

PARTICIPATION FOR A 'PEOPLE-DRIVEN' CONSTITUTION?: A CRITICAL  
INVESTIGATION OF ZAMBIAN CIVIL SOCIETY ENGAGEMENT IN THE  
CONSTITUTION-MAKING PROCESS

by

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Submitted in partial fulfillment of the requirements  
for the degree of Master of Arts

at

Dalhousie University  
Halifax, Nova Scotia  
May 2010

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DALHOUSIE UNIVERSITY

DEPARTMENT OF INTERNATIONAL DEVELOPMENT STUDIES

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DALHOUSIE UNIVERSITY

DATE: May 3, 2010

AUTHOR: Elizabeth Hayward

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DEPARTMENT OR SCHOOL: Department of International Development Studies

DEGREE: MA CONVOCATION: October YEAR: 2010

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*For Malmo*

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## **Abstract**

This study explores with theoretical and practical challenges surrounding the roles of civil society organizations (CSOs) and participatory approaches in development and democratization processes in contemporary Africa. Through a grounded, contextualized analysis of a coalition of Zambian CSOs, the Oasis Forum, and its (dis)engagement with the ongoing constitution-making process, this thesis interrogates the possibilities and limitations of various conceptions of ‘popular participation’ in efforts to open up potentially transformative spaces for citizen engagement. The case of the Oasis Forum complicates, enriches and challenges both liberal and critical narratives of civil society, and demonstrates that even within superficially liberal language and objectives, there can be efforts to advance, and articulate with, more far-reaching possibilities for social change. Though the constraints of neoliberal globalization fundamentally constrain the scope of Zambian economic and political self-determination, this work reveals the under-acknowledged radical potential of liberal conceptual and policy tools to challenge this hegemonic order. More grounded, nuanced theoretical approaches are required to address the mutually constitutive nature of hegemonic structures and the agential subjects struggling within and against them.



## **List Of Abbreviations Used**

CA	Constituent Assembly
CBO	Community-based organization
CCJDP	Catholic Commission for Justice, Development and Peace
CCZ	Council of Churches in Zambia
CGC	Collaborative Group on the Constitution
CNGO	Canadian non-governmental organization
CRC	Constitutional Review Commission
CSO	Civil society organization
EFZ	Evangelical Fellowship of Zambia
ESC Rights	Economic, social and cultural rights
IA	Inquiries Act
IFI	International Financial Institution
IMF	International Monetary Fund
JCTR	Jesuit Centre for Theological Reflection
LAZ	Law Association of Zambia
MMD	Movement for Multiparty Democracy
NCC	National Constitutional Conference
NGO	Non-governmental organization
NGOCC	Non-Governmental Organization Coordinating Committee
WFC	Women for Change
UNIP	United National Independence Party
ZCTU	Zambia Congress of Trade Unions
ZEC	Zambia Episcopal Conference
ZNGO	Zambian non-governmental organization

## Acknowledgements

First, I would like to thank my supervisor, Dr. David Black, for his insightful advice, encouragement at key moments and remarkable ability to help me turn jumbled ideas into coherent arguments. I would also like to thank Dr. John Cameron for taking an interest in this thesis and providing helpful comments. It was Dr. Cameron's Development in Practice seminar that exposed me to many of my favourite works of critical development studies and encouraged me to pursue the complicated interplay between critical theory and development practice 'on the ground'. I also thank Dr. Peter Arthur for contributing his valuable comments and counsel.

I am grateful to the Social Sciences and Humanities Research Council of Canada for providing financial support for this research.

Thanks to my classmates who made this program interesting and challenging. Thank you to the faculty and staff in the IDS Department who provided encouragement, insight and support at various points of this process. A special thank you to everyone who reviewed sections of this thesis, and to Ali and Greg for master editing skills, vegetarian feasts and occasional late-night rescues.

I greatly appreciate the contributions of the various organizations and individuals in the Zambian civil society who took time out of busy schedules to speak with me, help me find documents and otherwise assist with this research. The staff at Women for Change deserves special recognition – it was working with you that motivated me to undertake this research in the first place. Thank you for patiently offering assistance and an open door throughout the process. The passion and dedication with which you pursue your work inspires me to believe that change is possible.

A thank you doesn't begin to cover what I owe to my family. Mum, Dad, Jake, Kim, my lovely grandparents, thank you for the constant encouragement and support over the years. Thank you for embracing intense dinner table conversation, investing in transcontinental phone bills, editing my work, and the countless other things you do, great and small, to sustain me.

Malambo, without you, this thesis would not be what it is. Your insights, wise advice and untiring patience have been invaluable throughout this process. Thank you for believing in me, for getting me through the moments of confusion and self-doubt, and for endlessly inspiring me.

# Chapter 1 - Introduction

## 1.1 Research Questions And Rationale

Global development has long since moved beyond the privileging of state action, to address the complexity of interactions between state and non-state actors (Corella et al., 2006; Scholte, 2002). Civil society represents one class of non-state actors that has gained increasing prominence in contributing to, and legitimizing, domestic and international forums for agenda-setting and policy-making (Maragia, 2002). Civil society organizations (CSOs) are calling for, and being called upon to play, a more significant role in shaping ‘socially conscious’ and ‘people-centred’ development paradigms (Menocal & Rogerson, 2006). In the wake of the democratization movements of the early 1990s, coupled with the failure of state-led initiatives and market-oriented reforms to achieve their promised results, particularly for the poor, civil society was ‘rediscovered’ by theorists, policy makers and activists who posited various conceptualizations of civil society as the answer to a plethora of development challenges (Bickford, 1995; Fowler, 2000; Hearn, 2001).

