their licences revoked by the government on flimsy grounds such as unprofessional conduct that is a threat to peace and security. Some independent media houses, namely: Muvi TV, Komboni Radio and Itezhi Tezhi Radio were closed down by the PF government in the run up to the 2016 general elections for being platforms that gave voice to dissenting and critical views and opinions. The Independent Broadcasting Authority (IBA) suspended their broadcasting licenses on 22nd August 2016 allegedly for "unprofessional conduct posing a risk to national peace and stability" (MISA Zambia, 2016a, p. 5).

The study found that ruling parties in Zambia's Third Republic don't allow for equal and fair media access to the opposition during elections. In cases where the opposition is given access by the private media, the ruling parties use violence through the cadres and thugs to disrupt, threaten, intimidate and sometimes assault the opposition and journalists. The ruling party in some cases does not shy away from using government to close down some 'defiant' media houses. All this is aimed at making it hard for the opposition to have access to the media; dissuading the media from giving coverage to the opposition in order to diminish their chances of winning elections.

### **6.7.1 Summary**

This chapter presented and discussed the effects of the inducement of parliamentary floor-crossing and by-elections on peace in Zambia's Third Republic. The study found that contrary to enhancing or promoting peace, it undermines it by creating discontent among the electorate; starts off intra-party and inter-party conflicts that is compounded by impartiality in the electoral process management resulting in electoral violence.

Among the electorate, the inducement of floor-crossing and by-elections is a source of discontent as they resent the idea that politicians would choose to waste their resources to fund their power struggles while there is no money for the people's needs. This leads some to be cynical and apathetic about politics and participation in the electoral processes.

The fear of losing power or desire for power consolidation drives the ruling and opposition parties engage in a hostile relationship. The opposition resent what they consider to be an injustice, "unfair theft" of the product of their hardwork, sacrifice and investment which is a source of power and pride. The ruling parties aggressively pursue power consolidation irrespective of the impact on democracy, peace or interparty relations. Both sides, the ruling parties and the opposition pursue contradictory zero-sum positions that cause a conflict between them. The conflict also leads to anger and loss of trust by the electorate over the abuse of their trust and waste of resources resulting in apathy and cynicism.

The ruling party's quest for the consolidation of power and the opposition's fear of losing it, the conflict between political parties results in electoral violence that has come to be a common feature of elections in Zambia's Third Republic. The ruling parties using cadres, thugs and sometimes the police sets out to make it difficult for the opposition to campaign through acts of violence, intimidation and threats. Violence is experienced at campaign rallies, media houses, public spaces such as bus stations and markets where people are attacked for being or suspected of being members, supporters or sympathetic to the opposition.

The failure or inability by the Electoral Commission of Zambia and the Zambia Police Service to ensure impartiality in the enforcement of the electoral code of conduct, and law and order does nothing to deter electoral violence. The lack of punitive action against perpetrators of electoral violence from the ruling parties emboldens them to do so with impunity. The opposition respond in some cases with counter violence as a way of standing up, pushing back and revenge; and the petitioning of outcomes of elections characterized by violence through courts of law.

## CHAPTER SEVEN

### TRANSFORMATION OF THE CONFLICT GENERATED BY THE INDUCEMENT OF FLOOR-CROSSING AND BY-ELECTIONS FOR A MORE DEMOCRATIC AND PEACEFUL ZAMBIA

#### Introduction

The inducement of floor-crossing and by-elections in Zambia's Third Republic results in conflict that affects democracy and peace. It results in antagonistic and adversarial relations and hostile political environment that makes violence during elections more likely than not when other factors such as lack of impartial electoral process. Conflict transformation requires as the theory suggests a change of attitude, behaviour, interests, relationships and discourses by addressing underlying causes of conflict (Lederach, 1995; Galtung, 2009; Diamond, 1994; Kriesberg, 1997; Miall, *et al.*, 1999). Transformation of the conflict, requires transforming economic, social, political or cultural asymmetry, injustice, inequity, and inequality (Sheehan, 2014).

This chapter of this study aims to explore and highlight some ideas that could, if adopted, constructively deal with issues around the inducement of floor-crossing and by-elections in Zambia's Third Republic. The transformation of floor-crossing and by-elections related conflicts require a series of interventions as outlined in this chapter. These comprise a) a ban on, appointment of opposition MPs into Cabinet without their party's consent b) a ban on appointment of Cabinet from among MPs, c) a ban on MPs who cross the floor from contesting the by-elections they cause and from public office appointments, d) the introduction of a proportional representation electoral system, e) impartial electoral process management, f) the curtailment of presidential powers, g) formation of coalition government, h) foster ongoing dialogue between leaders of political parties, and, i) ideology (value) based politics.



## **7.1 Ban appointment of opposition MPs into cabinet without their party's consent.**

The Constitution of the Republic of Zambia mandates the President to appoint members of his cabinet from among Members of Parliament without any qualification, including party affiliation. As such, therefore, the inducement of floor-crossing by the ruling party through the appointment of opposition MPs into the cabinet (with or without the blessing of the party members the MP hails from) is constitutional. This type of floor-crossing, the change of party loyalty through cabinet appointment that does not involve the resignation of an MP from the party on whose ticket and platform they were elected to Parliament, is legal no matter how undesirable it may be to the opposition or its impact on democracy and peace.

The Constitution of Zambia in Article 72 (2) Act No 2 of 2016 Constitution of Zambia (Amendment) makes it illegal for MPs to resign from the party which sponsored them for an election or for an independent MP joining a political party. In practice, opposition MPs who are appointed to cabinet become *de facto* members of the ruling party as evidenced by their association, allegiance, loyalty and voting in parliament after they are appointed.

This dissertation has established in chapters five and six that the conflict around the inducement of floor-crossing negatively impacts on democracy and peace. The negative impact of floor-crossing on democracy and peace does not make it illegal. As long as the opposition MPs appointed into Cabinet do not resign from their party or formally join the ruling party they are still legally members of their party. Participants in the study called for the amendment of the constitution to explicitly forbid the inducement of floor-crossing because without it, regardless of how many sections of the population such as civil society organisations, opposition parties, church mother bodies oppose and condemn it (Moomba, 2007) politicians will continue to use the loophole for their benefit.

The only way to ban the appointment of opposition MPs into Cabinet without consent of their parties which triggers floor-crossing requires a people driven constitution making process. To make floor-crossing illegal by a ban on appointment of opposition MPs without consent of their party can only succeed if the Constitution making process is people-driven. According to one interviewee,

to make the crossing of the floor illegal. I will sound like a broken record we need a new constitution, a people driven constitution not a constitution which is decided upon by politicians whose interest will be to protect their interests anyway (CSO8; 2016).

This study suggests that the amendments to completely ban floor-crossing and by-elections can only succeed if the constitution-making process is a people-driven one. The floor-crossing MPs and the ruling parties who benefit from it resist having such amendments as they go against their self-interest, preventing them from securing their goals (Hindmor, 2010).

The history of constitution making process in Zambia, including the most recent 2016 one, lack “legal instruments that safeguard and protect the content of the draft constitution from political interference or manipulation” (Motsamai, 2014, p.2). Because of the Constitution making process that allows the Cabinet and Parliament to have a say over what the people may have wanted, popular provisions that the people wanted like in the 2016 Amended Constitution and in years past such as: Mixed Member Representation electoral system (MMR) and appointment of Cabinet from outside Parliament, were rejected by the PF led Parliament and opposition MPs in Cabinet (Munalula, 2016).

Here are a few quotes from the study that highlight the call for the explicit constitutional amendments that forbids floor-crossing. The first quote from one interviewee recognises the Constitution as the starting point for ending the inducement of floor-crossing and by-elections, saying:

First of all, it being a constitutional right, it can only be addressed by the constitution and the legal framework (MP8; 2016).

The transformation of the conflict around the inducement of floor-crossing and by-elections require constitutional amendments such as a ban on Cabinet appointment of opposition MPs without consent of their party.

We need a constitution. In the absence of the law, nothing can be done because the current constitution gives the president the powers to do so (E2; 2016).

The inducement of floor-crossing is a constitutional matter as it involves the President's constitutional right or power to appoint MPs into Cabinet.

Again in our case, it is the law that needs to be amended. Because once the law has been amended...we have seen that the law is very weak... So, once the law prevents them from doing that, it would have sealed that hole once and for all (E10; 2016).

A constitutional amendment that bans the appointment of opposition MPs into Cabinet without consent of their party would make floor-crossing not necessary as the President would not just appoint an opposition MP without their consent setting terms and conditions agreeable to them. This would go a long way in the transformation of the conflict around floor-crossing as the opposition MP's appointment into Cabinet would have been something agreed to by his/her party without them changing party allegiance and against their party's will. What triggers a conflict between the opposition and the ruling party over the appointment of opposition MPs into Cabinet is that it is done arbitrary without consent of their party and the change of allegiance following the appointment.

The opposition would not perceive such an arrangement where their consent is sought as unjust or an injustice which according to the theory of conflict transformation is one of the causes of conflict (Martinelli and Almeida 1998; Shaheen, 2014). And they (the opposition and the ruling party) would not be in pursuit of mutually opposed and contradictory zero-sum goals that according to the theory of conflict transformation is a source of conflict (Galtung, 2009; Austin, Giessmann, & Jäger, 2012). Therefore, an amendment that requires any Cabinet appointment of opposition MPs into Cabinet with consent of their party would not be perceived as unjust and based on contradictory goals as both parties (the opposition and the ruling party) would have to agree on it.

## **7.2 Appointment of ministers outside parliament**

Another possible constitutional change suggested by this study that would help transform the conflict brought about by the inducement of floor-crossing and by-elections would be the appointment of Cabinet from outside Parliament. Currently as the law provides for in the Constitution, the President appoints Cabinet from among MPs. The appointment of Cabinet from outside parliament would take away the incentive that the Presidents use to entice

opposition MPs into floor-crossing and at the same time make MPs (regardless of the party that they come from) have only one job of being the people's representatives.

The appointment of ministers from outside parliament would entail that opposition or independent MPs would not cross the floor or cause by-elections knowing that they would not qualify for an appointment to the cabinet. This would remove the incentive (the possible appointment into the cabinet) that attracts them to cross the floor and concentrate on the work they were elected to do such as providing checks and balances to the executive in Parliament. This would be good for democracy and peace and would do away with unnecessary, costly and contentious by-elections that have been a source of conflict. Induced by-elections are unnecessary as they are pursued for the benefit of politicians and not the electorate.

