Universiteit
Leiden
The Netherlands

The plundering of Zambian resources by Frederick Chiluba and his friends: a case study of the interaction between national politics and the international drive towards good governance

Donge, J.K.van

Citation
Donge, J. Kvan. (2009). The plundering of Zambian resources by Frederick Chiluba and his friends: a case study of the interaction between national politics and the international drive towards good governance. *African Affairs*, *108*(430), 69-90. Retrieved from https://hdl.handle.net/1887/14510

Version: Not Applicable (or Unknown)
License:
Downloaded from: https://hdl.handle.net/1887/14510

Note: To cite this publication please use the final published version (if applicable).

African Affairs, 108/430, 69–90 doi: 10.1093/afraf/adn073
© The Author [2008]. Published by Oxford University Press on behalf of Royal African Society. All rights reserved

THE PLUNDERING OF ZAMBIAN RESOURCES BY FREDERICK CHILUBA AND HIS FRIENDS: A CASE STUDY OF THE INTERACTION BETWEEN NATIONAL POLITICS AND THE INTERNATIONAL DRIVE TOWARDS GOOD GOVERNANCE

JAN KEES VAN DONGE

ABSTRACT

This article analyses the accusations that have emerged since 2001 of predatory behaviour during the presidency of Frederick T. Chiluba (1991–2001). It advocates a detailed analysis of the practices that have come to light in order to move beyond a generalized interpretation of the persistence of predatory elites in Africa. Three specific themes appear. First, there is a danger of oversimplification of these conflicts as between the international community and national governments. The political struggles tend to be more complicated than generally presented, and international involvement meshes with local political struggles. Second, predatory behaviour or corruption is a social process that is embedded in wider national and international networks. It is therefore difficult to locate culpability exactly in clearly designated protagonists. Third, there is a danger of imputing an economic and political rationality to this behaviour which may best be designated as theft. The overall theme of the article is that there are important national cultural influences in the way these predatory practices are dealt with. These are obfuscated by a blander critique identifying partial reform that leaves predatory elites untouched.

A DETAILED EXAMINATION OF THE COURT CASES brought against Frederick Chiluba and his co-accused on charges of 'plundering national resources' during his terms of office as President of Zambia (1991–2001) may seem irrelevant. Predatory behaviour is common in African politics and it is elaborately theorized through concepts such as neo-patrimonialism, prebendalism and similar constructs. However, as Tobias Hagmann argues in the case of neo-patrimonialism, it is often presented as 'a self-explanatory and all encompassing fact without articulating who exactly enacts

Jan Kees van Donge (jdonge@ascleiden.nl; jkvandonge@yahoo.com) is based at the African Studies Centre, Leiden. The author would like to thank the editors of *African Affairs* for the detailed attention given to the article.

neo-patrimonial domination, by which means and with which outcomes'.[1] There are now unprecedented opportunities to research these questions in the numerous enquiries and court cases concerning predatory behaviour in previous African regimes. Examples include the Goldenberg case in Kenya, the cases opened concerning the second term of Obasanjo in Nigeria, and the Chiluba trials.

The case study method – as used here to study the Chiluba trials – can be particularly illuminating in such an enterprise. This article does not set out, of course, to generalize about Zambian or African political behaviour, but the analysis does claim to be of wider relevance. Case studies are particularly suitable for exploring new dimensions by studying the particular and the irregular.[2] In this way, the method raises new questions and offers changing perspectives that may change the way we look at phenomena wider than the particular events described. The Chiluba case fits such a concern particularly well because it reveals in elaborate detail the actual social practices involved in predatory behaviour – now commonly referred to as 'Chiluba's matrix' – and it is irregular because no other country in Africa has forced a previous President – and not merely the people around him – to stand trial for predatory behaviour.

The Chiluba case reveals the social nature of behaviour that is predatory on the state, but the absence of a clear pattern of patron–client relationships is striking in these social practices. This is significant, because neo-patrimonial explanations of African politics interpret predatory behaviour in terms of political rationality.[3] It is necessary for patrons to recruit clients with state resources in order to maintain stability, or even power. For example, in the words of Jean François Médard, this is:

> a mode of socio-political regulation which can be qualified as a patrimonial mode of regulation. This supposed a controlled use of corruption, respecting a tolerable rate of redistribution in proportion to extraction, and a politically rational particularistic mode of redistribution through patronage, allowing for a middle-term reproduction of the regime.[4]

1. Tobias Hagmann, 'Ethiopian culture strikes back: a rejoinder to J. Abbink', *African Affairs* **105**, 421 (2006), p. 607.
2. John S. Odell, 'Case study methods in international political economy', *International Studies Perspectives*, 2 (2001), pp. 161–76; J. van Velsen, 'The extended case study method and situational analysis' in T. S. Epstein (ed.), *The Craft of Social Anthropology* (Tavistock Publications, London, 1967), pp. 129–49.
3. Michael Bratton and Nicolas van de Walle, *Democratic Experiments in Africa: Regime transitions in comparative perspective* (Cambridge University Press, Cambridge, 1997), Chapter 2 and Patrick Chabal and Jean-Pascal Daloz, *Africa Works: Disorder as political instrument* (James Currey, Oxford, and Indiana University Press, Bloomington, IN, 1999) provide a grand theory approach to neo-patrimonialism.
4. Jean François Médard, 'Corruption in the neo-patrimonial states of sub-saharan Africa' in Arnold J. Heidenheimer and Michael Johnston (eds), *Political Corruption: Concepts and context* (Transaction Publishers, New Brunswick, NJ and London, 2002), p. 386.

Morris Szeftel made a similar point specifically in the Zambian context:

> Zambian politics are characterised by a clientalist form in which patronage constitutes an important mechanism through which political supporters often obtain access to state resources in return for helping patrons obtain access to public office itself. An understanding of the nature of graft should illustrate much about all the ways in which state resources are accumulated as political spoils.[5]

Both authors have written elaborately about the degeneration of such systems due to the particular nature of the African state and the scarcities politicians face. However, it is difficult to impute such logic to Zambian politics in the period 1991–2001. Zambia's economic performance was lacklustre, but economic growth returned, helped by generous donor inflows; and, despite many defections from its ranks, the Chiluba regime was relatively stable.[6] The compelling logic of neo-patrimonialism simply does not appear in the Chiluba case. The practices that came to light do show redistribution of stolen money, some of which may be interpreted as building political support. However, the bulk of the amounts stolen cannot be traced to any political use. Considerable amounts were paid to accomplices, but that is different from distributing money for political support. In fact, it was a small group that shared most of the money spirited abroad, and the secrecy around it assured them of keeping the group small. Therefore it is problematic to explain the theft as a necessary part of a political game.

It is also difficult to interpret these crimes in terms of economic rationality.[7] Such explanations use the word corruption and not predatory behaviour. Resources extracted for personal gain are seen as the result of scarcity: it is a way of rationing access to, for example, health and education when there are few resources in the state system. It can also be considered a tax to be paid to underpaid government officials. Corruption is then clearly tied to a consideration that is given in return for payment.[8]

This way of thinking has been elaborated by public choice theorists.[9] They stress that corruption arises especially when government service is

5. Morris Szeftel, 'Political graft and the spoils system in Zambia – the state as a resource in itself', *Review of African Political Economy* **9**, 24 (1982) p. 5.