The roles of civil society in international development issues and initiatives have been hotly debated. Changing international aid frameworks pose renewed challenges regarding the nature of civil society engagement in both development policy making and implementation. Despite the confusing plethora of definitions of ‘civil society’, the term continues to not only pervade development literature and policy, but also to be used by organizations and groups in the global South<sup>1</sup> as an important marker of self-identification and (sometimes) of political positioning. Ironically, however, the voices

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<sup>1</sup> With the end of the Cold War, the use of the term “Third World” in reference to the countries of Africa, Latin America and Asia became increasingly contested and inaccurate. There continues to be something of a revolving door of terminology referring to these countries and their populations, including: “developing countries”, “less/least developed countries”, the (global) South, and the majority and minority worlds. These terms are all politicized and contain their own generalizations and inaccuracies. This study uses the terms (global) “South” and (global) “North”, while acknowledging that this choice in language draws a potentially misleading dichotomy between the hemispheres and homogenizes the diverse countries, populations and communities within each. Because the case study of this research focuses on processes inherently linked to the construction of the Zambian ‘nation state’, the geo-political position and framing is important and Zambia’s location as a post-colonial African nation in the South, is central to its position in this regard.

and experiences of civil society groups in developing countries are marginalized in these academic and political discussions.

As the 1990s progressed, and ‘third-wave’<sup>2</sup> African democracies fared better and worse in efforts at ‘consolidation’, academic and political commentary on democracy in the global South began to move beyond its narrow liberal focus on periodic elections and competitive political parties (Bickford, 1995; Fung & Wright, 2001). Mainstream development discourse began embracing (or coopting, depending on one’s perspective) concepts of ‘participation’, ‘empowerment’, and other ‘people-centred’ terminology previously favoured by ‘alternative development’ movements (Cornwall & Brock, 2005). The concept of participation, previously confined in its application to the South largely to the social and economic arenas through development projects, is increasingly being related to rights of citizenship and to democratic governance (Gaventa & Valderrama, 1999). The extent to which the strength and characteristics of civil society contribute to and/or drive these processes of deepening democracy and enabling development have also been hotly debated, with enthusiastic optimism and cynical critiques often going head-to-head.

Following the end of the Cold War, scholars in Europe and America argued that a “revival of civil society” (Giddens, 2000, p.18) was a critical step to “deepening democracy”, and that civil society is inherently democratizing in character (Putnam, 1993). These neo-Tocquvillean arguments have also been taken up in relation the global South: density of CSOs is directly correlated with strength of newly transitioned third wave democracies (Tusalem, 2007); strong civil society is an essential component of all “healthy societies” (Corella et al., 2006, p.8); CSOs give voice to marginal groups and strengthen “ownership of the development process” (Stiglitz, 1998, p.21). Increasing numbers of scholars, however, are disputing these assertions. For example, Glaser (1997) warns against mistaking the “essentially diverse and non-purposive character of civil society” (p.25), and Fatton (1995) demonstrates that civil society can have “both

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<sup>2</sup> Samuel Huntington (1991) describes three waves of global democratization: the first began in the early 19<sup>th</sup> century with when universal suffrage was granted to white American males; the second followed World War II through to the decolonization of the early 1960s; and the third began with Portugal’s 1974 ‘Carnation Revolution’ and saw more than 60 countries in Africa, Asia, Latin America and Europe undergo democratic transition by the early 1990s.

democratic and despotic tendencies” (p.93). These debates will be explored in more depth in Chapter Two.

Grounded, contextualized empirical studies are needed to expose the nuances, complexities, contradictions and applicability of dominant and emerging theories of civil society, democracy and development. The current constitution-making process in Zambia offers a key opportunity to learn about the ways in which local civil society organizations envision and negotiate their roles in changing circumstances. Zambia is in the process of drafting its fourth constitution since it gained independence from Britain in 1964. The official government-sponsored constitution-making process has drawn significant debate and opposition within Zambia, particularly regarding its alleged lack of popular participation and exclusion of stakeholders outside the government. The Oasis Forum, a coalition of influential church bodies, gender-focused organizations, lawyers and other Zambian civil society groups, has been campaigning since 2001 for a ‘people-driven’ constitutional review process. The Forum is an alliance mobilizing under the uniting banner of ‘civil society’ in a self-defined mission to protect and advance liberal democracy and promote pro-poor development through the securing of popular participation in the constitution-making process. Its activities offer a unique opportunity to explore the nuances, limitations and potential of this approach to democracy and development in a particular historical moment.

This study investigates the ways in which Zambian civil society organizations under the Oasis Forum conceptualize, promote and operationalize ‘popular participation’ in the constitution-making process. The perspectives and experiences of these organizations will contribute to the development of a more nuanced appreciation of the complex roles of local civil society in the ongoing processes of development and democratization within a post-colonial African state. Drawing on the critical theoretical traditions that have exposed many of the shortcomings and limitations of shallow neoliberal notions of democracy, the Western-centric promotion of ‘strong civil society’ and the tyranny of ‘participation’ discourse, the study situates the Oasis Forum and constitutional advocacy in the context of post-colonial Zambian history and political economy while also paying attention to the daily realities and practical challenges facing civil society activists. Through an analysis of Oasis Forum publications, relevant

documents, interviews with key civil society figures and observation of Oasis Forum member organizations, the study explores the meaning, limitations and potential of ‘participation’ by civil society groups and the general public in the constitutional process as a vehicle for social change. This case study is situated within existing debates on the role of civil society in articulating and influencing development priorities at national and international levels, while contributing new insight into Southern CSOs’ experiences and promotion of ‘participation’ in formal decision and policy making processes.

Through its engagement with those civil society groups which profess to be pursuing this vision, this study explores the role that ‘popular participation’ plays and does not play in realizing a more meaningful democracy for the poor majority and not exclusively the elite minority. This case study asks what kinds of processes are necessary to create an environment in which such a new order could be conceptualized, let alone realized. Finally, the study strives to accommodate analysis of the structural roots of poverty and exclusion while simultaneously giving due weight to the imperfect but committed efforts of those individuals and organizations working for change ‘on the ground’.