The desire for Cabinet appointment that offers more power, status and pay attracts opposition MPs to cross the floor to the ruling party. Members of Parliament do not just see themselves as ordinary MPs, explains this interviewee,

I think a lot of people when they are elected as members of parliament don't really see themselves as ordinary members of parliament, they go into with the intention of being a minister. And so they believe they can serve better as ministers because then they have the power. So it's this ability of wanting to have more power, and to make decisions. Because when you are in government, you can make decisions, you know, unlike apart from the legislative decisions collectively in parliament. So you want to have that power (MP6, 2016).

A Cabinet appointment is a position of power, status and influence. They have executive functions as heads of government ministries. Opposition Members of Parliament who aspire to be Cabinet Ministers can only do so if they accept to cross the floor to the ruling party.

One of the solutions that would put a stop to the inducement of floor-crossing and by-elections is a constitutional amendment that would ban the appointment of Cabinet from among Members of Parliament. One interviewee said the following in this regard,

we are calling for a new constitution which will have people appointed as ministers from outside parliament... it's basically the issue of appointing ministers from parliament. If we get rid of that issue very few people will be enticed into floor

crossing. If there were no political benefits, people would focus on being legislators as opposed to everyone focusing their energies on being appointed deputy ministers or full cabinet ministers (CSO5; 2016).

The constitutional ban on the appointment of Cabinet from among Members of Parliament would take away the attraction that is one of the central motivating factor for opposition MPs who cross the floor to the ruling party. Without the preoccupation on the prospects for the executive positions in Cabinet, MPs would concentrate on doing the people's business in Parliament such as holding government accountable on their behalf.

The appointment of Cabinet from outside Parliament would take away the incentive opposition MPs have for crossing the floor and would also reduce the number of by-elections. According to one interviewee, the only by-elections that would continue are those caused by death of MPs, and not the "greed-based" ones, saying:

...once you have that especially ministers from outside parliament you won't have people crossing, automatically. This then enhances democracy, which basically then curtails by-elections. Only by resignation or death that we cannot do away with but then that is justifiable. But these other by-elections that are caused because of crossing are unjustifiable because they are greed-based and they impact negatively on democracy they impact negatively on development because they chew into our treasury resources (MP2; 2016).

The appointment of Cabinet from outside Parliament would reduce the number of by-elections necessary except for those necessitated by death of an MP or if one resigns. The reduced number of by-elections would also reduce tension and animosity between the ruling parties and the opposition. This would also help to restore some trust by the electorate in the electoral process as tax payers' money would not be wasted on "greed-based" induced by-elections over the real needs of the people.

The Heads of State in Zambia's Third Republic have been using their constitutional powers to appoint members of the Cabinet from among MPs irrespective of their party affiliation. In appointing opposition MPs into the Cabinet, they enter into a patron-client relationship with them, buy-off their loyalty and support in exchange for power and privileges that come with the executive position (Blau, 1964; Eisenstadt and Roniger, 1984; Piattoni, 2004).

This amendment to the constitution, a ban on the appointment of the Cabinet from Parliament, would make such a relationship (patron-client) by which Presidents buy off loyalty and support of MPs from the opposition through Cabinet appointments not possible. It is this patron-client relationship between the President and the opposition MPs that they (opposition MPs appointed to the Cabinet) change their loyalty and allegiance from the party on whose platform and support they were elected to the President (and the ruling party) that starts off a conflict between the ruling party and the opposition. It would take away from the patron (Presidents) the means and from the client (opposition MPs) the incentive that motivates them to cross the floor.

This amendment by itself could make a President to appoint whomever s/he likes. To guard against this loophole that would allow the President to appoint sycophantic supporters to Cabinet, a subsection of this amendment must subject all Cabinet appointments to Parliamentary approval. Members of Parliament in the opposition and in the ruling party who are not looking for favours of Cabinet positions appointment would be in a stronger position to stop him/her from just filling the posts with unelected sycophantic supporters.

The by-product of the transformation of the conflict through the appointment of ministers from outside parliament would be the strengthening of democracy. This would create conditions in which MPs from the opposition, the ruling party and independents would concentrate on their work as legislators as well as being the arm of government that checks on the executive branch and not being there to please the executive branch with the hope of being rewarded with appointment into the Cabinet by the President.

This would make Zambia a much more democratic country because it would strengthen a system of separation of power between the legislature and executive which is lost due to among others, appointment of MPs into the executive branch. The control of the legislature by the same hands that control the executive branch makes it difficult to guard against arbitrary rule, abuse of power and state resources (Madison, 1788; Kiiza, 2005; Ikome and Kode, 2010). The appointment of Cabinet from outside Parliament would make MPs both from the ruling party and the opposition, freed from the expectation or desire of appointment

into cabinet, be more independent. This has the potential of making Parliament a truly separate, independent and co-equal arm of government that can provide meaningful oversight over government.

### **7.3 Bar floor-crossing MPs from contesting by-elections and public office appointment.**

The other constitutional change that according to participants could be considered in the absence of the appointment of ministers outside parliament is, a provision that bars MPs from contesting by-elections they cause through floor-crossing. This would be a clause that stipulates that Members of Parliament once voted must serve a full 5 year term; and that any elected MP who decides to cross the floor to another party from the party they were a candidate of during elections before the expiry of their five-year term must not be allowed to contest the by-election they cause. Further, they should also be barred from eligibility in terms of appointment by the President into any government position during the same term. This constitutional change would compel MPs to serve the full five-year term under the party they were elected and only consider to change parties after the end of the term, during a regular election.

This amendment would compel MPs to remain faithful to the people and party that voted for them and yet still be free to move away from their party to join a party of their choice once they have served their full five-year term and seek a fresh mandate on ticket of their new party. This saves the people, the affected parties and the country the unnecessary expenses of the treasury, and prevent the conflict it creates that endangers the wellbeing of the people. Here are a few quotes from study on a proposed constitutional amendment to compel MPs serving their full 5 year terms and barring those who floor-cross from re-contesting their seats. According to these interviewees, an elected MP elected on a particular party ticket must not be allowed to join another party for the 5 year duration term but that if they decide to do so, they should not be allowed to recontest the by-election they cause. The two interviewees suggest such an amendment as follows,

if we vote for an MP in that particular constituency for that particular party, let that person serve for full 5 years in that particular party. If a person wants to move to

another one, let that person just step down and should not be even allowed to stand in the by-election (E12, 2016).

So in the first place, I would love to see a constitution which does not allow a Member of Parliament who has crossed over to another party to recontest that seat. So if we can have a law that says that once as a Member of Parliament you cross over to another political party when that seat is going to be contested, you don't qualify – I see a situation where Members of Parliament will stop crossing over (E6, 2016).

An MP elected on a particular party platform must serve a full five-year term under her/his party. To join another party under this amendment would require them to resign from their party that sponsored them for election to the National Assembly. It would also mean that their seat would be declared vacant, meaning they would cease to be MP and should not be eligible to stand as candidate for the by-election they cause.

The study further suggests that on top of barring opposition MPs from contesting the by-elections they cause, these individuals should not be appointed for any public position during the five year period. One interviewee said the following, in line with this proposal,

new constitution will come with caveats let's say for instance you have been elected on the UPND ticket and you decide in your own wisdom that you should resign we will not stop you from resigning we will allow you to resign but the constitution will say that after you have resigned you cannot hold public office during that term of office. So you will not contest as a Member of Parliament, you cannot be appointed by the president in any public office during that five year period, you cannot even be appointed in the diplomatic service because you have resigned by yourself that is to us a way of saying we have cut down on the crossing of the floor, that is number one (CSO7, 2016).

The constitutional amendment to bar opposition MPs from re-contesting the by-election they cause through crossing of the floor, should be complemented by a clause that make them ineligible for any public office appointment. This is to ensure that opposition MPs know that not only would they ineligible to contest the by-election, they would also be ineligible for appointed into any public office such as in the diplomatic missions as ambassador by the ruling party.

This constitutional amendment, barring of opposition MPs who cross the floor from being eligible to re-contest their seat and ineligible for any public office appointment would create



conditions that strengthen democracy and lead to peace. This is so because it would compel MPs to honour and respect the electorate who voted for them in part due to the party they belong and their respective parties on whose support, sacrifice and infrastructure they ascended to the office of MP. As the study has shown in the preceding chapters, parties that lose MPs through floor-crossing consider it to be theft or poaching of their MPs making them angry and resentful as they consider it unjust. The electorate becomes cynical and apathetic as they question and reconsider the importance of their participation in elections in which they elect people who turn out not to be loyal to them.

The barring of elected MPs from contesting the by-election they cause and from appointment to any public office would have the effect of helping them serve the full five year term under the party they were elected on or serve as independent if they were elected as independent. This would make the patron-client relationship that makes them shift their loyalty and support from their party to the President and the ruling party end.

#### **7.4 Introduction of a proportional representation electoral system**

One of the ideas proposed by participants within the realm of constitutional amendments for the transformation of the conflict around induced floor-crossing and by-elections is the introduction of a proportional representation (PR) electoral system. Currently, parliamentary elections in Zambia are based on the first-past-the-post (FPTP) electoral system (Article 47(2) of Act. No. 2 of 2016 Constitution of Zambia (Amendment). According to the findings of this study, a system of proportional representation would ensure that in the event that an MP decides to cross the floor or resign altogether to join another party, there would be no by-elections necessary as the next person on the party list, from the same party would then automatically take their place as MPs, allowing the person who wishes to cross the floor to join a party of their choice.

Proportional representation, the study suggests would help in the transformation of the conflict between the party that sponsored the MP and the one to which he or she floor-crosses to. Besides floor-crossing and resignation, this system would also prevent a by-election even in the case of the death of a sitting MP. Thus, it would reduce costs of by-elections overall.

Here are some two quotes from the study that suggest the PR electoral system over the FPTP as a system that would help in the transformation of the conflict. According to two interviewees:

some form of proportional representation. The original proportional representation in its own right so that in every case there can be no by-election. So that that the top person if he cannot continue as Member of Parliament if he resigns the next will be put into position (CSO3, 2016).

I think Zambian people have been very clear and they have just been ignored. They have been asking for proportional representation. We should ensure that we don't have by-elections and if this system works in such a way that if the candidates change parties it means the ticket on which the person won will be replaced by the next one. So we will avoid by-elections by introduced proportional representation. But also I think that if we had a proportional representation system members of parliament will not be sitting in parliament hoping to be given ministerial jobs and therefore they would hold government accountable to the laws that they make as it were (CSO6, 2016).

Proportional representation (PR) electoral system being proposed by the study would free opposition MPs who suddenly come to believe in the policies or agenda of the ruling party and want to work with or joint it (ruling party) without causing contentious, costly and unnecessary by-elections.