6. For the economic performance: Howard White and Geske Dijkstra, *Programme Aid and Development: Beyond conditionality* (Routledge, London, 2003), pp. 402–41. For an appreciation of economic stability: Jan Kees van Donge, 'Reflections on donors, opposition and popular will in the 1996 Zambian general elections', *Journal of Modern African Studies* **36**, 1 (1998), pp. 71–99.

7. Closely connected to this are explanations of corruption and graft in everyday life that assume an economic necessity arising from the low pay of government officials. Similarly, it is reasoned in terms of elected officials that they have to accumulate while in office to provide, after a possible fall from power, an income to which they have become accustomed. This overlooks the fact that government employment is usually a privileged position as compared to the people around such officials. Even on low pay they are better off. In the case of elected officials, the amounts stolen bear no relationship to the needs for a comfortable retirement.

8. See also Médard, 'Corruption in neo-patrimonial states', p. 380.

9. Anthony Downs, *An Economic Theory of Democracy* (Little Brown and Co., Boston, MA, 1957); Mancur Olson, *The Logic of Collective Action: Public goods and the theory of groups* (Cambridge University Press, Cambridge, 1971).

artificially created through a system of licensing. If government creates bureaucratic hurdles such as import permits, price control, and exchange control, then economic actors can save money by paying a civil servant rather than waiting for the official procedure. Artificial scarcities are created through deliberate delays that allow government officials to raise rents: demanding money without giving any value added in consideration. In such explanations, corruption is seen as a rational response to economic opportunity given a particular institutional position. Corruption is consequently a logical result of the structure of incentives in institutions: these create the possibility of raising a rent.[10]

Reducing the sphere of government and redesigning institutions so that effective controls are established is then seen as a way out. However, such reforms as privatization and democratic controls through decentralization do not necessarily appear to have these effects.[11] In the Chiluba case, it even appears that institutions were actually created for corrupt purposes under the umbrella of IMF disciplinary procedures. First there is predatory intent, and then institutions are moulded around that, instead of institutions being determinant.

More fundamentally, public choice theorists deal with another phenomenon than the one described below. Corruption usually refers to behaviour in which a consideration is given in return for money. That is not found in the case considered here. These crimes may, in analogy with usage of terms in the private sector, be better compared to 'theft by director', as this also implies that consideration in return for any effort is absent. This article uses the terms corruption and predatory behaviour in public office interchangeably, but the latter term is of course more apt.[12]

This does not mean that the predatory behaviour described below primarily demands analysis in terms of criminal law. On the contrary, virtually all criminal activity requires partners and that is particularly the case in relation to theft from the state. The treasury and bank officials appear in this case to be necessary accomplices. Concentrating on merely singling out culprits individualizes the process and simplifies what is happening. It is a political act to bring particular individuals to court. Usually the prosecution is accused of singling out particular individuals for political reasons, and the accused will automatically claim that their prosecution is politically inspired. Such

10. A classic interpretation along these lines is: R. Klitgaard, *Controlling Corruption* (University of California Press, Berkeley, CA, 1998). A recent widely read statement along similar lines is Francis Fukuyama, *State Building: Governance and world order in the twenty-first century* (Profile Books, London, 2004).

11. On privatization see Roger Tangri and Andrew M. Mwenda 'Corruption and cronyism in Uganda's privatization in the 1990s', *African Affairs* **100**, 398 (2001), pp. 117–33; on decentralization see Vedi R. Hadiz, 'Decentralization and democracy in Indonesia: a critique of neo-institutionalist perspectives', *Development and Change* **35**, 4 (2004), pp. 697–718.

12. See also Médard, 'Corruption in neo-patrimonial states', p. 380.

court cases have therefore to be understood not merely as fights in legal arenas. The analysis that follows situates the predatory behaviour within the context of the Zambian political process.

The events as unfolded below are intended to clarify the social practices involved and point to their political consequences. The conclusion will not only draw from this material a perspective on predatory political behaviour in Africa, but will also evaluate the implications in the light of international concerns and interventions combating it. These international interventions are an essential part of the story that is told here. I also point out that one should have realistic expectations about legal prosecution of individuals in these matters because it is an intensely social process in which it is difficult to isolate single culprits.

Zambia and the governance agenda

Zambia has a specific meaning within the general patterns of African political and economic development. It was, after independence in 1964, for decades a prominent frontline state in the struggle for the liberation of Southern Africa. The United National Independence Party (UNIP) under the leadership of Kenneth Kaunda ruled the country until 1991. From 1972 onwards it was a one-party state, but this was never unchallenged.[13] It was thus no surprise that Zambia was at the forefront of the struggle to reintroduce competitive party politics in Africa. That brought the Movement for Multiparty Democracy (MMD) under the leadership of Frederik Chiluba to power in 1991.[14] When in 2001 Chiluba had served two terms as President, he was barred by the constitution from standing again. An attempt on his part to change the constitution to make way for a third term was thwarted by a massive popular movement. The 2001 elections were narrowly won by MMD, whereas they had been won by a landslide in previous elections.[15] Post-independence Zambian history shows thus a strong tradition of successful democratic protest.

Zambia is also highly significant as a country where the typical African pattern of economic decline manifested itself. Independence was followed after a short boom period by fast economic decline. Zambia emerged from

13. Gatian F. Lungu, 'The church, labour and the press in Zambia: the role of critical observers in a one-party state', *African Affairs* **85**, 340 (1986), pp. 385–410; Cherry Gertzel, 'Dissent and authority in the Zambian one-party state', in Cherry Gertzel (ed.), *The Dynamics of the One-Party State in Zambia* (Manchester University Press, Manchester, 1984), pp. 79–115.
14. Jan Kees van Donge, 'Kaunda and Chiluba: enduring patterns of political culture in Zambia' in J. Wiseman (ed.), *Democracy and Political Change in Sub-Saharan Africa* (Routledge, London, 1995), pp. 193–219.
15. Jan Kees van Donge, 'The EU observer mission to the Zambian elections 2001: the politics of election monitoring as the construction of narratives', *Commonwealth and Comparative Politics* **46**, 3 (2008), pp. 296–317.

colonialism as a relatively rich and urbanized country because of a huge complex of copper mines. These were nationalized in the late 1960s and shortly afterwards copper prices nosedived. This led to periods of high inflation and a plummeting currency, which necessitated structural adjustment. The country became aid-dependent, and stealing from the government created issues of aid effectiveness. The influential World Bank report *Assessing Aid* singled out Zambia as a country where aid was ineffective because the right policy environment was missing.[16] That is doubtful, because the 1991 elections were won by MMD on a programme of liberal reform and reduced state intervention in the economy. That is exactly the policy environment desired by the World Bank. Soon after the elections, foreign exchange was set at market rates, food prices were liberalized, a quite strict monetary regime with high interest rates was introduced, and other similar measures were taken.[17] With respect to the copper mines, the major national asset in the economy, the donor community pressed for their privatization in the expectation that investment and profitability would then return. The MMD government hesitated and privatization did not start to happen until the late 1990s. This was interpreted as an attempt to retain access to rents through the foreign exchange earnings of the mines.[18] A proper history of the role of the mines in post-independence Zambia still has to be written, but the question has to be faced whether low copper prices or bad state management propelled their decline. Government access to profits from the copper mines, albeit now through taxation, remains a major issue in the Zambian political economy.