Ultimately, this study is about the possibility of creating a democratic order that moves beyond the minimalist procedural prescriptions of liberal democracy to create space for the creation of a more just, equitable society. Critical theoretical traditions in development studies and political science highlight the exploitative undercurrents and emancipatory limitations of the mutually reinforcing hegemonies of global capitalism and liberal democracy, but remain cautiously optimistic about the counter-hegemonic and transformative potential of alternative forms of civil society organizing and democratic participation. Civil society advocacy and action on constitutionalism in Zambia faces significant structural limitations on participatory political action and highlights the importance of even the most partial and reformist attempts to secure even basic material improvement for the marginalized majority.

The co-production of civil society and the broader political economy does not preclude the possibility of counter-hegemonic activism from within its spaces. This study reveals that, though seemingly contradictory, liberal ideology is mutually constitutive not only with market capitalism, but also with the potential underpinnings of radical

reconceptualization of social and economic justice-based democratic change. The Oasis Forum draws on fundamental liberal values and constructions (such as individual human rights) as grounds for challenging, rather than reinforcing, the narrow procedural democracy and erosion of economic and social justice inherent in the hegemonic form of neoliberalism. Holding liberal democracy to its most fundamental promises of accountability, constitutionalism and integrity of representation may, in the Zambian context, actually entail profound redistribution of power, redressing of social injustice and reimagining of democracy and development. However, the radical potential of liberal discourse is profoundly constrained by the post-Cold War hegemony of economic neoliberalism and its attendant policy imperatives. Existing theoretical traditions project a false dichotomy between critical and liberal, radical and reformist approaches to democracy and social change and fail to adequately engage with the inherent dilemmas and paradoxes facing civil society groups struggling within and against the very political, economic and social structures from which they emerged. By placing critical theoretical perspectives into a dialogue with the lived realities of the Oasis Forum, this analysis makes the case for more nuanced, responsive theoretical approaches, capable of accommodating the inherent complexities, contradictions and dynamism of civil society efforts to promote social change.

## **1.2 Objectives**

The main objectives of the research focus on understanding Zambian civil society advocacy for a ‘people-driven’ constitution-making process with particular attention to their experiences of (non)participation, as well as their understanding and mobilization of broader ‘popular participation’, in the process. This research attempts to investigate how the Oasis Forum articulates and operationalizes ‘participation’, and to what end. On the basis of its analysis of first-hand civil society perspectives on the constitution-making process, the thesis will use this case study to engage with critical theoretical approaches to understanding civil society, democratization and development in Africa.

The main objectives of this study are as follows:

- To explore how the Oasis Forum, and its member organizations, conceptualize and operationalize ‘popular participation’ in the Zambian constitution-making

process and its connections with broader issues of development, social justice and democracy;

- To investigate similarities and differences between the civil society and government plans for constitution-making and the challenges facing civil society attempts to influence and increase popular participation in the constitution-making process;
- To explore the extent to which the forms of participation proposed by the Oasis Forum have the potential to create spaces for more transformative, radical politics and social change;
- To engage with the dialectics of development theory and practice and assess the implications of the findings of this study for critical academic perspectives on African civil society and participatory development and democracy.

### **1.3 Research Methodology**

#### **1.3.1 Methodology**

The methodology of this study is informed in part by grounded theory. Glaser and Strauss, the “discoverers” of grounded theory, argued that the quantitative testing of propositions derived from a few, highly abstract, “grand” theories, led to theory that was “impoverished”, with restricted empirical relevance to any particular “substantive” content domain (1967). According to Glaser and Strauss, closing this “embarrassing gap between theory and empirical research” (1967, p.vii) required the generation of more local, contextual theory. While the primary objective of this study is not theory *generation, per se*, it does strive to make critical intervention into theoretical discussions based on the meanings and interpretations emerging from study and observation of a particular, significant social context. The aim is not so much to *build* theory from the ground up; rather, accepting Glaser and Strauss’s proposition that learning from the complexity of contextualized lived experience is vital for meaningful theory, this case study will provide a starting point for a grounded dialectic between existing critical theories and the unique realities that materialize when global concepts hit the ground as local situations.

Grounded theory “leads to a model for research that is flexible, that is carried out in everyday contexts and that has as its goal the (co-)construction of participants’



symbolic worlds and social realities” (Pidgeon, 1996, p.75). It requires the researcher to engage in interpretive work, unravelling the “multiple perspectives and common-sense realities” of the research participant (Pidgeon, 1996, p.75). Charmaz (2003) outlines key assumptions underlying her symbolic-interactionist-constructivist approach to grounded theory: “(a) multiple realities exist, (b) data reflect the researcher’s and the research participants’ mutual constructions, and (c) the researcher, however incompletely, enters and is affected by the participants’ worlds” (p.314). Acknowledgement of these key assumptions is important not only in designing study methodology, but also throughout the interpretations of data and findings.

A grounded theory approach emphasizes the importance of developing research questions and interpretations through a cyclical process of investigation and reflection. Researchers are encouraged to collect data and analyse it simultaneously from the early stages of research, as one cannot know prior to conducting research exactly what the most significant social processes are in particular settings (Charmaz, 2003). The first two months of fieldwork for this study were comprised primarily of developing connections with relevant Zambian organizations and gathering and reviewing a diverse range of publications and documents issued by these organizations in relation to Oasis Forum activities. This process of initial information gathering prompted a refinement and revision of the objectives and questions guiding the study to include, and foreground, an investigation of the concept of ‘participation’ as used by the Forum.

Because this study endeavours to understand complex social phenomena, a case study approach is used to allow the investigation to “retain the holistic and meaningful characteristics of real-life events” (Yin, 1984, p.14). Robert Stake (1999) describes case study research as “the study of the particularity and complexity of a single case, coming to understand its activity within important circumstances” (p.xi). A case study is an empirical inquiry that investigates a contemporary complex phenomenon within its real-life context with multiple methods when the boundaries between phenomenon and context are not clearly evident (Gillham, 2000; Johansson, 2003; Yin, 1984). Watson argues for the importance of a “return to the concrete, to the empirical and to case research, not as a mindless return to empiricism, but as a way of gaining a better understanding of the nature of difference and generating ideas and propositions which

can more adequately inform practice” (2003, p.396). Case study research is vital as a way of “taking forward theory” (Watson, 2003, p.396) because contexts differ, and “the rationalities of Western modernity and capitalism apply in highly varied forms between (and within!) different parts of the world”.