Proportional representation without the ban on floor-crossing as proposed by this study would only partially work as it would only affect MPs who resign from their party or join other parties. This is so because under the current constitution, it is not illegal for an opposition or independent MP to be appointed into cabinet except in the case where an MP resigns from their party or joins another party (*Kuchunga Edwin Simusamba v Attorney General, Greyford Monde, Richwell Siamunene, and Poniso Njeulu – 2012/HP/1561 (unreported): 2012*).

Although a political party could expel an MP who crosses the floor to another party without resigning from their party or joining another, hoping to have their seat declared vacant under Article 72 (2) (e) which says that an MP expelled from the party that sponsored the member for election, their office of Member of Parliament shall become vacant, but this wouldn't render the seat vacant. Article 72 (5), (6), (7) allows the expelled MP to retain the seat unless

the court determines the expulsion justifiable or if the expelled MP does not challenge the expulsion within the prescribed time in court.

In a case where an MP is expelled for being appointed into the cabinet and the subsequent change of allegiance since the appointment, the expulsion most likely than not will be deemed unjustifiable (as appointment of an opposition MP into Cabinet is not unconstitutional). Therefore, the PR system by itself will not help transform the conflict arising from the inducement of floor-crossing but would only be effective with induced by-elections unless combined with a constitutional ban on floor-crossing.

Zambia inherited its first-past-the-post election system from its former colonial power. To deepen democracy it is now necessary that Zambia evolves this electoral system into one which suits its particular context and the proportional representation electoral system might be one such system Zambia needs.

### **7.5 Impartial electoral process management**

The study findings indicate that the transformation of the conflict emanating from the inducement of floor-crossing and by-elections requires independent, professional and impartial electoral process management by institutions such as the ECZ and the police. On many occasions during elections, there is a lack of professional, independent and impartial management of the electoral process by state institutions that are charged with this responsibility. It is almost impossible to hold and maintain peaceful and truly democratic elections without fair and impartial management of the electoral process and law enforcement by state institutions with the responsibility of overseeing the conduct of free and fair elections. Unfortunately, according to the study findings, these institutions lack impartiality, independence and professionalism.

The study focused on the role played by the Electoral Commission of Zambia (ECZ) and the Zambia Police Service (ZP) as the two play a central role in the electoral management and maintenance of law and order during elections. The ECZ as mandated by the Constitution of the Republic of Zambia in Section 4. (1) Act No 25 of 2016, has the responsibility of

directing, supervising and controlling elections in a fair and impartial manner. Impartiality in the electoral administration is just as important, as elections are central in liberal democratic politics (Jinadu (1997). The police according to Article 6 of the Electoral Process Act No. 35 of 2016 has among others, the responsibility of maintaining law, order and peace; to not disrupt legally convened campaigns, rallies or meetings by all political parties; and to ensure that the office of the police is not used for the oppression of any party, candidate or supporter. Contrary to the law governing the electoral process mandating the electoral commission and police to manage, and maintain law, order and peace in an impartial manner, the study findings indicate that both have failed to be that. As a result of this failure, violence has become a common feature in elections in Zambia's Third Republic.

The electoral commission and police's failure, inability or refusal to work in a professional, independent and impartial manner as required by the law is not necessarily a function of lack of training, competence or dislike for the opposition but is rather a function of political interference by the ruling party. The heads of these institutions serve at the pleasure of the President of the Republic of Zambia who is also the leader of the ruling party as his appointees, and they also rely on government funding to run their organizations (Carter Centre, 2002; SACCORD, 2016). It is therefore in their interest to not antagonise the ruling party to secure their positions, jobs and funding (Hindmor, 2010).

There is a patron-client kind of relationship that exists between the Republican President (who is also leader of the ruling party) and the heads of these organisations (ECZ and ZP) by which these organisations largely do nothing to stop or punish members of the ruling party in exchange for job/s security and funding from the government they rely on. Political interference instils fear in the leaders and rank-and-file of the electoral commission and police from ensuring a level, free, fair and equal playing field for all participants in the electoral process irrespective of party affiliation. This lack of a level playing ground has often led to a hostile, unsafe and restricted environment for the opposition while the opposite has been true for the ruling parties.

This failure by the law enforcement institutions to enforce the law firmly and fairly emboldens electoral law-breaking party officials and cadres from the ruling party who do not expect any disincentive in the form of serious consequences for their actions (Dutton and Alleblas, 2017). On the other hand, those who are dealt with harshly and whom are not given protection when they are attacked become angry for not being treated the same and look for other ways and avenues of venting their anger and protecting themselves which leads to electoral violence.

The police ought to deal firmly with violations of the electoral process (Electoral Process Act, No 35 of 2016) regardless of which party the perpetrators of electoral violence or intimidation belong. Failure to do so allows the violators of the act to do so with impunity while making those on the receiving end of the police's heavy-handedness angry. Such people may find ways to repay violence with further violent attacks, thereby creating a cycle of violence and intolerance. This study proposes that in order to transform the conflict around the inducement of floor-crossing that creates a hostile and adversarial environment under which elections are held, firm and impartial, independent and professional law enforcement is a must.

The following quotes from the study call for professionalism, independence and impartiality by the police if the conflict that leads to electoral violence is to be transformed. The need for professionalism and impartiality by the police is underscored by this interviewee saying,

we need a police service which will be professional, which will be objective, which will not be acting according to instructions from the powers that be, but a police service that will protect the interests of Zambians whether they belong to one political party or the other so long it is in the interest of the Zambians (CSO8, 2016).

The police must ensure that they act according to the law on how they interact with people during elections. It should not matter to them whether one belongs to the ruling party, opposition or is an Independent. The police is supposed to protect all law abiding citizens during the electoral process.

The police is, according to the study findings biased in the application and enforcement of law and order during elections in favour of the ruling party and against the opposition. This interviewee highlights this bias saying,

if you engage in political violence and you are in the ruling party they do not arrest you. The signal and the message is very clear if you are in the ruling party you can at least be seen to perpetrate political violence and you will not be touched but if you are on the opposition the moment if there is any mention of any type of political violence you are clamped down upon in an instance; it compromises peace and security (SCO5; 2016).

This biased or selective enforcement and application of law and order by the police gives allows those in the ruling party who are perpetuating acts of violence to do so with impunity. This creates an environment in which violence thrives during elections as there is no meaningful deterrence on perpetrators, usually from the ruling party who engage in acts of violence.

The study asserts that one of the reasons that make the police to be biased or selective in the application and enforcement of law and order is due to lack of independence from political leaders of the government of the day. According to these two interviewees, the police is supposed to be allowed to work independently, saying,

They should leave the police to work independently, and then the inspector general of the police should not have any link to the ruling party. He must work as a civil servant. The Inspector General of Police should not be appointed the President. He should be an independent person just like the officer-in-charge, officer-commanding, a civil servant in short, not a person who is linked to politics. As long as that continues where the president appoints the Inspector General of Police, it's a problem because he will be compromised. He has to work to the tune of the boss (E9, 2016).

Regardless of which party one belongs, all are supposed to be treated the same before the law. Those who engage in electoral irregularities such as electoral violence and intimidation irrespective of party affiliation are supposed to be brought to book. The study found that the state institutions such as the electoral commission and the police cannot be independent, impartial and professional unless they are provided with an environment that protects them

from political interference; empowers and encourages them to do so and dissuades them from not doing so.

The appointment of those in top echelon of the police by the President of the Republic of Zambia who is leader of the ruling party creates a problem for the police to work independently. Those in the top echelon and the rank and file in the police find it easy to go against law breaking members of the opposition than those in the ruling party. The police act contrary to the Code of Conduct 3 (1) (h) in the Electoral Process Act No 35 of 2016 that mandates the Electoral Commission of Zambia to “ensure that police officers act professionally and impartially during the electoral process”.

There is an implicit expectation of a “patron-client” relationship between the President (patron) and the police top brass (clients) (Blau 1964; Eisenstadt and Roniger 1984; Piattoni, 2004). That in order for the clients (police top brass and indeed the rank and file) to maintain their positions and privileges they should not act against members of the ruling party the patron (President) is head of. Acting against members of the ruling party as was the case in the Sesheke by-elections can result in police officers being retired or fired in the supposedly “national interest” by the President (Chisenga, 2019). Under such an environment laden with political interference without adequate job protections for professionalism and impartiality, the police act in ways that they perceive to be in their best self-interest in line with the theory of rational choice (Riker, 1995; Oppenheimer, 2008; Hindmor, 2010; Roskin, 2016).

## **7.6 Curtail presidential powers**

The study found that the office of the President of the Republic of Zambia has too much power and that the transformation of the related conflict around floor-crossing and by-elections requires curtailing some. The concentration of too much power in the hands of the presidency who is also president of the governing party stifles the ability of state institutions from executing their responsibilities in an impartial, professional and independent manner in matters involving members and supporters of the ruling party. The following quotes speak to the overconcentration of power in the office of the president and how that impacts on liberal

democracy and the state institutions whose impartiality and independence in the management of elections are compromised.

The overconcentration of power in the presidency (head of the executive branch) makes it difficult for the supposedly state institutions that should make democracy thrive function. There is need to reduce the powers of the President, if democracy is to thrive according to this interviewee, saying,

I think in most places in Africa, I think presidents are given too much power, and these powers have to be plucked so that we enhance democracy because democracy does not thrive with too much power given to one institution or one person, the institution or presidency. That is what causes conflicts in most countries, the institution of the presidency there is no way to check or balance this power. ...excessive powers are inimical to democracy (MP2; 2016).

The concentration of power in the presidency (executive branch) does not enhance democracy as it leads to arbitrary rule. The concentration of power in the presidency leads to abuse of power which then becomes a source of conflict as other stakeholders and citizens in a democracy become agitated.

The constitution of the Republic of Zambia gives too much power to the President (head of the executive branch) that allows him/her to have influence over the legislature and the judiciary. As one interviewee observed, that interferes with clear separation of powers, saying,

we don't have very clear separation powers in terms of three arms of governance the executive and the legislator and the judicial we have bemoaned the fact that the president in Zambia is so powerful and the constitution gives the president a lot of power, that he can influence the constitution decisions in parliament he can even influence processions in the judiciary (CSO8; 2016).

The control of the legislature and the judiciary by the President who is also head of the executive branch makes it possible for arbitrary rule, abuse of power and state resources more likely than not (Madison, 1788; Kiiza, 2005; Ikome and Kode, 2010).

The state institutions that are supposed to be independent and impartial in a liberal democracy as required by the law become beholden to the President and the governing party of the day.



Some of the reasons why the institutions such as the electoral commission and the police are beholden to the President and the ruling party are that the President is the appointing authority at whose pleasure they serve. Their continued stay in the positions they hold lies in part with their loyalty to the appointing authority (the President and the governing party). The rank and file in the electoral commission and the police know that jobs are hard to come by without loyalty to the President and the governing party of the day. Their continued stay in the positions they occupy and their future promotions depend on their loyalty and support.