The origin of the cases against Chiluba and his accomplices[19]

Towards the end of Chiluba's second term, he quickly lost public status and respect, not only because of his thwarted attempt to change the constitution so that he could have a third term, but also because of increasing

16. World Bank, *Assessing Aid: What works, what doesn't, and why* (Oxford University Press for the World Bank, New York, NY, 1998).

17. White and Dijkstra, *Programme Aid and Development*, pp. 402–41.

18. Lise Rakner, *Political and Economic Liberalisation in Zambia 1991–2001* (Nordiska Afrikainstitutet, Uppsala, 2003). However, this interpretation can be challenged: Jan Kees van Donge, 'Flexible SWAPs for strategic policy-making: reflections on the Zambian experience', *Development Policy Review* **25**, 4 (2007), pp. 473–95.

19. The material in the following pages is based on quarterly overviews of Zambian political developments that I wrote for a Dutch periodical, *Zambia Nieuws Brief.* These were mainly based on newspaper reporting in the *Times of Zambia* and *The Post* newspapers. Further reference can be made through the search command in the archive of the website <allAfrica.com>. The article could not have been written, however, without the information provided on the judgement of the London civil trial against Chiluba and his accomplices, as published in the *Saturday Post* (Lusaka) pullout of 5 May 2007. This article is also informed by numerous informal conversations held in Zambia with officials and embassy personnel. However all facts and alleged facts mentioned are in the public domain.

accusations of corruption. Anderson Mazoka, the main opposition politician, threatened to bring Chiluba to trial. The main accusation was enriching himself and his friends through a metals marketing company dealing in Zambian copper and cobalt. In June 2000, the Chiluba government ordered an accountants' report on the subject that discovered fraudulent actions worth US$70 million. This report was commissioned under pressure from the IMF and World Bank and financed by the European Union.[20] However, Chiluba was also accused from within his own party. Edith Nawakwi, who had been Minister of Energy, claimed that Chiluba was involved with the disappearance of 763 tankers of petrol that were destined for the parastatal Zambian National Oil Corporation (ZNOC). Dipak Patel, a founding member of MMD with a long history of ministerial responsibility, was then an independent MP. He and Nawakwi declared that Chiluba was a thief. Chiluba opened a libel case against them.

After the December 2001 elections, Patel was returned to Parliament and, using parliamentary privilege, asked as an independent MP for insight into the government's accounts at the Zambian National Commercial Bank (ZANACO). He had the suspicion that very large amounts of money had disappeared through the account of the Zambian Intelligence Service in London, the so-called ZAMTROP account, and needed evidence to prove that Chiluba was a thief. This was serious enough to lead Chiluba to withdraw his libel case against Nawakwi and Patel.

Dipak Patel's findings were published in *The Post* newspaper and a clamour arose for Chiluba's prosecution, but first his immunity from prosecution for cases arising during his time as head of state had to be lifted. The newly elected President, Levy Mwanawasa, asked Parliament to do so. This was adopted by 140 votes to zero. Chiluba's prosecution was put in the hands of a special task force. This was partly composed of people working for the police, the Anti-Corruption Commission, the Drug Enforcement Agency and the Auditor General. However, it also employed people in a private capacity. The most notable among them were the Nchito brothers, who became privately hired public prosecutors. They had been lawyers for Dipak Patel and Edith Nawakwi in the 'Chiluba is a thief' libel case. Mark Chona, a veteran politician who had led the mass protest against a third term for Chiluba, became the leader of the task force, which was supported financially by the donor community.

The emergence of these cases demonstrates thus a complicated interplay between local political forces and donor involvement, and not a mere matter of legal prosecution.

20. 'Cobalt cash', *African Confidential* **43**, 9 (3 May 2002), p. 8; 'Cobalt crunch', *Africa Confidential* **43**, 12 (14 June 2002), p. 8.

The accusations

What were the main accusations made when Mwanawasa asked for the lifting of Chiluba's immunity?

First, that there had been illegal payments to him and his friends. Among other examples Mwanawasa mentioned in his speech to Parliament were a payment of US$1.1 million to his tailor and one of US$90,000 to his daughter, Helen Chiluba. During the following years, more and more such payments came to light. Tax officials testified that they found gifts from Chiluba to his second wife, Regina, of US$352,000 in the period 1995–2001. A shameful one went to the Chief Justice, Matthew Ngulube, who received US$168,000. Another striking remittance is that of US$70,000 to American fundamentalist churches. The ZAMTROP account in London played a major role in this.

Second, there are a large number of transactions that have to do with privatization, especially of the mines. For example, property of the mining companies in Europe and East Africa disappeared into dubious trusts and companies whose ownership is difficult to trace. Third, Mwanawasa mentioned a mysterious payment of US$20.5 million to Katebe Katoto, a Congolese businessman and politician, for military equipment that was never delivered. Fourth, Mwanawasa noted the tankers of petrol that had disappeared, albeit fewer than the figure Nawakwi had mentioned.

Few of these accusations have resulted in prosecutions. Three criminal prosecutions against Chiluba and his accomplices have been initiated in Zambia. The major one concerns the theft of US$29 million on 65 counts. The others are relatively minor. Criminal cases have also been started against major accomplices mentioned below. Procrastination in the courts hampered the repossession of stolen properties, especially in Europe. Therefore, again greatly supported by the donor community, a civil case was started by the Zambian state in London that resulted in May 2007 in the convictions of Chiluba and his accomplices, and in a demand for the repayment of the money stolen. Chiluba was told to pay about 85 percent of the total sum (US$41 million) involved in the court cases within 14 days of service of the judgement. Chiluba, however, is challenging this judgement before the Zambian courts. Nevertheless, the court case led to major repossessions in Europe and a new lease of life for the Zambian criminal cases.

The progress through the courts remains very slow, and it is likely that the courts themselves are reluctant to speed up the cases. There are, however, two genuine complications. First, the law allows much procrastination to protect the rights of the accused. Second, it is difficult to isolate culprits. These crimes leave few formal records and much depends upon witnesses who are also accomplices. As corruption is inherently social in nature, it is difficult to draw boundaries around those involved in a prosecution.