The Oasis Forum, a coalition of diverse Zambian civil society organizations, was chosen as a focal point for the case study. The case study approach allows for a grounded, real life investigation which takes into account unique peculiarities in context and actors (Yin, 1984). Because the Oasis Forum is constituted by five major CSOs, three of which are umbrella groups coordinating smaller organizations, it provides an opportunity to interrogate the heterogeneity within even a broadly politically aligned coalition.

The Oasis Forum and its advocacy for a people-driven constitution-making process constitute a unique case requiring attention to context, complexity and the particular articulation of national and international political economy and the actions of individual actors. However, the case’s uniqueness should not be confused with obscurity or irrelevance; the constitution-making process in Zambia and the civil society mobilization it has provoked constitute “important circumstances”, to use Stake’s turn of phrase (1999, p.xi). Of close to 200 national constitutions in existence today, over half have been written or rewritten in the last quarter century (Hart, 2003). Many of these constitutional processes have taken place in Africa and many, if not all of them, have grappled with questions of whether and how to integrate some degree of popular participation in the process. CSOs, relatively recently democratized governments and profound development challenges are all common features in African states and societies. A case study of the Oasis Forum allows an in-depth exploration of a particular articulation of these structures and actors that will contribute to deeper, more nuanced understanding of theoretical and practical questions related to the role of civil society actors, and participatory processes, in promoting meaningful political, social and economic empowerment and change. Furthermore, case studies yield propositions that can then be tested and refined in other contexts (Watson, 2003).

### **1.3.2 Methods**

The study is concerned with the conceptualization of participation and experiences with attempted operationalization of the concept. The focus is on civil

society groups' experiences and perceptions of the constitution-making process which are best explored through qualitative methods that place importance on the narratives of the participants. Following the analysis of relevant scholarly literature, three main research methods were employed to gather the primary data for this study: interviews, document review and participant and non-participant observation. The field research took place in Lusaka, Zambia, from July to December 2009 and consisted of 12 semi-structured interviews, participant and non-participant observation of key events and organizations, and collection and analysis of relevant documents, particularly those not readily available outside Zambia.

#### ***1.3.2.1 Interviews***

I conducted semi-structured interviews with 12 key staff members of CSOs engaged in advocacy on the constitution-making process through the Oasis Forum. Participants were approached based on their professional positions in their organizations and their experience with the Oasis Forum and the constitution-making process: in particular, executive directors, chairpersons, and coordinators, managers and officers of relevant programmes were approached, provided with relevant information about the purpose of the study and asked if they would be willing to participate. Some of those approached agreed to interviews, others suggested coworkers or other staff members, some refused, and some initially agreed but later could not be reached, did not show up to agreed interview times or otherwise implicitly withdrew their participation. At least one staff member was interviewed from each of the five 'convening members' of the Oasis Forum.

Written informed consent was obtained at the beginning of each interview, including permission for use of quotations (attributed to a pseudonym) and audio recording. Discussions were documented through written notes and digital audio recordings. Interviews focused on participants' analysis of key constitution-making issues, connections between constitution-making processes and the broader mandates of their organizations, the importance and meaning of popular participation, and strengths and limitations of the National Constitutional Conference (NCC) and the proposed 'alternative road map' processes.

The interviews focused on an issue that is prevalent in Zambian mainstream media, and is a frequent subject of public debate and contestation at conferences, meetings, political discussions and other public and semi-public forums. I sought the perspectives of those who, while underrepresented in academic literature, are actively, voluntarily and publically engaging with civil society, development and policy-making issues in their professional capacities. Many of the participants have published articles and editorials, and spoken at public rallies and conferences about constitutional issues, as individuals or as representatives of their organizations or the Oasis Forum. Therefore, the interviews were not of an overly personal or sensitive nature. Indeed, if anything, the challenge was to encourage participants to move beyond the comfortable and well-rehearsed 'official' or 'public' positions of the CSOs for which they worked. Willingness to break from the 'official line' varied according to position in the organization, duration of involvement with the Oasis Forum and personal comfort and confidence.

All quotations from interviews are attributed to pseudonyms. During the research design and ethics review process, it was decided that due to the small number of interviews, the public knowledge of Oasis Forum organizations and the consequent challenges of providing anonymity to key informants, all interviewees would be accorded pseudonyms. During the process of data collection and interviewing, the majority of informants expressed a willingness to be quoted under their real names, particularly in light of the fact that a handful of them have published publically elsewhere on the topic of the Oasis Forum under their own names. However, to use the real names of a portion of interviewees would make it significantly easier to guess at the identities of the remaining informants disguised by pseudonyms. Consequently, it was decided to stick to the original decision to use pseudonyms for all interviewees in order to maintain the highest possible standards of anonymity for those who wanted it. Because some of these informants are cited elsewhere in this thesis for works published under different names, there is a risk of unintentionally inflating the apparent support for certain positions or statements. However, in the few instances where the same person is cited under two names, the implications for the thrust of the findings, analysis or conclusions of this study are not substantive and a conscious effort has been made not to misrepresent the strength of agreement or consensus on different positions.

### ***1.3.2.2 Literature And Document Analysis***

Because my research questions focus on the self-evaluation and understandings of Zambian CSOs, my methods include strategies for observing the ways in which these organizations present themselves and their role in constitution building to *Zambian* audiences. Over the last decade, the Oasis Forum and its member organizations have produced a wealth of written advocacy and reporting materials for both public and internal circulation. An analysis of these documents provides insight into the language used, discourses drawn upon, and motivations expressed by CSOs when their audience is fellow Zambian citizens and/or CSOs, rather than a foreign interviewer. The alternative road map proposals themselves are also a key resource for understanding and analysis of the conception of popular democracy advanced by the civil society groups in the Oasis Forum.