The study findings show that part of what makes the independent state institutions that are vital in a democracy fail to function is the concentration of power in the presidency (executive). Independent institutions such as the police cannot work independently if their leaders are not only appointed by the President but continue to be connected to the ruling party. One interviewee put it this way saying,

If the police are to work independently, then the inspector general of the police should not have any link to the ruling party. He must work as a civil servant. The Inspector General of Police should not be appointed by the president. He should be an independent person just like the officer-in-charge, officer-commanding, a civil servant in short; not a person who is linked to politics. As long as that continues where the president appoints the Inspector General of Police, it's a problem because he will be compromised. He has to work to the tune of the boss (E9; 2016).

In order to ensure that the electoral commission and the police operate in a professional, independent and impartial manner in matters pertaining to electoral irregularities and violence, the positions of the head of the electoral commission and police should not be appointees of Presidents and serve at their pleasure. There should be a very strong separation between the ruling party and the state institutions without which the lack of independence and impartiality by the state institutions will continue. One way can be through an open process that allows for people to apply for a vacant position and have a panel of experts who can shortlist applicants who have the right qualifications from which they can come up with a few names to be presented to President to choose one and further seek approval from Parliament. Secondly, there needs to be legal provisions that set out term limits (such as 5 years that can be renewable for another 5); and that the President can only get to terminate one's appointment if there is a clear violation of the terms and conditions and subject to

judicial scrutiny and approval. Thirdly, one of the conditions upon which one could be dismissed should be a demonstrable failure or refusal to professionally and impartially discharge one's responsibilities.

In this way, the heads of these institutions would not be beholden to the President's whims but to the legal terms and conditions for the duration of their term/s. Without these changes it would, as it currently is, difficult for the electoral commission and the police to go against the ruling party members whose leader is their boss if and when they are engaged in electoral malpractices such as electoral violence.

The concentration of power in the President allows him to have influence over all the three branches of government. That power allows him to engage in politics of patronage and clientelistic-based rule by distributing power, positions and privileges in exchange for loyalty and support allowing the President to rule unchallenged (Tripp, 2004). This leads to bad governance and gives impunity to the President and the ruling party as there is no structure within the state that can credibly provide checks and balances.

In line with the theory of rational choice (Riker, 1995; Oppenheimer, 2008; Hindmor, 2010; Roskin, 2016), heads of these independent institutions currently fail or refuse to discharge their responsibilities in an impartial manner when ruling party members are involved for fear of losing their positions or jobs which would not be in their best self-interest. If the law and process of dismissal was amended as the study suggests, it would be in their self-interest to choose to be impartial for fear of losing their jobs or positions.

### **7.7 Coalition government**

The findings of this dissertation indicate that the formation of the coalition government by the ruling party and opposition if considered would help in the transformation of conflicts arising from the inducement of floor-crossing and by-elections. This comes from the understanding that one of the perceived drivers for the inducement of floor-crossing and by-elections is the desire by the ruling parties to have a comfortable majority in parliament for governance. This is more so in cases where the ruling party, despite winning the presidency,

does not have sufficient seats in parliament and therefore resorts to the inducement of floor-crossing and by-elections to increase their numbers in order to have a working majority in parliament.

The governing parties also engage in inducement of floor-crossing and by-elections because of the need for highly talented, skilled and qualified MPs in the opposition who can contribute to national development through cabinet appointment. Instead of inducing floor-crossing and by-elections to get sufficient numbers or get skilled and highly qualified MPs from the opposition into government, they should engage in consultations or better still enter into a coalition government arrangement with the opposition to get the majority, talent and skills they need.

The ruling party should not directly and arbitrarily, without regard for the opposition leadership engage and enlist opposition MPs for cabinet appointments as this, as this study has shown, leads to confrontation. Engagement, reaching out to the opposition parties and formation of a coalition government is actually one of the possible ways the governing party can have the working majority or support they need in the National Assembly from the opposition in a peaceful manner.

The ruling party should engage the opposition by talking with them with the view of working with them if they need their support in Parliament or form a coalition. According to these two interviewees,

They can talk to the other opposition party to work together...some kind of coalition. So there are avenues when you have a hung parliament to resolve that. It's dialogue! And you agree on a win-win situation. You harmonise what you stand for and work together and then you have the numbers for either voting or otherwise (MP1; 2016). So it is important that the ruling party has support and the only way to ensure that you get the support is by reaching out. So that you can come up with some form of coalitions. Some forms of guiding principles in terms of what you want to achieve if a political party is able combine efforts with another political party it becomes effective (CSO7; 2016).

A hung Parliament should be an opportunity for the ruling party to enter into constructive and peaceful working relations with the opposition. A coalition government with the

opposition could be one way the ruling party can get the support needed in Parliament to govern successfully or even bring in highly qualified opposition MPs into Cabinet.

This should be a negotiated process by which the ruling party and the opposition reach an understanding instead of using unorthodox methods such as inducement of floor-crossing or by-elections. The negotiation must be with the party leadership of the concerned opposition MP/s. Of the negotiations needed between the ruling party and the opposition, one interviewee said the following,

It should be a negotiated process. If the government doesn't have majority seats it should negotiate rather than use an unorthodox method to get members of parliament to the government side, and I think that is what democracy means...such a process must be done through the party structures, through the party president; the general leadership of political parties so that when the person goes they have the blessings of their party (CSO6; 2016).

The process of having opposition MPs in the Cabinet should be one that is done in a transparent and official way with the opposition party leadership. The failure to do so is what has been driving the conflict as it turns it into floor-crossing. If the President needs to include opposition in the Cabinet in a way that does not result in conflict and floor-crossing s/he has to enter an agreement with the party to which the concerned MP/s belong.

The same process of entering into agreement must be followed with the leadership of the opposition even for the purpose of tapping highly talented and qualified MPs from the opposition into Cabinet. One interviewee had the following to say on that.

If the party in power has seen that in the opposition there is a Member of Parliament with special skills who can help in the development of the country, the party in power should not go directly to the Member of Parliament. They should go to the leadership of the party and request and say we want to use him for the common good. And the common good is the development of this country. We are asking that he be part of us so that we can develop this country together. And if that is done on the round table, then there will be no conflict of whatsoever (MP4; 2016).

The idea of bringing in best qualified MPs even from the opposition into Cabinet for the common good of the country is a good one. Nonetheless it should not be done in a way that

it harms the opposition and start conflicts. It should be a negotiated and agreed arrangement between the President (ruling party) and leaders of the opposition for conditions and terms and how the concerned parties can work together.

It is not surprising that one of the terms constantly used in referring to the inducement of floor-crossing and by-elections is poaching. The appointment of opposition MPs without consent of the opposition parties starts off a bitter conflict between political parties even if, as argued by some, it may be done out of recognition of special skills some opposition MPs have or as a way of having in the Cabinet MPs from the regions the governing party has no representation. If the ruling party is genuine about sourcing for special skills or having a Cabinet reflective of the national character, then it should be willing to enter into a coalition government with other opposition parties to avoid conflictual and divisive politics.

The formation of a coalition government would be a statement of intent for national cohesion. It would respect the voters who chose candidates in part due to their party platform. It would also be respectful of the opposition and an indication that the governing party is not out there to destroy the opposition but work with them for the common good. Coalition government formation is a path towards peace because the opposition would feel respected, part of the process, trust that this is for the common good of our country and its people.

The formation of a coalition government recommendation involving the ruling party and the opposition relates to what is at the core of the theory of conflict transformation. At its core, the theory of conflict transformation seeks to change discourses, relationships, attitudes, behaviours and interests by addressing underlying causes that make conflicts possible (Austin, Giessmann and Jäger, 2012; Lederach, 2015). Parties that form a coalition government make possible the change of relationship, interests, attitudes and behaviour by having a basic understanding and agreement of common cause and the resolve to work together in the same government.

## **7.8 The dialogue between the leadership of political parties**

The study findings show that dialogue between political parties is a much-needed tool for the transformation of the related conflict around the inducement of floor-crossing and by-elections. The dialogue that has to take place should not be a debate about contradictions or about what/who is wrong or right but should be oriented towards a future the parties want for themselves and their people (Galtung, 2004). It could therefore take place, according to this study, before or after the co-option of an opposition MP/s into cabinet takes place.

The dialogue that should take place before the co-option of an opposition MP into the cabinet is supposed to be about the ruling party engaging the opposition party leaders to express their interest and need for a particular MP/s to serve in the cabinet. Thus this becomes a party-to-party dialogue, not a dialogue between the ruling party and an individual opposition MP. It should seek prior permission from the opposition party through its leadership, and both parties agreeing to the terms and conditions under which such an arrangement will be implemented. In this dialogue, the ruling party should, out of respect, make a request and explain the reasons for which they require the opposition party's MP/s and listen to the views and concerns of the opposition and arrive at a compromise or understanding. If both parties are agreeable, the memorandum of understanding between them should clearly lay out a guide on the expectations and obligations of the MPs to the executive branch and to their party during the duration of the agreement. This dialogue before any appointment of opposition MP/s if undertaken successfully would significantly reduce the likelihood of the conflict around floor-crossing from becoming destructive.

If it is done after dialogue and with the agreement of the party in opposition then it becomes something that is agreed upon for the national interest, charting a way to further national development and in the interest of the people of Zambia. The study proposes transparent ongoing dialogue between the ruling party and the opposition party leadership of the MP being asked to serve in government, before any appointment can be made.

The arbitrary appointment of opposition MPs by the President without any dialogue or memorandum of understanding with the leadership of the party the opposition MPs belong to is

what starts conflicts. In fact there is nothing wrong for political parties to work together for the common good, as noted by one interviewee,

There is nothing wrong for the ruling and the opposition parties to work together. What is wrong is to abuse somebody's power... since they are serving the common man in the constituency, they should find means of sitting together and dialogue (E2; 2016).

Having dialogue between leaders of political parties is what can help them find common cause and understanding. It can also help them seek the help of each other to find solution to the many challenges facing the people they serve. That process begins with dialogue.

For dialogue to be impactful and successful, it cannot just be dialogue between the President and the opposition MPs being considered for appointment. It must be conducted through legitimate party leadership structures of the opposition. This view is articulated by one interviewee as follows,

all political parties must promote dialogue, and if a member wants to work with the government such a process must be done through the party structures through the party president, the leadership of political parties so that when the person goes they have the blessings of their party... So, clearly, therefore, the political parties need to engage in dialogue number one. I think it is seen more positively because it is a negotiated process I want to see it from that light that it should be a negotiated process if government doesn't have majority seats it should negotiate rather than use unorthodox method to get members of parliament to the government side and I think that is what democracy means we must talk we must be transparent in the way we do it and that mechanism must be established through dialogue (CSO6; 2016).