The social nature of corruption

Chiluba is the main accused, but his name is mentioned among many when charges are laid.[21] The cases that have come to court all involve a simple procedure–money being taken from the treasury. Therefore, some of the accomplices are senior officials in the Ministry of Finance. The name that crops up most often is that of Stella Chibanda, director in the department of loans and investment of the Ministry. This money was channelled in two possible directions. Within Zambia, it went to a company with the ironic name Access Financial Services Limited. The accused there are the executive director, Aaron Chungu, and Faustin Kabwe, the chief executive officer. The other route went through London. The ZAMTROP account in London was one destination. The director of the security services at that time was Xavier Chungu, the main accused after Chiluba. Another destination was Meer, Care, and Desai, a law firm operating in London.[22] They were the main accused in the London court case. A pivotal person in distributing the money was the Zambian High Commissioner at the time, Atan Shansungu. From these destinations it went to private individuals or to obscure companies such as Wilbain Technology, incorporated in Delaware USA, or Nebraska Ltd, incorporated in the Virgin Islands. The names mentioned above turn up regularly among directorships of such companies.[23] For example, one of the associated court cases found that:

> Access Finance facilitated substantial loan finance from funds received from Meer Care and Desai to interconnected companies such as Bobat Brothers, Roan Investments and Dulatite properties Ltd. The connection between the named companies and Access Finance is that Bobat Brothers, the majority shareholder (with 50.4 percent) is Shego Holding Ltd, where Edward Shamutete and his family own 50 percent of the shareholding. Shamutete is a director in Access finance. Roan Investments is

21. A valuable description of the network is 'Analysis of Zambia's world of theft and abuse of public resources', *Alexander's Oil and Gas Connections* 7, 14 (12 July 2002), <http://www.gasandoil.com> (accessed 7 June 2006).

22. The lawyers Iqbal Meer and his partner Naynesh Desai were ordered to pay back US$11 million in the London trial of Chiluba and his co-accused. On appeal, the court decided that they had been negligent. They could have known that the funds they handled were obtained in a fraudulent manner, but it concluded that they themselves had not been fraudulent. 'Mandela lawyer wins fight to clear name over £23 million fraud', <http://timesonline>, 31 July 2008 (accessed 20 August 2008).

23. The London judgement has a long list of *dramatis personae* showing this. For example, Industrial Equipment Ltd, a company registered in Zambia, made payment to the Access Finance ledger via Cave Malik and Co. in London. The money was then transferred to Irene Kabwe (Faustin Kabwe's wife) in New York on Kabwe's instruction. Some foreign companies turned up that are not mentioned in the London trial. A company named Odys Oil was seeking money involving claims from the ZAMTROP account and a transaction surrounding the Black Velvet nightclub involving Chiluba: 'Odys Oil sues George Kunda, Mark Chona', *Times of Zambia*, 6 April 2005. Faustin Kabwe, Aaron Chungu, Irene Kabwe, and Francis Kaunda appeared also to be involved, together with Jean Pierre Kozan from France, in Comecim SA, a Swiss company. 'Swiss company sues BOZ over Access Financial Services', *The Post* (Lusaka), 10 October 2004.

> Access Securities Limited (a member of the Access Group of Companies) and Shengo Holding own equal shares in Roan Investments. Faustin Kabwe, Aaron Chungu and Shamutete are directors of this company. Ida Shamutete and Chainda Shamutete are the shareholders and directors of Dulatite Properties Limited.[24]

The network of the accused predates Chiluba's coming to power. The two main protagonists at Access, Aaron Chungu and Faustin Kabwe, had started their financial careers during the heady days of nationalization in the 1960s. Andrew Sardanis, a Zambian nationalist of Greek Cypriot origin, was steering this process. He left Zambia in 1969 and returned again in the late 1970s. He profited from the liberalization of the banking sector to set up Zambia Meridien BIAO Bank of Zambia Ltd. This bank was part of an international merchant bank based in the Bahamas and ultimately controlled by a company in Luxemburg. It collapsed in 1995 at great cost to Zambian taxpayers and depositors. Aaron Chungu and Faustin Kabwe worked for that bank, and Iqbal Meer was the bank's lawyer in London. After it collapsed, they started Access. Iqbal Meer was their lawyer. Aaron Chungu is said to be a close relative of Xavier Chungu, the head of Zambian intelligence and second main accused in the cases. The phoney nature of the operation is clear from the fact that Xavier Chungu acquired shares in Access but never paid for them. He intended to do so, but fell into arrears. Zambian State Intelligence and Security Services then paid paid Access via a company called Pkupan.[25]

The ruling in the London court mentions it as a coincidence that Access was established just after the collapse of Meridien. This coincidence coincided with another major event: Xavier Chungu and Stella Chibanda established contact with two US businessmen, G. A. Ruskosky and Jim Wills. These men entered into a contract with Zambian intelligence that the latter would provide funds and 'from time to time give the company instructions as to the disbursement which may be amended'. The contract stated further that they would not be asked to do anything unlawful 'although you are relieved from making enquiry about, and will be unable to know, the use and application of funds after you have disbursed them'. This was the beginning of a web of companies used to sluice money from the Zambian treasury.[26]

A second web of pre-existing contacts relates to the nationalized mining companies: Zambia Consolidated Copper Mines (ZCCM). It is striking that none of the allegations that concern theft from the mines have resulted in charges being laid. The personal links between the main accused and ZCCM are obvious, however. For example, Francis Kaunda was director

24. 'Access finance was used for plunder, reveals BOZ', *The Post* (Lusaka), 5 June 2003.
25. 'Op bought Chungu shares in Access Financial Services', *Times of Zambia*, 24 November 2004; 'Access Finance was used for plunder, reveals BOZ', *The Post* (Lusaka), 5 June 2003.
26. 'Chiluba's judgement pullout', *Saturday Post* (Lusaka), 5 May 2007, pp. vi–vii.

and chairman of the Access companies. He was also Chief Executive Officer of ZCCM at the time and chairman of the privatization negotiating team set up by Chiluba between 1997 and 1999. Francis Kaunda was the eleventh defendant in the London court case, but the only one to escape conviction. He was, however – together with Faustin Kabwe – an ACCESS director, and a defendant in one case concerning the unlawful transfer of a primary school owned by the mines to a private group. This case resulted in a conviction against which he later appealed.[27] He is not mentioned in any of the criminal charges before Zambian courts that include Chiluba.

The overlap with the previous networks is also striking when we look at the cobalt marketing scandal.[28] Atan Shansungu, the fifth accused in the London court case, was ambassador to Washington and later high commissioner to London during Chiluba's rule. During the 1990s he was employed by various subsidiaries of ZCCM, including the Metal Marketing Company. Edward Shamutete was a director of Access as well as a director of ZCCM. Shamutete is still chairman of the board of ZCCM Investment Holdings in which the remaining minority shareholdings of the Zambian government are kept. He was one of the two main protagonists in the cobalt scandal. It is understandable given subsequent events that the well-researched cobalt marketing scam did not lead to prosecutions. The Zambian Minister of Finance rejected the audit report documenting the scandal, as the quality of the work – undertaken by a Mauritian firm Chazal du Meè, then a subsidiary of Andersen worldwide – did not warrant a prosecution.