While in Zambia, I collected and reviewed a total of over 40 relevant documents, predominantly civil society publications and communications (both internal and public) that would be inaccessible outside of Lusaka or without permission and assistance of the publishing organizations. Documents included: newspaper articles, funding proposals, project and workshop reports, meeting minutes, position papers, press releases, policy briefs, constitutional review commission submissions, pastoral statements, speeches and other relevant publications and texts.

### ***1.3.2.3 Observation And Participant Observation***

Finally, observation at relevant meetings and events was also an important opportunity for data collection and triangulation. Participant and simple observation were each appropriate in different contexts. When ‘observing’ the day-to-day operations, as well as special events and meetings, of CSOs in Lusaka, situations emerged in which my participation was expected and required as a condition of my presence. Generally, this participation was minimal, such as taking meeting minutes, assisting with logistics at conferences, or contributing to basic tasks in various office environments. Much of this participation was not *directly* related to Oasis Forum or constitutional activities, but was an important part of the process of building trust and rapport with CSO staff members and potential participants. This engagement in CSO activities was also vital for familiarizing myself with the Oasis Forum network and identifying potential participants.

At no point did I seek to intentionally alter the course of events or discussion with my presence or participation. However, it is important to acknowledge that even when conducting simple observation with the intention of minimizing disruption to social environments and processes, my very presence as a foreign researcher will have affected situations. As highlighted by Charmaz (2005), the researcher is not an objective observer, separate from the social reality studied, but rather is implicated in the process of knowledge construction (also see Madison 2005).

### **1.3.3 Delimitations, Challenges And Positioning The Researcher**

#### ***1.3.3.1 Delimitations***

Just as important as the questions this study aims to address are those questions which fall outside its purview. There are a great many things this study is *not*. It is not a detailed narrative history of the Oasis Forum. Some of the Oasis Forum's history has been recorded by Gould (2006), although with a particular focus on the Law Association of Zambia (LAZ). Simon Kabanda, Executive Secretary of the Citizens Forum and active long-time member of the Oasis Forum is also currently undertaking a project to document the evolution of both the Oasis Forum and the Citizens Forum (personal communication, October 8, 2009).

This study does not use the case of the Oasis Forum to either prove or disprove the liberal narrative of civil society as a force for development and democratization. Plenty of studies exist both supporting and refuting this perspective. Nor is this study attempting to establish whether Africa or Zambia have achieved 'true' liberal democracy or whether, as some assert, "liberalism dressed up as democratization is a feckless façade for persistent and often kleptocratic autocracy" (Gould, 2006, p.922). As will be outlined in Chapter 2, critical analyses have consistently revealed flaws, holes, inconsistencies, and inadequacies of the Euro-centric liberal approach as both a prescriptive and a descriptive model for post-colonial African societies. For the purposes of this study, it does not particularly *matter* whether the Oasis Forum 'lives up to' the liberal mythology favoured by the Forum itself. Rather than asking whether the Oasis Forum successfully contributes to a liberal democratic order, this study explores the extent to which the Forum's approaches to participation in the constitution-making process have potential to go beyond this dominant order, to challenge its shortcomings.

This study also does not attempt a comprehensive evaluation of the Zambian constitution-making process. Collection and analysis of opinions, perceptions and experiences of government, CSOs outside the Oasis Forum and members of the public at large are not within the scope of this study and would be necessary for a balanced assessment of the constitution-making process. Furthermore, with the NCC still sitting, it is not possible to assess its outcomes or the content of the constitution it will produce. The perceptions of different demographic segments of the Zambian population (disaggregated by gender, rural/urban, income, occupation, education, and so forth) of the Oasis Forum and the constitution-making process could yield fascinating insight into the extent to which this civil society campaign really reaches or represents those beyond the core organizations involved. Such an investigation is beyond the logistical and financial constraints of this study, but would be an interesting direction for further research.

Similarly, the urban and rural poor, the marginalized majority for whom the Oasis Forum claims to speak, remain voiceless in this study. Therefore, the conclusions cannot speak to the opinions, aspirations or experiences of the diverse and heterogeneous groups who comprise the economically disadvantaged majority of Zambians, except as they are evidenced through piecemeal contributions to constitutional review commissions and consultative forums.

A weakness of the case study approach in general is the difficulty of determining the extent to which findings are generalizable across other contexts or situations. In this case, the objective of the study is not to draw conclusions that stretch across geographic, temporal and situational boundaries, but rather to gain some insight into the complexity, heterogeneity and context-specificity of civil society perspectives on and roles in promoting popular participation in political processes. The case study does, however, provide an opportunity to assess the interpretive insights and limitations of the broader literature on civil society in Africa, if only to examine the degree to which it applies to the experience of the Oasis Forum and Zambia.

#### ***1.3.3.2 Positioning The Researcher***

My background, previous experiences with Zambian civil society, and actual and perceived role as a foreign researcher undoubtedly shaped, in both obvious and more subtle ways, my data collection process and my interpretations and analysis. In 2007-

2008 I worked as an intern at a Zambian community development organization. That experience inspired this study and profoundly shaped my own perspectives on, and approaches to, conducting research on ‘development’ and interacting with Zambian organizations and development professionals.

As an intern I was affiliated with a Canadian NGO (CNGO) that had an ongoing partnership with the Zambian organization (ZNGO). Following the internship I undertook several short-term contract posts with the CNGO that involved continued work with both ZNGO and other civil society groups in Lusaka. During this period, I participated in a variety of meetings, conferences and events with representatives of other CSOs and encountered a few of the organizations and individuals who participated in this study. I also received my first exposure to the fraught process of (re)making Zambia’s constitution. The ZNGO for which I was working is a member (though not one of the convenors) of the Oasis Forum and during the time I was in Zambia discussions and debates on constitution-making pervaded both the workplace and popular discourse.