The study also proposes that dialogue has to take place even if there is already an existing conflict in which the ruling party had already appointed an opposition MP into Cabinet without consent from their party. The opposition consider the appointment of their MPs without their consent as unjust "theft" of their hard-won seat/s. This has been a source of discontent, anger, resentment, antagonism and hatred that inevitably lead to political and electoral violence.

The study asserts that while there are many other issues that may be the immediate causes of political and electoral violence, the animosity, anger and resentment that builds between

political parties over the inducement of floor-crossing creates a hostile political and electoral environment for opposing parties to interact and compete peacefully. The dialogue between parties is an essential component towards finding peace and justice at an interpersonal and structural level (Lederach, 2015). It is a much-needed tool to help political parties chart a path towards transforming the conflict for a better peaceful non-violent future they deserve for themselves and the people they serve.

According to the study findings, for conflict transformation through dialogue between hostile parties to be successful, they require mediation. The study suggests one possible mediator that could be considered for that task is the Church. The church in Zambia is perceived to be a neutral, non-partisan institution which is important for mediation in conflict transformation dialogue as it speaks to credibility and respect (Stigant and Murray, 2015). No meaningful dialogue through mediation would be expected without trust and respect or if the mediator is biased with a conflict of interest.

This kind of dialogue, participants argue, is only possible with the intermediate help of truly independent bodies such as the church. The leaders from parties involved in the conflict need to have a dialogue not only on how to resolve and prevent the conflict from escalating but to understand where it comes from and how each party views it and the damage it does to democracy and peace in the country. So, dialogue can be an opportunity for parties to let out the anger and hurt; directly listen to how it (inducement of floor-crossing and by-elections) impacts the other and how it is perceived by the other. Here is a quote from one interviewee, articulating the need for an impartial, respected and neutral mediator,

We need to have bodies that are independent, which can bring aggrieved parties together. There is a concept of inter-party dialogue. But, for example, when you talk about inter-party dialogue, you bring parties together... For example, there is under ECZ there is what they call a conflict management committee within... but those have been failures. They don't even bring parties together during the polls to small issues, what about at higher levels. So we need to identify structures that can embrace dialogue among political parties; maybe the church. The independent bodies, the Non-Governmental Organisations those which are independent, not those which are party affiliated because we have seen party NGOs which speak the same language. Those independent bodies especially the church (E2; 2016).



Polarisation, resentment, and animosity between the involved parties means that meaningful dialogue between or among them would be hard if not impossible to begin. Credible bodies such as the church that are respected by the parties to the conflict play a critical role in conflict transformation dialogue.

Dialogue relates to the theory of conflict transformation. It is a fundamental resource needed for transformation of the conflict around inducement of floor-crossing, which involves face-to-face communication between the affected parties to address it in ways that reduce violence and injustice resulting in constructive change (Lederach and Maiese, 2015). Dialogue among political parties must be on-going and not just embarked on when there is a conflict.

### **7.9 Ideology (value based) politics**

The study findings identified the lack of ideological grounding by political parties and politicians as one of the weakness in the Zambian political arena that makes the inducement of floor-crossing and by-elections possible. This lack of value or ideology based politics but instead opportunism makes it easy for politicians to move from one party to another without any second thoughts. The ease with which the ruling party and the MPs from the opposition engage in the inducement of floor-crossing and by-elections is a testament to the lack of value or ideology based politics.

Politicians should not only be motivated by self-interest and opportunism but should belong to a party because they believe in their party's ideology as offering a better path for the development and wellbeing of their people they represent (Roskin, 2017). Part of the solution to that, according to participants, required for transformation of the conflict around floor-crossing and by-elections is the need to help build politics around ideologies, values and principles. The study proposes the need to build and support ideology based politics as opposed to self-interest politics that is one of the breeding grounds for inducement of floor-crossing and by-elections.

The study asserts that one of the reasons for rampant floor-crossing inducement and by-elections is the lack ideology-based politics. According to one interviewee,

They don't have a firm ideological point and so defection becomes fashionable and when it takes place nobody cares because their main focus is self-interest. So, one of the lessons why you have floor crossing is lack of ideological foundation (CSO7; 2016).

The lack of value or ideology based politics is one of the reasons why the inducement of floor-crossing and by-elections that lead to conflict is even possible. If the opposition MPs believed in, and were guided by conviction of their parties' ideals and principles, they would not change parties with such ease. They would remain faithful to their parties and not be swayed by opportunities and privileges appointment into Cabinet bring.

The ease with which opposition MPs abandon their parties speak to lack of or weak ideological foundation grounding. This is how one interviewee explains,

if you had an opposition which is true to its ideals, to its party ideology, that wouldn't happen in the first place. But because it's already weakened by lack of having a solid foundation, that will always happen...they don't have qualms in switching positions (E10; 2016).

All political parties in Zambia have manifestos that set out a set of ideas about how they wish to govern if elected. Yet politicians, as evidenced by a number of floor-crossing and by-elections do not seem to care much about ideals as contained in party manifestos. They change parties with ease partly because for many of them it is about opportunities they stand to gain and not the ideals that guide their choice.

One of the many possible elements needed for the transformation of the inducement of floor-crossing related conflict is the need for a politics based on ideology. That what makes individuals join a particular political party is that they share in its ideology. That they share in a political party's set of beliefs, opinions, and values about how the social, political and economic fabric of society or country ought to be and how that can be achieved (Freeden, 2001; Erikson and Tedin, 2003; Knight, 2006; Jost, Federico and Napier, 2009). This should be what guides them in choosing which political party to join if they desire to serve as Members of Parliament as opposed to self-service which is centred on self-interest.

## 7.10 Summary

The inducement of parliamentary floor-crossing and by-elections in Zambia's Third Republic has been a source of conflict that negatively impact on democracy and peace. This chapter of the study explored possible ways the conflict generated by the inducement of floor-crossing and by-elections in Zambia's Third Republic could be transformed for a more democratic and peaceful Zambia.

The study in this chapter has provided ideas that could constructively help in the transformation of the conflict. These ideas include constitutional and non-constitutional proposals that if implemented can transform the related conflicts around the inducement of floor-crossing and by-elections in Zambia. The constitutional amendments proposed are meant to remove the legal justification, power and incentives that make the inducement of floor-crossing and by-elections possible in the first place. They also give protection to state institutions against undue political interference while holding leaders of independent state institution, commissions/ agents individually accountable for any failure or refusal to carry out the impartial and fair discharge of their responsibilities. The lack of impartiality by state institutions makes the already hostile political environment intolerable.

The non-constitutional ideas proposed by the study invite political parties to address the fears that they have in a constructive manner that respects the democratic expression of the people's will, enhances democracy and preserves peace in the country. The ruling party through dialogue or entering into a coalition government with the opposition can do away with the rancour, resentment and cacophony that come with the inducement of floor-crossing and by-elections. With the help of civil society organisations, they should help build a politics based on ideology and values.

The study affirmed the theory of rational choice as a driver in the inducement of floor-crossing and by-elections for opposition MPs seeking better opportunities that come with Cabinet positions (Riker, 1995; Oppenheimer, 2008; Hindmor, 2010; Roskin, 2016). It affirmed the theory of patron-clientelism that starts a beneficial unequal relationship between the patron (President) and client (Opposition MP/s) while provoking a conflictual relationship

between the ruling party and the opposition that needs to be transformed (Blau, 1964; Eisenstadt & Roniger, 1984; Piattoni, 2004). Further, this study affirms the theory of conflict transformation by seeking to change relationships, attitudes, interests, behaviours and discourses between and among political parties in Zambia, without which, conflicts and violence will continue (Austin, *et al.*, 2012; Lederach, 2015).

## **CHAPTER EIGHT**

### **CONCLUSION AND RECOMMENDATIONS**

#### **8.0 Introduction**

The broad aim of this dissertation was to explore the inducement of parliamentary floor-crossing and by-elections in Zambia's third republic: the related conflict for democracy and peace. The objectives were to explore the conditions that facilitate floor-crossing by Zambia's elected Members of Parliament; to assess the impact of parliamentary floor-crossing and by-elections on democracy in Zambia; to assess the consequences of parliamentary floor-crossing and by-elections on peace; and to explore possible ways of transforming the conflict generated by floor-crossing for a more democratic and peaceful Zambia.

Three theoretical frameworks underpin this study. Namely: the patron-client theory; the rational choice theory; and the conflict transformation theory. These theories help the study to understand why, how and what the conflict around the inducement of floor-crossing is and how it can be transformed.

The study utilised qualitative methodological approach aimed at providing in-depth, insights and conceptual understanding of the data collected. Purposive and snowball sampling techniques were used to identify and locate participants for the study. Ethical principles (informed consent, anonymity, confidentiality and voluntary participation) were followed before in-depth interviews were conducted for collection of data using digital voice recorder. This chapter presents the conclusion of this dissertation and further recommendations. It begins with the presentation of the key aims and objectives of the study. Guided by the key aims and objectives of the study, it then presents a review of the main findings from the study and a summary of recommendations.

#### **8.1 Chapter One**

This chapter introduces the study. It lays out the background; aims and objectives of the study; the research problems and objectives and key questions the study explored; study

design; participants; ethical considerations; procedure followed for the sampling of participants; data collection instruments; data collection procedure; method of data analysis; and the outline of the dissertation.

## **8.2 Chapter Two**

This chapter examined literature on liberal democracy and the role that political parties: the ruling and the opposition play. It laid out the challenges liberal democracy faces among which are efforts by ruling parties to weaken opposition parties, undermining of separation of powers through the inducement of floor-crossing and by-elections for the purpose of bringing the legislature under the control of the ruling party. The second part of the chapter examined the concept of electoral conflicts and violence. It explored some of the factors that cause electoral conflicts and violence some of which are due to lack of impartial electoral process management and an un-even electoral playing field by the electoral commission and police.

## **8.3 Chapter Three**

This chapter explored the theoretical frameworks that underpin this study: the theory of patron-clientelism; the theory of rational choice; and the theory of conflict transformation. The theory of patron-clientelism shows what the nature of relationship between the Republican Presidents (patrons) and opposition MPs (clients) is and why they enter into one through the inducement of floor-crossing and by-elections. The theory of rational choice theory also adds another layer understanding as to the question of motivation for the choice of a course of action: inducement of floor-crossing and by-elections despite wide-spread condemnation and resistance from citizens, the parties they come from and CSOs in the country; and its negative impact on democratic consolidation and peace. The theory of conflict transformation guided the study in the understanding of the dynamics of conflict and how it can be transformed into constructive outcome as opposed to destructive outcome.