Neighbouring Congo (DRC) provides a third social context within which the theft has to be situated. Chiluba's origins are not particularly clear, but he originates probably from within the DRC. He has close links with Katebe Katoto, also known under the name Raphael Soriano. Katebe Katoto is accused of gunrunning and using Zambia as a conduit route. He made an arms deal with Chiluba that never resulted in actual deliveries despite payment. He was convicted of that in the London trial. There, he was the only defendant who was not connected with the management of Access, albeit that he had an account there. There is also a long-running conflict

27. 'I'm innocent, maintains Francis Kaunda', *Times of Zambia*, 19 March 2008; 'Francis Kaunda, Kabwe go to jail', <http:www.Maravi blogspot.com>, 14 August 2008 (accessed 18 October 2008).

28. This scandal broke with a story in the *New York Times*. See Alan Cowell, 'Draft audit faults Zambia's mining deals', 16 February 2001. The issue was closed on 5 November 2002 with a statement by Emanuel Kasonde, then Minister of Finance. He estimated the loss caused by the marketing deal at more than US$100 million. Shamutete's name was central in the affair. Dipak Patel MP asked in Parliament when Shamutete would be arrested. 'Zambia lost $120m in ZCCM Cobalt scam, reveals Kasonde', *The Post* (Lusaka), 6 November 2002. See also <http://www.parliament.gov.zmr> or <http://www.mofnp.gov.zm> for the ministerial statement. The firm of auditors put a disclaimer in their report, among other reasons because 'it could not conduct the audit investigation to international standards'. The cobalt buyers, MRG, denied any impropriety.

about diverting maize bought by the Zambian government to refinance his company, Chani Fisheries. Much of Katoto's property on the Zambian Copperbelt is also disputed. Katoto is prominent in Congo politics, but is reported to be in exile in Belgium these days. His power base is resource-rich Katanga, which shares a border with Zambia. His brother, Moses Katumbi, is the governor there. Their business and political practices seem to be interwoven to the extent that an outsider cannot make a clear distinction.[29]

The influence of Congo is particularly strong in the case of Xavier Chungu. In a later case surrounding Access, it appeared that Xavier Chungu was a frequent visitor at the Kasaba Bay Lodge on the shores of Lake Tanganyika in the Nsumbu game reserve when it was owned by Katebe Katoto.[30] Xavier Chungu threatened from the beginning to escape, and succeeded. He had already been caught with a briefcase of money on the way to the Bahamas in March 2002, and was a witness in the 'Chiluba is a thief' trial. His passport was impounded when he seemed about to flee to Switzerland. A second attempt to fly from Kawambwa in Luapula Province to Katima Mulilo in Namibia was aborted when Chungu was arrested with a suitcase of money in Mansa, the capital of Luapula. The prosecution tried to imprison him on non-bailable offences such as the theft of motor vehicles. That succeeded for fourteen months. It proved difficult to make these accusations stick, as the ownership of vehicles in intelligence is often a grey area. He was again released in March 2004 on bail of ZK50 million, then the equivalent of US$10,000 – small money compared to the amounts stolen. The prosecution resisted this strongly. Chungu had attempted to flee earlier when out on bail.[31]

Their fears were confirmed when Chungu failed to appear in court on 3 May 2004. This was a surprise to his relatives as well, some of whom had put up bail. In a telephone conversation with *The Post* newspaper, he said he was in Congo, staying with a private family. The Congolese embassy in Lusaka declared it was ignorant of Chungu's flight. Chungu said he had good friends among Congolese businessmen who were doing him a good turn in return for things he had done for them when he was in intelligence. Chungu did not stay long in Congo, but was said to have gone to Canada and Portugal.[32]

29. Georges Timmerman, 'Portret van Katebe Katoto, zakenman met Belgische connecties', *De Morgen* (Belgium), 10 May 2005.
30. 'Katoto has abandoned his lodge – witness', *The Post* (Lusaka), 16 January 2003.
31. 'Ex OP chief was caught with a briefcase of money headed for the Bahamas', *The Post* (Lusaka), 29 March 2002; 'I feel emotionally attacked – Chungu', *The Post* (Lusaka), 29 June 2002; 'I was hired to pick up Chungu, pilot tells court', *The Post* (Lusaka), 10 October 2002; 'Chungu and two others granted K5 million bail', *The Post* (Lusaka), 30 March 2004.
32. 'Former intelligence chief Xavier Chungu has "disappeared"', *The Post* (Lusaka), 4 March 2004; 'Xavier Chungu visits Portugal', *The Post* (Lusaka), 6 March 2006; 'Chungu will have to face justice in Zambia, says DRC ambassador', *The Post* (Lusaka), 1 July 2004.

A last aspect of the social context is more ambiguous. These people did what they did in a context where Zambia's public finances were in fact under strong supervision of the international financial institutions, and they used this as a shield under which they operated. Stella Chibanda, the main protagonist at the Ministry of Finance, was director of loans and investments and thus charged with managing the public debt. Xavier Chungu originally approached her with the request that debts left behind by the former regime be met. Xavier Chungu wrote: 'I wish to recommend that these debts be treated as part of the national debt. The amounts are quite modest and can therefore be accommodated within the external debt service budget without drawing the attention of the IMF and the donor communities.'[33] David Diangamo, a former permanent secretary in the Ministry of Finance, was questioned in court about the transfer of ZK4 billion from ZCCM's account to the account of the Office of the President. Diangamo was not authorized to make that transfer, but he had done it without ulterior motives. If the IMF had found such a deficit in the Office of the President, then they would probably not have released a facility for poverty reduction. Once the money was received from the IMF, the ZK4 billon was returned to ZCCM's account.[34] It is also telling that Stella Chibanda had left the Ministry of Finance at the time when the scandal broke and was reportedly doing an assignment at the World Bank.[35]

The political consequences of opening the trials

For Mwanawasa, opening the cases was also a means of asserting his independence from Chiluba. He had come to power with a narrow victory in 1991, with support concentrated in Chiluba's strongholds. He was seen by the outside world as a stooge handpicked by Chiluba in order to retain influence. The overwhelming vote in Parliament to lift Chiluba's immunity marginalized the latter politically and made Mwanawasa his own man. Chiluba had retained the chairmanship of the party after the debacle of his attempt to gain a third term as president, after which Mwanawasa himself took control of the position through a formal selection procedure in the national executive committee of MMD. Resistance was again minimal and came from a few politicians originating from Luapula Province, Chiluba's adopted home base. Mwanawasa consistently tried not to be vindictive and maintained that he would drop the cases if Chiluba returned the money.

33. 'Chiluba's judgement pullout', *The Saturday Post* (Lusaka), 5 May 2007, pp. vi–vii.
34. 'Zambia govt borrowed funds from Zanaco through Op', *The Post* (Lusaka), 2 March 2006.
35. 'Analysis of Zambia's world of theft and abuse of public resources', *Alexander's Oil and Gas Connections* 7, 14 (12 July 2002), <http://www.gasandoil.com> (accessed 7 June 2006).

That was not appreciated by the legal community, who maintained that justice should run its course.