Since 2008, I have maintained close personal relationships with a number of my former colleagues in Lusaka, as well as occasional professional contact with other CSO staff and affiliates. When I returned to Lusaka to conduct my fieldwork in 2009, I could build on existing relationships of trust and understanding to connect with new CSOs and study participants. The ZNGO acted as something of a gate-keeper to the Lusaka CSO community. The Executive Director furnished me with a ‘letter of introduction’ which proved invaluable in facilitating my interactions with other members of the Oasis Forum. I was aware, though, that my past affiliations with both the ZNGO and the CNGO that funded the original internship gave a set of implicit messages about my ideological and professional position. I took pains to clarify with all potential participants that my research was part of the requirements of a university degree and was not being undertaken on behalf of any particular organization. I actively distanced myself from the CNGO for which I had once worked; the perception that I might represent a conduit to Canadian funding, or that I might relay specific findings back to the CNGO or other potential funders may have inhibited participants.

Despite the potential complications, my history of working with Zambian civil society facilitated my research in many ways. Indeed, the interviews with participants



with whom I was previously acquainted yielded the most diverse range of responses; participants who knew me demonstrated greater willingness (or interest) in diverging from the ‘standard’ or ‘official’ or ‘public’ stance of the Oasis Forum and offering perspectives and critiques as individuals rather than exclusively as *de facto* spokespersons for the Forum. Additionally my prior knowledge of the constitution-making process and the Oasis Forum often surprised people and established a shared starting point for interviews and conversations.

My personal experiences have also undoubtedly shaped my subjectivity and interpretations. During my internship, I was captivated, confused and challenged by the complex articulations of development theory and practice ‘on the ground’, particularly as experienced and implemented by local ‘development agents’. I developed deep admiration and respect for my colleagues and the many other women and men I encountered engaging in various dimensions of ‘development’. In particular, I learned, sometimes through embarrassing confrontations with my own arrogance, not to underestimate the critical and self-reflective capacities and knowledge of my Zambian peers and colleagues.

While this consistently humbling experience rightfully cautioned me against assuming the universality of my perceptions and interpretations, I emerged with an exaggerated deference to the beliefs, positions and interpretations expressed by indigenous Zambian civil society organizers and ‘development agents’. In the early stages of data analysis, I found myself hesitant to pursue any line of interpretation or analysis that might be critical of the Oasis Forum, or conflicting with the opinions expressed by Forum members themselves. My intellectual and theoretical inclinations, however, made me sceptical of the straightforward liberal good governance discourse that pervaded Oasis Forum self-expression, and drew me to critical theories that pointed to uncomfortably censorious evaluations of the Forum. Ultimately, I believe that this internal tension – between my personal sympathy for the motivations and commitment of individual members of the Oasis Forum and my interest in more radical critiques of development than those offered by the Forum – was intellectually productive. In the thesis that follows, I strive to engage with critical theories of development and democracy while maintaining a keen and sympathetic eye for the challenges and limitations of

groups striving for change in ‘actually existing’ situations of profound economic, social and political complexity and constraint.

#### **1.4 Structure Of Thesis**

Following this introduction to the topic, research questions, and methodology of this thesis, Chapter Two provides a partial review of the literature on civil society and participation in the context of development and democratization in Africa. The review highlights key debates and trends that inform the theoretical bases of this thesis including: What is civil society and is it relevant to and/or present in contemporary Africa? What role(s) do CSOs, and NGOs in particular, play in democratization processes? To what extent does ‘popular participation’ in its various incarnations facilitate and promote more ‘people-centred’ development and deeper democracy? This chapter traces the rise of ‘civil society’ and ‘participation’ to much-lauded vectors for mainstream development, as well as the commentary emerging from critical theoretical traditions questioning these optimistic assessments. Acknowledging the validity and importance of these critical trends, the chapter highlights the importance of more grounded, contextualized studies and outlines the critical modernist theoretical underpinnings of this research.

Historical, political and economic context are vital to understanding the circumstances that gave rise to the Oasis Forum and the structural environment in which it operates. Chapter Three summarizes key contextual information necessary to situate the case study within broader trends and better understand its significance as well as uniqueness. Drawing on existing literature, the chapter briefly outlines the colonial and post-colonial political history of Zambia, the political and economic upheaval and transformation of the 1990s, the evolving composition of organized and politically active civil society associations since independence, and the emergence of the Oasis Forum itself.

Chapter Four outlines some key findings of the research. Drawing on interviews, relevant documents and field notes, this chapter summarizes: the Oasis Forum’s rationale and objectives for promoting popular participation in constitution-making; the forms of participation advocated by the Forum; and the challenges of operationalizing these processes of participation.

Chapter Five analyses the key themes that emerged from these findings in the context of theoretical debates outlined in Chapter Two and the historical circumstances highlighted in Chapter Three. The analysis focuses on situating the specifics of the Oasis Forum's approach to popular democracy within the context of the ongoing hegemony of liberal democracy and global capitalism. The chapter discusses the mutual constitution of Zambian civil society and liberal democracy, key debates over legitimate representation and participation, and the constraints facing the efforts at shaping an alternative constitution-making process in Zambia. The discussion then turns to an analysis of the potential of Oasis Forum efforts to secure small changes which may open spaces for more radical re-imagining of the Zambian state. Through its advocacy for economic, social and cultural (ESC) rights, the Oasis Forum draws on the language and tools of liberalism to challenge, rather than reinforce, the particular forms of neoliberal economics and procedural democracy that serve to effectively disenfranchise and disempower the majority of Zambians. The reformist efforts of the Oasis Forum may not lead to transformative emancipation of the masses, but neither can they be dismissed as coopted, cynical or self-serving. This study offers a critical intervention into theoretical discussions of civil society, participation, democracy and development, and points to the necessity of eschewing dominant rhetoric and simplistic dichotomies in favour of developing theory that can not only accommodate, but enthusiastically inhabit the spaces of ambiguity, contradiction and humanity that pervade the struggles of agential subjects within and against the hegemonic order.