## **8.4 Chapter Four**

This chapter of the study explores conditions that facilitate floor-crossing by Zambia's elected Members of Parliament. The study found that one of the reasons the inducement of

floor-crossing and by-elections are even possible is due to the constitution. The constitution of the Republic of Zambia allows the Republican President to appoint members of the cabinet from among the Members of Parliament irrespective of party affiliation. The appointment of opposition MPs by the Republican President with or without consultation and approval by the opposition leaders and irrespective of its impact on democracy and peace is still legal under the constitution.

The other important reason why the phenomenon of inducement of floor-crossing abounds in Zambia's Third Republic despite widespread opposition and its negative impact on democracy and peace is that of the Republican Presidents' desire to consolidate power. The consolidation of power involves among others, the desire to have control over the legislature; to weaken the opposition, and to strengthen the ruling party.

The third reason according to the study is due to the greed of opposition MPs. Opposition MPs only floor-cross to the ruling through appointment into the cabinet. They are attracted by the power, privileges, comfort, status and financial security that come with the executive appointment.

This chapter confirms the two theories of rational choice and patron-client. The opposition MPs cross the floor through appointment into Cabinet in spite of fierce resistance and anger from their party leadership, cadres and supporters because they consider it to be in their best self-interest (Riker, 1995; Oppenheimer, 2008; Hindmor, 2010; Roskin, 2016). The unequal relationship they enter into, patron-client, with the President benefits them as their support and loyalty benefits the President (Blau, 1964; Scott, 1974; Eisenstadt and Roniger 1984; Piattoni, 2004).

## **8.5 Chapter Five**

This chapter explored the impact of parliamentary floor-crossing and by-elections on democracy in Zambia. The study findings suggest that the inducement of floor-crossing has a negatively impact on democracy in Zambia's Third Republic in a number of ways and respects.

The first one being that it weakens parliament's oversight role over the executive by its control it gains through the inducement of floor-crossing and by-elections. The second negative impact it has on democracy is that it weakens the opposition by targeting its key members, MPs. Opposition party cohesion, the source of funding and the ability to win elections and keep the party in power in check in the house is diminished and in some cases leads to the demise of the opposition parties. The third negative impact it has on democracy is that it makes the ruling party too strong.

The overconcentration of power in one party controlling the executive and parliament makes the task of checks and balances difficult in government if not impossible as the ruling party can get away with almost anything. It makes the abuse of power and resources easier without the government being held accountable.

The fourth negative impact it has is on the electorate's active participation in elections and politics generally. The electorate in Zambia mostly vote for candidates based on the party of their choice. When an MP changes party affiliation in pursuit of power and privileges circumvents the people's expressed will through an outcome of elections. This leads to voter apathy and cynicism in politics. The inducement of floor-crossing and by-elections which is based on self-interest for power and comfort for politicians makes people lose trust in politicians and interest in politics which is not good for the growth of democracy.

## **8.6 Chapter Six**

This chapter explored the effect of parliamentary floor-crossing and by-elections on peace. The study findings show that the inducement of parliamentary floor-crossing and by-elections is a source of discontent, division, antagonism and hostility within, between and among political parties and the electorate. The electorate feels cheated and angry by politicians asking for their votes on the premise that they seek the office to champion their causes when that is not the case. In the opposition, members who would have invested resources, campaigned and voted for the MP also become angry as they feel betrayed and cheated by the floor-crossing MP. In the ruling party, there are some who also feel angry and cheated



out of the positions that should have been theirs, based on their loyalty and support to the party that made their victory possible. All these different reactions lead to conflicts that challenge peace in the country as the resentment and anger are not always constructively channelled.

### **Intra-party Conflict**

The study findings show that the inducement of floor-crossing and by-elections is a source of intra-party conflicts that affects peace within them. There is a lot of resentment, suspicion and mistrust towards floor-crossing MP and politicians within their party who don't seem to appreciate and honour the sacrifices, support and votes upon which they are elected to the office of MP. That a person can have no regard and respect for the people on whose sacrifices, support and votes they were elected into the office of MP lead to a lot of resentment towards the floor-crossing MP and politicians in the parties. Members within the opposition become suspicious and distrustful towards politicians as they have no second thoughts in abandoning the people who shouldered the burden of electing them into the office of MP at the offer of a more paying position with many privileges. In the ruling party, there is also a muted discontent and resentment. Ordinary members and MPs who would have been loyal to the party even before it came into power resent and are angry over the idea that they can be overlooked for appointment into a privileged position of minister for opposition MPs who worked hard against the party just for the sake of power consolidation. Their contention is that loyalty ought to be rewarded over opportunism.

### **Inter-party Conflict**

The inter-party conflicts that ensue from the inducement of floor-crossing and by-elections as compared to intra-party conflicts are the most disconcerting ones to peace in the country. The opposition that loses MPs consider it as an unjust "poaching," or "theft" of the seats they won during the general elections at a very high cost to them considering the investment, support and enduring the many hardships associated with a hostile campaign environment. The fear of loss of power, a source of revenue and fear of destruction makes them angry towards the ruling party. The ruling party fearful of their power to govern being challenged

in parliament and fear of possible loss of power engage in the inducement of floor-crossing and by-elections for power consolidation in government and also to weaken the opposition. The inter-party conflict between the ruling party and the opposition is based on the fear and resentment they both have towards each other. The resentment and fear that the other is out there to take away power from them and destroy them, a consequence of which an adversarial and hostile relationship ensues. The resentment and anger by and of themselves are neither the immediate causes nor the only causes of the violence that have come to characterise elections and by-elections in Zambia's Third Republic. But they have led to an adversarial and hostile political environment that is tested to the limits by unequal and biased electoral process management and application of the law including the public order act during elections (campaigns).

### **Electoral Violence**

The failure, refusal or inability of an impartial electoral management process and enforcement of the law some elements in the ruling party to engage in acts of intimidation and violence with impunity as there is little to no cost or deterrence to their actions. The ruling party also uses the police to intimidate and through the POA deny the opposition the ability to equally and freely campaign. On the other hand, some elements in the opposition resort to violence as a way of standing up or revenging as they can't expect protection or same treatment from law enforcement agents. All this has led to electoral violence that result in intimidation, maiming and destruction of property. Use of stones, machetes, panga knives and live ammunition that on few occasions have led to a loss of life.

The findings in this chapter confirm what the theory of conflict transformation views as drivers of conflict. The pursuit of mutually incompatible and contradictory goals by the concerned parties (ruling and the opposition); and the perceived injustice by the opposition in what they consider to be "poaching" or "theft" of their seat/s or the injustice in non-impartial electoral process (Diamond, 1994; Lederach, 1995; Kriesberg, 1997; Miall, *et al.*, 1999; Galtung, 2009; Austin, Giessmann & Jäger, 2012; Sheehan, 2014).

## **8.7 Chapter Seven**

This chapter presents a summary of the findings from the study focusing on a number of possible recommendations required for the transformation of the conflict around the inducement of floor-crossing and by-elections in Zambia's Third Republic that result in political and electoral violence. These recommendations from the study aim at changing relationships between political parties and power structures to transform the conflict for sustainable peace in the country (Frazer & Ghetas, 2013). What follows comprises a summary of various recommendations, either as standalone suggestions or in combination with others that would help in the transformation of the conflict around floor-crossing and by-elections for a more democratic and peaceful Zambia.

### **Ban the appointment of opposition MPs into cabinet without their party consent.**

The ban on floor-crossing of any kind is one of the constitutional amendments recommended by the study. This constitutional amendment would mean that any opposition MP who floor-crosses to another party, even by default without actually resigning from their party or becoming a card-carrying member of another party on which they were not elected to parliament should lose their seat. MPs should remain members and loyal to the electorate and their party for not doing so leads conflicts between parties and voter apathy.

### **Appoint cabinet members from outside parliament**

The appointment of ministers from outside parliament would not only be good for the transformation of the conflict but would be good for democracy and good governance. The study findings show that the opposition parties who lose MPs through floor-crossing and by-elections consider it as "poaching" and "theft" of their seats that brings resentment and anger that ultimately leads to adversarial and antagonistic relations between political parties. It also makes the opposition MPs appointed into cabinet and MPs from the ruling party not carry out their oversight role in parliament as their aspiration to maintain their positions cabinet or to be appointed into cabinet makes appeasers of the President of the Republic (the executive branch).

### **Bar floor-crossing MPs contesting by-elections**

The recommendation to bar floor-crossing MPs from contesting by-elections and public office appointment is a disincentive to opposition MPs who would wish to join the ruling party. This is precise because the opposition MPs who actually resign from the opposition to join the ruling party do so on the hope of being adopted by the ruling party to recontest the seat; be appointed or re-appointed into the cabinet or to be appointed into any other government position if not adopted or if they lose in a by-election.

### **Coalition Government**

Ruling parties that come to power with a hung parliament in need of having more MPs in parliament for a stable government or for some other reasons should consider forming a coalition government with the opposition. This would reduce the tension, animosity and hostility between political parties; help the ruling party and opposition find common ground, and strengthen the possibility of peaceful co-existence and working together in a non-confrontational and adversarial manner that leads to political and electoral violence. This is born out of the experience Zambia has had in the Third Republic that the idea that the ruling party can just “poach” MPs from the opposition who would have invested so much in them has been a source of resentment and acrimony (conflict).

### **Proportional Representation**

The FPTP electoral system should be replaced by the PR electoral system so as to do away with unnecessary, costly, contentious and violent by-elections that ensue from floor-crossing. It would also allow opposition MPs who may want to join the ruling party for whatever reason to do so without subjecting the country, political parties and the electorate to unnecessary chaos, divisions, and cacophony that ensue in the event the floor-crossing leads to by-elections. Another added advantage to the PR electoral system is that even in the event of the death of a seating MP, no by-elections and extra expenditures would be necessary. This would lead to peace; prevent disruption of opposition oversight in parliament; and save the people’s money for much needed public services delivery instead of holding expensive by-elections.

## **Independent Electoral Process Management**

The study recommends for the electoral management process to be impartial and independent the heads of the electoral commission, the police and other independent state institutions should operate under a framework that insulates them from political interference. This would entail the leaders of these state institutions, commissions or agencies serving for one none renewable term of office to reduce the tendency or temptation of wanting to please the appointing authority for possible re-appointment at the cost of independence, impartiality and professionalism. The termination of the appointment should only be valid subject to independent judicial (court) processes and approval; and based on legitimate legal grounds such as failure, refusal or unwillingness to discharge their responsibilities in a professional, impartial and independent manner.