Chiluba denies all charges and sees them primarily as a donors' vendetta against him and a breach of Zambia's sovereignty. He claims to have incurred donor wrath because of his support for Mugabe's land seizures and his resistance to privatization of the copper mines. He avoids court appearances by claiming to be seriously ill, and he tends to ridicule it on the infrequent occasions when he does appear.[36]

Chiluba defends himself in evangelical Christian terms on platforms such as the Dunamis Apostolic and Prophetic Impact Conference of his friend, Dan Pule. In a speech that was broadcast over the radio, Chiluba claimed to have a covenant with God that is above whatever people may say about him. God has not labelled him a thief: 'They have declared me guilty without listening to me.' He traced his difficulties to Kenneth David Kaunda, who had prayed to false deities in his own 'David Universal Temple'. Chiluba had smashed these idols and now had to bear up under the wrath of Satan. His lack of shame was particularly evident when his prosecutors found, in a warehouse belonging to Access, more than 150 suits, 300 shirts monogrammed with Chiluba's name, and a hundred pairs of handmade shoes. Chiluba was furious and threatened a court case for breach of the peace. He claimed: 'they are taking my underpants', somewhat understating the splendour of his wardrobe.[37]

Gradually, Chiluba became more and more prominent at public functions. He visited Michael Sata, the Patriotic Front leader, in prison when the latter was arrested for inciting striking mineworkers. He upstaged Mwanawasa by appearing first at the scene of an accident in the Kavironda explosives factory on the Copperbelt. He attended the funeral of another colleague politician, Dean Mung'omba, as one of the three past and present presidents of Zambia – Kenneth Kaunda, Frederick Chiluba, and Levy Mwanawasa – at the graveside. He is keen to adopt the role of elder statesman.[38]

Chiluba became more and more confident in the run-up to the 2006 general elections and he profiled himself again politically. He found an ally in an existing small opposition party, Michael Sata and his Patriotic Front. Chiluba did not attend party rallies or make public statements at press conferences. However, he issued one general statement to the press that he supported Sata on personal grounds.[39] Sata in turn proposed to end the

36. 'Ex-President Chiluba laughs at his charges as he pleads not guilty to theft of K19 billion', *The Post* (Lusaka), 15 August 2009.
37. 'Chiluba in trouble', *The Post* (Lusaka), 11 March 2005; 'Chiluba doesn't seem to learn', *The Post* (Lusaka), 15 March 2005.
38. Neo Simutanyi, 'Levi versus Fred: a popularity contest', *The Post* (Lusaka), 9 May 2005.
39. Dipak Patel, whose whistle blowing had provided early momentum for the cases, did not stand as an MP in the 2006 elections. He came back forcefully, however, with a condemnation

court cases against Chiluba and harked back to the times when the mines were nationalized. He reminded voters on the Copperbelt that they had free water and electricity in the times of Francis Kaunda and Edward Shamutete. These two names are mentioned as possible lynchpins in the massive fraud, corruption, and theft surrounding ZCCM referred to above. Sata appealed to strong emotions: he won massively in urban areas, especially on the Copperbelt.[40] However, Mwanawasa and the MMD retained the rural vote and won with a credible overall majority of 20 percent of the votes.

The 2006 elections were the beginning of the endgame for Chiluba. Mwanawasa established his credibility in those elections and that was reinforced by the 2007 judgement of the London court. Whereas Chiluba could still maintain in the middle of 2006 that the long duration of the court cases showed that they could not find evidence, that position had become untenable after May 2007. Predictably, Chiluba refused to recognize the judgement and considered it an imperialist plot, but the evidence was published so widely that this had no effect. The ruling was beamed directly to Zambia and was broadcast on state radio and television as well as printed in the newspapers. Essential parts of the judgement are also widely available on the Internet. It is striking that Sata no longer advocates dropping the prosecution. Donor influence and the interests of the Mwanawasa government have thus coincided considerably, with political benefit for both. The independent Zambian newspaper *The Post* seldom writes favourable comments on those in power, but after the London verdict it published an editorial that aimed to give Mwanawasa due recognition:

> We are also conscious that Levy [Mwanawasa] has paid an extremely high price politically and socially for the position he has taken on Chiluba and his cohort of thieves. It would have been quite easy for Levy to U-turn and abandon this crusade. We do not forget that there has been a lot of contradictions from the government in the fight against corruption. And yet we must acknowledge that on the whole Levy has delivered the decisive victory for the Zambian people. It does not matter how active and pro-active is a free press, indeed it does not matter how pro-active and militant civil society might be, the victory that the Zambian people have scored could not have been scored without a willing government – Levy deserves the credit.[41]

The nature of the crimes and the nature of the political system

Some of the money was undoubtedly used to build political support. However, whenever we find instances in the court cases of money being dished out, amounts are relatively small. There are no big redistributive effects to be found through patron–client networks. The cloak of secrecy

---

of Sata when he teamed up with Chiluba. He talked about a regrouping of the vultures. 'Chiluba and his crooks must be stopped', *The Post* (Lusaka), 20 September 2006.

40. 'Michael Sata, leader Patriotic Front Zambia', < http://www.irc.nl> (30 January 2008).

41. 'Give Levy the credit he deserves', *The Saturday Post* (Lusaka), 5 May 2007.

of the intelligence services made it possible to keep the inner circle of beneficiaries small. Money was, however, given to people to stay quiet. Payments to the Chief Justice, Matthew Ngulube, and to Fred Siame, the Auditor General at the time, probably belong in that category. A number of officials in the Ministry of Finance were also paid off for looking the other way. These are often relatively small amounts, for example about US$17,500 for Professor Ben Mweene and his wife. Mweene was a permanent secretary of finance on a generous dollar income paid for by the IMF.[42] Often these gifts were in the form of government real estate, or mortgages to procure these, that did not cost the protagonists anything.[43]

One aspect of the neo-patrimonial model is clearly apparent: the major protagonists see no difference between individual and state property. In testimonies there was often no attempt to deceive, as is typical of fraud. Fraud implies an awareness of going against the law and this was absent. The testimony of Musonda, the ZANACO bank manager, is revealing:[44] these practices were a logical consequence of state ownership of the bank; the government was a client as well as owner of the bank; so he considers his involvement, not as aiding theft, but as being in the interests of the state. He considers himself a patriot because he has had offers to remain in London but he chose to heed the call to return to Lusaka. He is proud of his record: the bank was very profitable under his management.[45] David Diangamo, the ex-permanent secretary in finance, went further than merely priding himself on what he had done. He cautioned people testifying against him: it was very possible that one day he would be Minister of Finance.[46] The London judgement mentions that 'It is quite clear from the evidence that those in power and those associated with those in power were not questioned. What they said was unchallenged because of fear.'[47] Building loyalty on fear is quite different from building it on financial rewards.

Chiluba's political style towards the end of his rule was fuelled by money, but much more as a display of vanity than as a means of building support. An editorial from *The Post* illustrates this graphically, as it indicates how vanity and buying political support intermingled:

> Everything with Chiluba started and ended with money. The church was corrupted with cash hand-outs. Some pastors hired themselves out to him simply because of the

42. 'Chiluba's judgement pullout', *The Saturday Post* (Lusaka), 5 May 2007, pp. v.

43. Two striking examples concern lawyers: 'Silwamba, Malambo never benefited from K280m', *Times of Zambia*, 22 April 2004.