## **Chapter 2 - Civil Society, Participation, Development And Democracy: Exploring The Literature And Framing The Study**

Both civil society and participation – as concepts and as empirical practices – skyrocketed to the forefront of development discourse and practice in the 1990s and attracted heightened attention from development practitioners, politicians and social scientists. Much optimism was invested in civil society organizations as the “magic bullet” to the development challenges left by failed state- and market- driven initiatives (Hulme & Edwards 1995), and in participation as a route to both improved efficiency and effectiveness in service delivery and empowerment and capacity building for ‘beneficiaries’ (Chambers 1997; Paul 1987). The ‘panacea’ status accorded both these concepts invoked an important and often deserved backlash (though primarily within academia). The hope, hype, critique and disappointment that these topics have incited in practitioner and academic communities alike underscores the importance of further exploring the ways in which these concepts manifest as empirical rather than abstract phenomena in ongoing political struggles and efforts to engender social change and realize concrete benefits for the poor.

### **2.1 Civil Society**

#### ***2.1.1 Theoretical Traditions***

Civil society is a theoretical concept, not an empirical one (Bratton, 1994). It is a “synthetic conceptual construct” that is “not necessarily embodied in a single, identifiable structure” (Bayart, 1986, p.112). It is also fraught. Hailing from both liberal and Marxist traditions of European political thought, and used in drastically different and often heavily normative terms by theorists of different schools of political thought, as well as international development institutions and actors, ‘civil society’ relies for its own definition on complex conceptualizations of state, society, market and historical forces.

Howell and Pearce (2001) differentiate between the “mainstream approach” to civil society, tracing from liberal Enlightenment thinkers including Locke, Fergusson and Tocqueville, and the “alternative genealogy” of the concept of civil society, deriving

from and entwined with critiques of capitalism. The mainstream approach to civil society is characterized by a number of core themes which emerged in the course of the transition from commercial to industrial society in the West, and which continue to influence thinking about civil society and its potential contribution to capitalist development in the global South: 1) the primacy of the autonomous, rights-bearing, self-interested individual; 2) the emergence of a public sphere in which the ‘rules of the game’ are dictated by reason and mutually agreed upon; 4) mutual recognition between individuals of individual autonomy and a shared concept of justice and moral order; 5) the synthesis of collective solidarity and individualism; 6) economic development and the problem of social solidarity (Howell & Pearce, 2001; Seligman, 1992).

The “alternative approach”, derived largely from the ideas of Marx and Gramsci as well as post-development thinkers such as Escobar, emphasizes a different set of themes, including: values of mutual support and solidarity as the basis of a challenge to the predominance of individual accumulation in capitalist development; inequality, class and social differentiation are embedded in civil society, rendering it a conflictual rather than harmonious arena of social interaction; civil society is a realm where dominant values can be contested (Howell & Pearce, 2001). Marx and Gramsci developed Hegel’s theme of the destructive influence of the capitalist economic system. Marx equated civil society with the bourgeoisie, while Gramsci argued that associations are the mechanisms for exercising control in society and that the control that the dominant class has over society can be challenged through the development of counter-hegemonic associations that present and advance alternative norms (Hyden, 1997).

### ***2.1.2 Civil Society And Democratization***

The last two decades have seen a proliferation of theoretical, policy and practice-oriented literature on the roles of civil society in development and democratization.<sup>3</sup> In this resurgence of academic and policy interest in civil society since the late 1980s, liberal theory has dominated and framed much work on the subject. Liberalism is a controversial concept with historically shifting meanings. Liberal democracy constitutes one branch of the complex, extensive and debated taxonomy of democracy (Barber,

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<sup>3</sup> See for example: Bratton, 1994; Fatton, 1995; Harbeson, Rothchild & Chazan, 1994; Hearn, 1997, 2001; Ihonvbere, 1996; Kasfir, 1998; Lewis, 2002; Mukambe, 2008; Owusu, 1997; Roy, 2008; Shaw, 1990; Shaw & Maclean, 1996; Tusalem, 2007; G. White, 1994, 1995.

2003; Held, 2006). This paper will not attempt a comprehensive overview of this taxonomy, nor will it detour too far into debates over the characteristics, variations and merits of liberal democracy. Nonetheless, it is important to highlight a few of the distinguishing properties of the western liberal democratic model, given its global dominance and the pervasiveness of its underlying assumptions in discourses on civil society.

Liberalism emerged as a challenge to clerical power and the Church on the one side, and the powers of “despotic monarchies” on the other (Held, 2006, p.59). Gradually, liberalism became associated with “the doctrine that individuals should be free to pursue their own preferences in religious, economic and political affairs” (Held, 2006, p.59). While different variants of liberalism interpreted this objective in different ways, all were united around advocacy for a constitutional state, private property and the competitive market economy as the central mechanisms for coordinating individuals’ interests (Held, 2006).

Luckham (1998) characterizes democracy as “simultaneously a (contested) set of values, an (inherently contradictory) system of rule, and a (necessarily unfinished) emancipatory process” (p.308). Liberal democracy, contends Luckham, tends towards the realist and minimalist conceptions advanced by Schumpeter, who defined democracy as a system “for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote” (1947, p.269); universal suffrage, periodic elections and multi-party competitive representation are fingered as democracy’s defining traits. In his 1965 Massey Lecture, Macpherson similarly characterized western liberal democracy as a system of power, operating hand-in-hand with capitalism, combining “a large measure of individual liberty with a fair approximation of majority rule” (p.3-4). Diamond (1996), on the other hand, posits a conception of liberal democracy that simultaneously separates it from economic considerations and extends its definition beyond period elections to require: the “vertical accountability” (p.23) of rulers to the ruled, the “horizontal accountability” of office holders to one another, and extensive provisions for political and civil pluralism.

In the years following the fall of the Soviet Union, the main competitors against political and economic liberalism appeared to disappear from the “world ideological

marketplace” (Mortimer, 1989, p.29, qtd. in Held, 2006, p.220). In the decades following Fukuyama’s declaration of “the end of history”, however, dissatisfaction with the “democratic deficit” in western countries, the realities of neoliberal globalization and persistent inequalities within and between countries all posed challenges to a monolithic conception of liberal democracy. Just as there is no single definitive incarnation of liberal democracy, alternative narratives of democracy cannot be neatly identified with particular institutions and procedures (Luckham, 1998). Liberal democracy is most commonly contrasted with popular democracy, which prioritizes philosophies and mechanisms of direct participation, empowerment and concretization of the people’s will (Luckham 1998; Saul, 1997).