Just as their positions and work should be protected against political interference, they should also be subjected to judicial scrutiny by aggrieved parties or individuals in their individual capacity. Aggrieved parties, stakeholders or citizens who allege being disadvantaged due to lack of impartiality, independence and professionalism should be allowed to challenge the heads of these institutions in their individual capacity and the legal fees should be paid by the institutions they head but if found guilty they should repay the legal fees from their own pockets and the guilty verdict by the court should be grounds for termination of employment. These measures would empower, protect and encourage the heads of state institutions/commissions to carry out their responsibilities in an independent, impartial and professional manner. On the other hand, these measures would put them on notice that their positions are safe and secure from any interference except for conduct that is not impartial, independent and professional; and therefore this would be both an incentive and deterrence.

## **Ideology (value) Based Politics**

Political parties must not just recruit and attract new party members for the sake of numbers and votes, as important as that is, but they must also invest in cultivating a loyal party membership anchored on a set of beliefs, opinions and values (ideology). The party ideology must be inculcated in party politics; should be the focal point in as much as winning elections is central or risk losing members to any highest bidder. In that effort, political parties, civil

society organisations, non-governmental organisations must endeavour in educating the citizens about the need and importance of joining, supporting or voting for political party candidates based on their set of beliefs, opinions and values; and how they wish to implement them.

### **Dialogue between Leaders of Political Parties**

Dialogue should be employed to constructively transform the conflict around floor-crossing and by-elections, before or after the co-option of an opposition MP into the cabinet. The dialogue that should take place before the co-option of an opposition MP between the opposition and ruling party leadership would result in an agreeable and amicable understanding what it means, why it should be and how the arrangement would be implemented. The dialogue that takes place before co-option prevents the conflict from being destructive being an agreed arrangement between the leadership of the concerned parties. The dialogue that should take place in case of co-option without prior agreement between the leadership of the concerned parties requires a credible, neutral mediator.

### **Curtail Presidential Powers**

The Republican President in Zambia has sweeping powers that allow him/her to exercise control over the Executive, Legislature and Judiciary even though these are supposed to be independent branches of government. Some amendments such as the appointment of cabinet outside parliament would be one way of not only helping in the transformation of the conflict around floor-crossing and by-elections but would limit if not eliminate President's control over the Legislature as MPs would not be in the house to please the President for possible appointment into the cabinet.

Another amendment in the law that should be introduced would be one that either takes away the President's power to appoint heads of independent state institutions or have a diverse independent panel of experts recommend names based on qualifications and competence to the President from which he/she can appoint. And that once the President has made the appointment, his/her power to dismiss those appointed must also be curtailed by subjecting

such decisions to judicial processes and approval based on legitimate and credible legal grounds such as failure, refusal and unwillingness to discharge their responsibilities in a professional, independent and impartial manner.

The recommendations in this chapter affirm what the theory of conflict transformation considers to be a process that lead to a constructive outcome of a conflict over a destructive outcome such as violence (Diamond, 1994; Lederach, 1995; Kriesberg, 1997; Miall, *et al.*, 1999; Galtung, 2009; Austin, Giessmann & Jäger, 2012; Sheehan, 2014). All these recommendations as a whole or in part aim to bring justice to the perceived injustice in the inducement of floor-crossing and by-elections phenomenon and creating a level, fair and impartial electoral process and application of law and order in the political arena.

## **8.8 Summary**

This study, in exploring the phenomenon of inducement of Parliamentary floor-crossing and by-elections in Zambia's Third Republic sought to highlight the impact of the ensuing conflict on peace. This is the gap that has been amiss from among the studies done on the subject of floor-crossing and by-elections in Zambia's Third Republic.

According to the study findings and contrary to the benign assertions by its proponents, it (inducement of floor-crossing and by-elections) is mostly about the pursuit of power consolidation and self-interest. The Republican President and the ruling party's quest for power consolidation through control over Parliament; and the opposition MPs' quest for a life of more comfort, privileges, status and power that come with the cabinet position makes floor-crossing and by-elections possible. The study also cites the constitution as an enabler as it does allow the Republican President appoint any MP regardless of party affiliation into cabinet.

The inducement of floor-crossing and by-elections deprives the country of the much needed checks and balances that is critical in a democracy. It depletes the number of MPs for the opposition in parliament that keep the party in power in check; turns parliament into a rubberstamp for the executive. Consequently, the overconcentration of power in the

Republican Presidency (and ruling party) makes the abuse of power, state resources and institutions easier and common. It destabilises and in some cases destroys the opposition thereby destabilising the party system that ultimately weakens liberal democracy based on separation of power, plurality and rule of law that guarantees freedoms and equality for all citizens.

The study findings show that the inducement of floor-crossing and by-elections affects peace in the country as it leads to a conflict within and between parties. Within parties there is discontent, divisions and mistrust as members feel cheated and abused by politicians whose seeming interest in seeking their vote and support is self-interested and connected to power and privileges. Between parties, adversity and hostility ensues as parties seek, or fear losing, power. The opposition at best faces a loss of power, and at worst faces destruction. The ruling party through the Republic President becomes intent on consolidating power irrespective of the effect it has on peace. This is induced through floor-crossing and by-elections. State institutions and law enforcement agencies cannot professionally, impartially and independently apply law and order, especially during elections under instructions from and/or the fear of the ruling party. This situation under the already prevailing hostile environment between parties gives impunity to violent ruling party cadres and opposition cadres taking the law into their own hands as a way of seeking retribution and defending themselves. Ultimately, violence during elections abounds out of a floor-crossing and by-elections provoked hostile environment; the corruption of state institutions and law enforcement agencies that cannot independently, professionally and impartially function.

### **Recommendations**

The transformation of the conflict around the inducement of floor-crossing and by-elections requires the following constitutional amendments and non-constitutional interventions:

- ✓ Ban on the appointment of opposition MPs into the Cabinet without the consent of their party.
- ✓ Ban MPs that cross the floor from participating in by-elections and appointment into public office.
- ✓ The introduction of a system of proportional representation in the electoral system.



- ✓ Formation of coalition government when general elections result in a hung parliament.
- ✓ The reduction in the powers of the Republican President.
- ✓ The protection of office bearers in independent institutions and law enforcement agencies from political interference and limiting the terms of office to one term; whose termination should only be possible through judicial processes among which should be their failure to be professional, independent and impartial.
- ✓ Fostering genuine on-going dialogue between leaders of political parties;
- ✓ The building ideology (value) based politics.

### **Contribution to knowledge**

This study has reaffirmed the validity of the theory of rational choice (Riker, 1995; Oppenheimer, 2008; Hindmor, 2010; Roskin, 2016). The opposition MPs who cross the floor to the ruling party from the opposition do so not out of regard for the good of the people they represent or because they believe in the mandate of the ruling party. They make the choice to cross the floor out of regard for what they consider to be in their best self-interest even if it may be against popular opposition, and even as it brings them scorn, ridicule and threats, as the study has shown.

This study also affirms the theory of patron-clientelism in the relation between the President (and the ruling party) and the opposition MP/s who cross the floor (Blau, 1964; Scott, 1974; Eisenstadt & Roniger 1984; Piattoni, 2004). The inducement of floor-crossing and by-elections pulls away an opposition MP from the opposition into an unequal patron-client relationship between the President and the opposition MPs in which both benefit. The patron (President) provides a cabinet executive position and in return the opposition MPs offer loyalty and more importantly votes within Parliament to the President (and the ruling party). It is a relationship between two unequals, based on mutual interest and benefit.

The study affirms the theory of conflict transformation (Diamond, 1994; Lederach, 1995; Kriesberg, 1997; Miall, et al, 1999; Galtung, 2009; Austin, Giessmann & Jäger, 2012;

Sheehan, 2014). The inducement of floor-crossing and by-elections leads to conflict as it sets the ruling party on a path in search of goals that are incompatible and contradictory with those of the opposition, and with zero sum outcomes. It's transformation requires an examination of the root causes of this conflict that, in Zambia, include power structures, attitudes, behaviours and contradictions that need changing.

The main knowledge contribution from this study is that the inducement of parliamentary floor-crossing and by-elections in Zambia's Third Republic is a source of conflict that erodes liberal democracy and peace. It confirms that the lack of impartiality and justice undermines democracy and peace.

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# APPENDIX I

## ETHICAL CLEARANCE



30 May 2019

**Mr Peter Mulinda Mudenda (208511198)**  
School of Social Sciences  
Howard College Campus

Dear Mr Mudenda,

**Protocol reference number: HSS/1040/015D**

**Project title:** Parliamentary floor-crossing and By-election in Zambia's Third Republic: The implications of related conflict for democracy and peace

### Approval Notification – Recertification Application

Your request for Recertification dated 16 April 2019 was received.

This letter confirms that you have been granted Recertification Approval for a period of one year from the date of this letter. This approval is based strictly on the research protocol submitted and approved in 2015.

**Any alterations to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study must be reviewed and approved through the amendment /modification prior to its implementation. Please quote the above reference number for all queries relating to this study.**

**PLEASE NOTE: Research data should be securely stored in the school/department for a period of 5 years**

Yours faithfully

.....  
**Dr Rosemary Sibanda (Chair)**

/ms

Cc Supervisor: Dr Suzanne Francis  
Cc Academic Leader Research: Professor Maheshvari Naidu  
Cc School Administrator: Ms Nancy Mudau

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**Humanities & Social Sciences Research Ethics Committee**

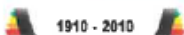
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**APPENDIX II**  
**INTERVIEW GUIDE I**

LEADERS OF CIVIL SOCIETY ORGANISATIONS

<b>Parliamentary Floor-crossing and By-elections in Zambia's Third Republic: the implications of related Conflict for Democracy and Peace.</b>
<b>General</b>
<ol style="list-style-type: none"> <li>1. Could you please tell me the name your organisation and a bit of what it does?</li> <li>2. How and when did you become involved with this organisation?</li> <li>3. What are the specific matters of society your organisation address?</li> <li>4. What is the scope of your organisation's role and activities in addressing and responding to matters of democracy and peace?</li> <li>5. Is your organisation in favour of or opposed to parliamentary floor-crossing and induced by-elections in Zambia?</li> </ol>
What are the conditions that facilitate floor-crossing by Zambia's elected Members of Parliament?
<p>What do you understand to be the reasons of floor crossing?            Under what circumstances do members of parliament floor cross? Why?            What reasons of floor-crossing to the ruling party do opposition MPs give?            Why do you think it is mostly opposition MPs who floor cross to the ruling party?            Why do you think political parties have failed to be consistent in condemning/supporting floor crossing?            What are the reasons that prompt the ruling parties to co-opt opposition MPs to join their ranks?            Are there other factors other than the reasons they give and the advantages they gain that make them cross the floor?</p>
How does parliamentary floor-crossing and by-elections impact on democracy in Zambia?
<p>What do you think is the effect of floor-crossing on the ruling party?            What do you think is the effect of floor-crossing on the opposition parties?            What processes do opposition parties engage with co-opted MPs?            On what basis do opposition parties expel their defecting MPs?            In which ways do you think floor-crossing has influenced and shaped relations between parties?            What forms of electoral conduct and behaviour are emerging in these floor-crossing induced by-elections?            What role has the state            In what ways do political parties respond to by-elections induced by floor crossing?</p>

In which ways has relations between party members and floor crossing MPs ensued in host parties?