44. During 1991–5, Musonda was the manager of the London branch of the Zambian National Commercial Bank (ZANACO), which was a lynchpin in the financial constructions of Chiluba and his accomplices. From December 1996 to June 2002, he was the general manager of ZANACO.

45. 'Ex-ZNCB chief pleads for innocence', *Times of Zambia*, 9 August 2006.

46. 'I can come back as Finance Minister, says Diangamo' *The Post* (Lusaka), 27 January 2006.

47. 'Chiluba's judgement pullout', *The Saturday Post* (Lusaka), 5 May 2007, p. iv.

> money. He himself once said that he was making cash payments to buy his way to heaven. . . . Chiluba set in a new despicable culture of theft and general banditry that is today extremely difficult to root out. Those who were in the election campaigns will surely confirm this. Chiluba has prided himself for bribing people. He is on record saying that there is nothing wrong with brown envelopes. . . . When Chiluba's government were saying they had no money to fund essential services, they always had money for brown envelopes and expensive designer clothes.[48]

The Post editorial indicates in the first place the self-aggrandizement sought with the money. Gifts to close relatives, for example Chiluba's daughter or his second wife, or to American fundamentalist preachers, belong also in this category. However, the most obvious immediate use of the money was to gratify personal vanity. Rolex watches are mentioned regularly. Xavier Chunga paid US$30,000 from the ZAMTROP account to Fine Jewellers in Washington. Chiluba himself paid US$1.1 million to Basile Tailors in Geneva for monogrammed handmade shirts, handmade shoes, and other adornments.

Conclusion

Even with all the material that has come to light, we cannot fully understand what has happened. Those accused of theft from the state mostly deny it; but they also consider what the courts called theft to have been legitimate. To construct a map of that lifeworld would need intimate and confidential contact with the protagonists, and that we do not have.[49] It is a lifeworld that is not particular to Zambian politics. Mobutu's advice to his followers is well known: to steal, but also to steal wisely.[50] Obasanjo intervened as president in a conflict between state politicians arguing that they were not following the honour and honesty of thieves. In a letter concerning the affair, Obasanjo wrote explicitly that it was a matter of fair play and justice among robbers.[51] That lifeworld cannot, however, be generalized to the whole Zambian political class. Prosecutors and politicians have run risks engaging in a struggle against those who think that way. Therefore we should be wary of projecting a compelling logic in the nature of the African state as driving towards predatory behaviour.

A first conclusion from this case is the fractured nature of Zambian politics: the conflict around the 'plundering of natural resources' was in the first place a political struggle within Zambia. A second conclusion is that

48. 'Cheap demagogy', *The Post* (Lusaka), 22 September 2006.
49. For the concept of a lifeworld see Peter L. Berger and Thomas Luckmann, *The Social Construction of Reality: A treatise in the sociology of knowledge* (Anchor Books, Garden City, NY, 1966). A lifeworld is a shared interpretation of the world that constructs social practices.
50. Admittedly, this may be apocryphal.
51. Daniel Jordan Smith, *Everyday Deception and Popular Discontent in Nigeria* (Princeton University Press, Princeton, NJ, 2007), pp. 133–4.

the international community is an important player in these internal struggles. Donors were already involved in fighting the Chiluba government for corruption when Chiluba was still in power. They paid for the accountants' probe into metal marketing. Donors financed the task force to set up the prosecution. The high point in donor involvement in the Chiluba cases was the civil case opened in London by the government of Zambia against the major protagonists. The trial was funded partially by a US$2 million grant from Britain's Department for International Development.[52] Donors are thus deeply involved in Zambian politics.

This fits the international development agenda that considers good government as essential in development.[53] DFID's support for the London trial, for example, can be justified by the strategic role given to governance issues in poverty reduction.[54] A wide body of research argues the association of government integrity with many positive developments, notably faster economic growth, and a range of instruments is advocated to fight predatory behaviour in public office. Financial probity is seen as an essential part of good governance. This is considered a truly international public good, championed by the World Bank and the non-governmental Transparency International.[55]

The struggle for integrity in public office is then easily constructed as a confrontation of international actors and local elites, for example, in Tangri and Mwenda's reference 'to the inability of many external donors to address internal political matters'.[56] This is often also expressed by the catch-all phrase of a lack of political will on the part of national governments. However, oligarchies and political elites appear not to be monolithic entities in this case, and international actors are to varying degrees allies and antagonists of parties in national political arenas. It may therefore be a

52. 'UK lawyers helped Zambia's ex-president launder £23 million', *The Guardian*, 6 February 2008.

53. This has not always been the case, as private enrichment from public office has long been seen as an inherent aspect of underdevelopment that belonged to transitional political cultures. Fred W. Riggs, *Administration in Developing Countries: The theory of prismatic society*. Houghton Mifflin, Boston, MA, 1964). A logical consequence is then to declare corruption as non-controversial in such contexts. Although nowadays the plea for intervention is widespread, cultural explanation can still be heard. J.-P. Olivier de Sardan, 'A moral economy of corruption in Africa?' *Journal of Modern African Studies* **37**, 1 (1999), pp. 25–52.

54. Department for International Development, 'Eliminating world poverty, making governance work for the poor' (Government of the United Kingdom, London, 2006).

55. Susan Rose-Ackerman, 'Governance and corruption' in Bjorn Lomborg (ed.), *Global Crises, Global Solutions* (Cambridge University Press, Cambridge, 2004), pp. 301–22, provides a comprehensive and detailed overview of these issues from a vantage point that is associated with the World Bank. The associations of good governance, including human rights and democracy, with positive economic outcomes are challenged by Dani Rodrik, *One Economics, Many Recipes: Globalization, institutions and economic growth* (Princeton University Press, Princeton, NJ, 2007), pp. 166–83.

56. Tangri and Mwenda, 'Corruption and cronyism', p. 133.

simplification to argue that anti-corruption drives will leave existing power structures intact.

Yet the latter conviction is common in the literature. A powerful argument has been made that economic reform – usually including anti-corruption drives – results within Africa in partial reform. Predatory rulers accept reform in order to stay in power and the result is partial reform that stops short of being effective.[57] An anti-corruption drive is indeed a powerful tool legitimizing regimes in corrupt environments. A review of anti-corruption commissions in Africa concluded that 'all lacked political commitment in deed if not in word and all have been subjected to a high level of political resistance that has resulted in the ring fencing of corrupt practices'.[58] A review of World Bank anti-corruption programmes in seven African countries concluded that the average level of reform was high in Tanzania, but 'the anti-corruption debate may have been less controversial in Tanzania because of a deficient implementation process'.[59] Tangri and Mwenda conclude from the experience in Uganda that the top levels of authority 'have shown a willingness to weaken the ability of oversight institutions to control their corruption in order to protect their personal and regime interests'.[60] In an earlier article, Tangri and Mwenda concluded that:

> all over sub-Saharan Africa, these [public watchdog bodies] have failed to act decisively against the big, corrupt, wrongdoers and have them prosecuted at the courts. Hardly anywhere has a major politician or bureaucrat been punished for illegal and corrupt behaviour. It is this failure to charge high level and well-connected figures (itself connected to the inability of many external donors to address internal political matters) that has created a climate of impunity in African countries and encouraged top leaders to think that they will never be punished for their misdeeds.[61]

There is ample evidence to defend a thesis that predatory oligarchies persist, first and foremost, because it is very difficult to get criminal convictions in the courts. Only Richard Sakala, a State House aid in charge of a presidential housing scheme, has been convicted and jailed. More important is the conviction of Samuel Musonda, who was central in the dealings at the Zambian National Commercial Bank. Musonda has been sentenced to fourteen years in prison, but he is appealing. Chiluba and accomplices

57. Nicolas van de Walle, *African Economies and the Politics of Permanent Crisis, 1979–1999* (Cambridge University Press, Cambridge, 2001).

58. Alan Doig and Stephen Riley, 'Corruption and anti-corruption strategies: issues and case studies from developing countries' in *Corruption and Integrity Improvement Initiatives in Developing Countries*, available at <http://www.magnet.undp.org/doc s/efa/corruption/chapter 03 pdf> (15 July 2006).

59. Carolien Klein Haarhuis, *Promoting Anti-Corruption Reforms: Evaluating the implementation of a World Bank anti-corruption program in seven African countries (1999–2001)* (Interuniversity Centre for Social Science Theory and Methodology, Utrecht, 2005).

60. Roger Tangri and Andrew M. Mwenda, 'Anti-corruption institutions in Uganda', *Journal of Modern African Studies* **44**, 1 (2006), p. 122.

61. Tangri and Mwenda, 'Corruption and cronyism', p. 133.

have been convicted in civil suits in a London court. The validity of this judgement is still contested in Zambian courts. Criminal cases are also still winding slowly through the courts.[62] Even judges despair about the evasive tactics of the accused. On appeal by the state, Francis Kaunda was convicted to two years' hard labour on the charge of the theft of a school during the privatization of the copper mines. The judge declared that the sentence should be immediately executed and did not give respite on bail pending appeal. However bail has been appealed for successfully.[63]

Second, the accusations cover only some of the scandals unearthed. Notably, crimes connected with the nationalized mining corporations are kept out of the picture. The amounts of money mentioned in the court cases are relatively small compared to the amounts bandied around in, for example, the cobalt metal marketing scandal.

Third, powerful economic players are allied to the accused – like Moses Katumbi, the governor of Katanga Province in Congo and close relative of Katebe Katoto. The latter was one of those convicted in the London court case. Katumbi resorted to arbitrarily closing the border between the Zambian Copperbelt and Katanga Province. The copper mines are these days an integrated cross-border complex and this closure was costly. As a Zambian government spokesman said: 'We either have an economic war with Congo or we pardon him.'[64]

Fourth, political expediency militates against prosecution. For example, Chiluba's last Minister of Finance, Katele Kalumba, is back in party leadership as national secretary of MMD, while still being one of the accused in the criminal cases against Chiluba. After hiding in his home area in Luapula, he was detained for a short period. After being freed on bail, he entered Parliament, demonstratively showing himself to be a friend of Xavier Chungu. When they met in the corridors of the court, they embraced each other shouting 'Master, Master'.[65] He won at the MMD convention with a resounding majority against two other heavyweights in the party. This was welcome to Mwanawasa because Katele is a gifted political organizer, and Mwanawasa was said to have little grip on the party.

In Zambia as elsewhere, political expediency keeps corrupt people in power. There is also undoubtedly a group in or near power that will resist the emergence of a political culture where political leaders can be made accountable for criminal behaviour. Yet, a blanket interpretation of the persistence of predatory political elites obscures important differences between

62. At time of writing, September 2008.
63. 'Zambia court jails Kaunda', *Times of Zambia*, 19 August 2008; 'Court grants Kaunda K50 million bail', *The Post* (Lusaka), 19 August 2008.
64. See <http://www.lusakatimes.com/>, 'Moses Katumbi makes peace with taskforce', posted 18 April 2008 (23 April 2008).
65. 'Katele, Chungu hug in court', *Times of Zambia*, 17 September 2003.

political cultures and blocks further analysis. It makes a big difference whether one talks about corruption in Congo, Nigeria, or Zambia. The resistance against corruption is also evident in the more democratic Zambian political culture. The role of Parliament and the press are central in the story that is told here. International initiatives to fight corruption find a much more fertile ground here than in other countries. The nuanced opinion of Scott Taylor captures well the difference that these trials made:

> Certainly corruption continues in Zambia. Yet a different normative environment is slowly emerging, even within the bureaucracy. Moreover, at the presidential level, 'the greatest benefit is laying a precedent'. In this respect, at least, it matters less that Levy Mwanawasa personifies the classical 'big man' than that he and those who follow his lead 'to catch the big fish' are binding themselves, consciously or otherwise, to an evolving set of norms and legal-institutional remedies that constrain future corruption.[66]

How the court cases against Chiluba built a political culture where predatory behaviour is questioned is evident in the case that emerged in 2004 against the ex-permanent secretary of health, Bulaya. In that capacity, he had imported from Bulgaria, at a cost of about one million dollars, alternative 'natural medicine' against HIV/AIDS that was not approved by the Zambian Council of Medicine. This medicine was procured through two trading companies in which Bulaya had interests. Although it is a case after the Chiluba period and therefore officially outside the competence of the task force, the private prosecutor, Utembo Nchito, of the task force prepared the case. Nchito forwarded the case to Mrs Zulu Sokoni, the Acting Director of Public Prosecution, who wanted to bring it before the courts. However, the Minister of Justice, George Kunda, decreed that there should be no prosecution.[67] Zulu Sokoni then wrote a letter to the President stating that it fell to her competence to decide whether on legal grounds there was reason for prosecution and that it was not a political decision. The suggestion was that Mwanawasa had stopped the prosecution because of political expediency in return for support provided in the 2001 elections. Mrs Zulu Sokoni resigned and another acting prosecutor was appointed. The case gave rise to massive protest from the press, the Law Association of Zambia and several ambassadors. Mwanawasa gave in, the case was brought to court, and resulted in a conviction. Again, we find here the coming together of international regulatory influence and local political forces in another configuration. A static interpretation of elites does not do justice to this case.[68]

66. Scott D. Taylor, 'Divergent politico-legal responses to past presidential corruption in Zambia and Kenya: catching the "big fish", or letting them off the hook?', *Third World Quarterly* **82**, 2 (2006), pp. 281–301.
67. 'Govt admits ordering DPP to forgive Bulaya', *The Post* (Lusaka), 20 May 2008.
68. 'Chiluba protests against French envoy', *The Post* (Lusaka), 12 December 2005; 'Levy, George found with a case to answer', *The Post* (Lusaka), 20 April 2006.

Predatory elites have undoubtedly the tendency to re-emerge after political upheaval, but they are not above political struggle. Political moves against predatory behaviour should be seen as part of an ongoing struggle in which the influence of international and local forces intermesh. Blanket designations such as prebendalism and kleptocracy do not do justice to these struggles. Detailed study is what is needed now.