Do you think floor-crossing complement or violate the electorate's mandate? How?

According to your organisation, is democracy weakened or strengthened as a result of floor-crossing and induced by-elections in the country? How?

What are the consequences of parliamentary floor-crossing and by-elections on peace and security in Zambia?

In what ways do you think floor crossing and by-elections affect peace in the country?

Explain how?

Why do you think by-elections flowing from floor-crossing have increasingly been characterized by violence?

What has been the nature of the conflict around floor-crossing and by-elections?

In what other ways, apart from violence, does the conflict emanating from floor-crossing and by-elections manifest itself?

According to your organization's observation, is peace and security weakened or strengthened as a result of floor-crossing and induced by-elections both in the country?

How?

How can the conflict generated by floor-crossing be transformed?

What are the grievances/issues at the heart of the conflict around floor-crossing and by-elections does your organization perceive to be in need of addressing?

What are the different dimensions of conflict that ensue after floor-crossing?

What practical steps need to be done to transform this conflict?

What changes/improvements should be considered regarding the law that governs floor-crossing and by-elections?

What role should the state play to ensure peace and security in the country in the conduct of induced by-elections?

In what ways should a ruling party that doesn't get two thirds majority in parliament govern? Why?

What underlying issues around floor-crossing need resolving for transformation to take place?

What processes should political parties engage each other as regards to floor-crossing?

INTERVIEW GUIDE II  
ELECTED MPs FROM THE RULING AND OPPOSITION PARTIES

<p><b>Parliamentary Floor-crossing and By-elections in Zambia’s Third Republic: the implications of related Conflict for Democracy and Peace.</b></p>
<p><b>General</b></p>
<p>Male/Female?            What is the name of your party?            Opposition or ruling party?            How long have you been a member of this party?            How long have you been in politics?            Has your party ever experienced MPs crossing the floor either to or from?            Have you ever switched from one party to another?            How long have you served as MP?            Is your party in support of or opposed to parliamentary floor-crossing and induced by-elections in Zambia?</p>
<p>What are the conditions that facilitate floor-crossing by Zambia’s elected Members of Parliament?</p>
<p>What do you understand to be the reasons of floor crossing?            Under what circumstances do members of parliament floor cross? Why?            Why do you think it is mostly opposition MPs who floor cross to the ruling party?            Why do you think political parties have failed to be consistent in condemning/supporting floor crossing?</p>
<p>How does parliamentary floor-crossing and by-elections impact on democracy in Zambia?</p>
<p>What do you think is the effect of floor-crossing on your party (negative/positive)?            In which ways has floor crossing influenced and shaped your party’s relations with other parties?            What forms of electoral conduct and behaviour and practices are emerging in these floor-crossing induced by-elections?            In what ways has your party responded to by-elections induced by floor crossing?            In which ways have party members reacted in host parties where the floor-crossing MPs have gone?            Do the National Executive Committee (NEC) members of your party have a say on floor-crossing in your party? What is the process like?            From your experience, are the electorates in constituencies of floor-crossing MPs participants or spectators in the process? If yes, how? If not, why?            In your opinion, is democracy weakened or strengthened as a result of floor-crossing and induced by-elections both in your party and the country at large? How?</p>

What are the consequences of parliamentary floor-crossing and by-elections on peace and security in Zambia?

Does the floor-crossing of an MP from or to your party spark tension/s or conflict within your party? Explain how?

In what ways do you think floor crossing and by–elections affect peace in your party? Between parties?

Why do you think by-elections flowing from floor-crossing have increasingly been characterized by violence?

What has been the nature of the conflict around floor-crossing and by-elections?

In what other ways, apart from violence, does the conflict emanating from floor-crossing and by-elections manifest itself?

In your opinion, is peace and security weakened or strengthened as a result of floor-crossing and induced by-elections both in your party, other parties and the country at large? How?

How can the conflict generated by floor-crossing be transformed?

What are the grievances/issues at the heart of the conflict around floor-crossing and by-elections your party has that need addressing?

What are the different dimensions of conflict that ensue after floor-crossing?

What practical steps need to be taken to transform this conflict?

What changes/improvements should be considered regarding the law that governs floor-crossing and by-elections?

In what ways should a ruling party that doesn't get the majority in parliament govern? Why?

What role should the state play to assure and encourage peace and security in the country through the conduct of induced by-elections?

What underlying issues around floor-crossing need resolving for transformation to take place?

What processes should political parties engage each other as regards to floor-crossing?

INTERVIEW GUIDE III  
ELECTORATE

<p><b>Parliamentary Floor-crossing and By-elections in Zambia’s Third Republic: the implications of related conflict for democracy and peace.</b></p>
<p><b>General</b></p>
<p>Salutations Age? Gender? Employed/ self-employed/ student/ unemployed? Have you ever participated in elections? Are you aware of the phenomenon of floor-crossing in Zambia? 4. Are you in favour of or opposed to parliamentary floor-crossing and induced by-elections in Zambia?</p>
<p><b>What are the conditions that facilitate floor-crossing by Zambia’s elected Members of Parliament?</b></p>
<p>What do you understand to be the reasons of floor crossing? Under what circumstances do you think members of parliament floor cross? Why? Why do you think it is mostly opposition MPs who floor cross to the ruling party? Why do you think political parties have failed to be consistent in condemning/supporting floor crossing – when in opposition, they condemn it, when in government support it? What are the reasons that prompt the ruling parties to co-opt opposition MPs to join their ranks? Are there other factors other than the reasons they give and the advantages they gain that make them cross the floor?</p>
<p><b>How does parliamentary floor-crossing and by-elections impact on democracy in Zambia?</b></p>
<p>What do you think is the effect of floor-crossing on the ruling party? What do you think is the effect of floor-crossing on the opposition parties? In what ways do political parties respond to by-elections induced by floor crossing? On what basis do opposition parties expel their floor-crossing MPs? Justifiable? In which ways do you think floor-crossing has influenced and shaped relations between political parties? What forms of electoral conduct and behaviour are emerging in these floor-crossing induced by-elections? In your opinion, what role has the state played in the conduct of induced by-elections? Fair, balanced, neutral or biased?</p>

In which ways has relations between party members and floor crossing MPs ensued in host parties? v  
Do you think floor-crossing complements or violates the electorate's mandate? How?  
In your opinion, is democracy weakened or strengthened as a result of floor-crossing and induced by-elections both in the country? How?.

What are the consequences of parliamentary floor-crossing and by-elections on peace and security in Zambia?

How does floor-crossing and by-elections impact on peace in the ruling parties?  
In what ways does floor-crossing and by-elections impact on peace in opposition parties?  
In what ways do you think floor crossing and by-elections affect peace in the country?  
Explain how?  
Why do you think by-elections flowing from floor-crossing have increasingly been characterized by violence?  
What has been the nature of the conflict/violence around floor-crossing and by-elections?  
In what other ways, apart from violence, does the conflict emanating from floor-crossing and by-elections manifest itself?  
In your opinion, is peace weakened or strengthened as a result of floor-crossing and induced by-elections in the country? How?

How can the conflict generated by floor-crossing be transformed?

What are the grievances/issues at the heart of the conflict around floor-crossing and by-elections that need addressing?  
What practical steps need to be done to transform this conflict?  
What changes/improvements should be considered regarding the law that governs floor-crossing and by-elections?  
What role should the state play to ensure and encourage peace and security in the country through the conduct of induced by-elections?  
What ways should a ruling party that doesn't get majority in parliament govern other than resorting to floor-crossing?  
In what ways should the governing party and the opposition parties relate?



**APPENDIX III**  
**INFORMED CONSENT FORM**

Dear Participant,

My name is **Peter Mulinda Mudenda (208511198)**. I am a PhD candidate studying at the University of KwaZulu-Natal, Howard College Campus. The title of my research is: **Parliamentary floor-crossing and by-election in Zambia's Third Republic: the implications of related conflict for democracy and peace.**

The aim of the study is to (*Explore the related conflict of parliamentary floor-crossing and by-elections on democracy and peace in Zambia's Third Republic; and seek its possible transformation*). I am interested in interviewing you so as to share your experiences and observations on the subject matter.

Please note that:

- The information that you provide will be used for scholarly research only.
- Your participation is entirely voluntary. You have a choice to participate, not to participate or stop participating in the research. You will not be penalized for taking such an action.
- Your views in this interview will be presented anonymously. Neither your name nor identity will be disclosed in any form in the study.
- The interview will take about (30 to 60 mins).
- The record as well as other items associated with the interview will be held in a password-protected file accessible only to myself and my supervisors. After a period of 5 years, in line with the rules of the university, it will be disposed by shredding and burning.
- If you agree to participate please sign the declaration attached to this statement (a separate sheet will be provided for signatures)

I can be contacted at: School of Social Sciences, University of KwaZulu-Natal, Howard College Campus, Durban. Email: [petermudenda@gmail.com](mailto:petermudenda@gmail.com) and [208511198@stu.ukzn.ac.za](mailto:208511198@stu.ukzn.ac.za); Cell: 0786759204

My supervisor is **Prof. Suzanne Francis** who is located at the School of Social Sciences, Howard College Campus, Durban of the University of KwaZulu-Natal. Contact details: email: [suzannefrancis@gmail.com](mailto:suzannefrancis@gmail.com) Phone number:

My co-supervisor is ..... who is located at the School of Social Sciences, Howard College Campus/ Howard College Campus of the University of KwaZulu-Natal. Contact details: email ..... Phone number: .....

The Humanities and Social Sciences Research Ethics Committee contact details are as follows: Ms Phumelele Ximba, University of KwaZulu-Natal, Research Office, Email: [ximbap@ukzn.ac.za](mailto:ximbap@ukzn.ac.za), Phone number +27312603587.

Thank you for your contribution to this research.

DECLARATION

I..... *(full names of participant)*  
hereby confirm that I understand the contents of this document and the nature of the research project,  
and I consent to participating in the research project.

I understand that I am at liberty to withdraw from the project at any time, should I so desire. I  
understand the intention of the research. I hereby agree to participate.

I consent / do not consent to have this interview recorded (if applicable)

SIGNATURE OF PARTICIPANT

DATE

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