In her 2002 review of Anglophone literature on NGOs, civil society and democratization, Caroline Mercer argues that liberal democracy serves as the ideological basis upon which much of the literature bases its understanding of democracy and the role of civil society and that the resulting normative assumptions obscure the diversity and complexity of the roles of NGOs in the politics of development. Drawing on neo-Tocquevillian conceptions of civil society, liberal democratic theory not only privileges a certain empirical incarnation of civil society (voluntary civic associations) but promotes an idealistic construct of these associations as fundamentally democratising, harmonious and modern. Robert Putnam’s *Making Democracy Work* (1993) was particularly influential in advancing the case that civic associationalism promotes better institutional performance in government. These liberal understandings of civil society are often employed in heavily value-laden terms; influential policy discourses prescribe a “strong civil society”, understood according to western historical experience, as an essential precursor to, as well as indicator of, democracy (Harbeson, Rothchild, Chazan, 1994; Tusalem, 2007).

During the 1990s, new watchwords in international development discourses emerged, including ‘good governance’, ‘social capital’, and non-governmental organizations, and quickly gained global ubiquity in development theory, donor priorities and ‘on the ground’ programming alike (Lewis, 2002). In much development literature, particularly in policy-oriented documents, ‘civil society’ is conflated with ‘NGOs’, and strengthening the former is often reduced to a proliferation of the latter (for example,

Fisher, 1998; Ndegwa, 1996; Tusalem, 2007). Tusalem (2007) recently revisited Putnam's findings in the context of 'third and fourth wave' democracies. In his review of the effect of pre-transitional strength and post-transitional density of civil society on state institution performance in 60 recently democratized countries, using concentrations of NGOs as a "proxy variable" for measuring the "strength of civil society" (Tusalem, 2007, p.370). This conflation of 'civil society' with NGOs (and in the global South, particularly non-profit development NGOs) feeds into a limiting logical loop in which civil society is inherently democratizing and therefore, because NGOs are civil society, NGOs are necessarily democratizing, and visa versa (Jenkins, 2001).

Mercer (2002) posits that the reason why NGOs emerged as the embodiment of civil society in developing countries in the 1980s and 1990s had more to do with the dovetailing of the timing of their growth with changing development discourses than it did with any inherently democratizing characteristic of NGOs. Dominant development discourse moved away from state-led models of economic development and embraced neoliberal policies of minimal state involvement in social services along with 'good governance' rhetoric of accountability, transparency and rule of law. The burgeoning ranks of NGOs filling newly opened political spaces and gaps in government service provision were quickly seized on by donors and other proponents of 'good governance' as 'watchdogs' *vis-à-vis* the state and vehicles for pluralizing the institutional arena (Mercer, 2002). J. Fisher (1998), however, contends that "nothing is foreordained" in regards to the functions and democratizing potential of NGOs (p.17). An assortment of studies support this thesis; for example, Ndegwa (1996) concludes that Kenyan NGOs' participation in democratization processes had more to do with individual NGO leaders and the imperatives of organizational survival and optimizing already emerging democratic spaces than with the nature of NGOs in and of themselves. NGOs may move in either democratic or oligarchic directions, may serve as both extensions of regimes and as sources of alternatives to such regimes (W.F. Fisher, 1997).

### ***2.1.3 Civil Society In Postcolonial Africa***

The concept of civil society and its relevance to understanding social and political life in non-Western contexts are increasingly contested. As early as 1986, Bayart argued that civil society is not necessarily predisposed to democratizing the African state. Since



then, civil society, and NGOs in particular, have been alternately hailed as the “missing key” to development and democracy in Africa (Harbeson, Rothchild & Chazan, 1994, p.4; also see Bissell, 1999; Tusalem, 2007; Bratton, 1994; VanDoepp, 1996) and criticized as “an intellectual hallucination of a triumphalist hyper-liberal fin de siècle” (Fatton, 1999, p.73; also see Ayers, 2006; Dijkzeul, 1996; Hearn, 1997, 2001; Abrahamsen, 2000).

Recent scholarship on civil society challenges the primacy of hegemonic liberal ‘good governance’ discourse and opens conceptual space for theorizing and exploring the diverse forms of collective organizing and action in African societies (Orvis, 2001; Lewis, 2002; Hearn, 2002, 2007; Osaghae, 2006). Seligman (1992) believes that the ideal of civil society, rooted in deeply western liberal notions of the individual and the social, and developed in a particular and distinct history, not only does not and cannot exist anywhere in the contemporary world, but has little analytical purchase in countries with different historical and cultural trajectories. Furthermore, even if western-derived understandings of the make-up of civil society do have some relevance in non-Western contexts, scholars are far from unanimous regarding the relationship between civil society, democracy and development. Increasingly, studies suggest that not only might the interface between civil society and good governance be far more complex than previously asserted (Jenkins, 2001; Roy, 2008), but also that ‘civil society’ discourses and actors may actually function to limit political space for counter-hegemonic (non-mainstream) voices/organizing and contribute to the depoliticization of development and the propping-up of elite regimes (Dijkzeul 2006; Powell & Geoghegan 2005).

#### ***2.1.4 Pragmatic Conceptual Engagement With Civil Society In Zambia***

Given the confusing diversity of often conflicting definitions of and normative assumptions about civil society, it is tempting to abandon the term as unnecessarily and irredeemably ambiguous and value-laden. However, it remains an important category of self-identification for organizations and individuals in many countries, including Zambia. In Zambian public discourse, which is deeply penetrated by mainstream development terminology, the term ‘civil society’ is generally used interchangeably with ‘civil society organizations’ or sometimes as the arena inhabited by these organizations. Closer to the tradition of Tocqueville and Putnam than that of Marx and Gramsci, civil society is

popularly understood as the constellations of voluntary citizen associations that are separate from the family, the state, and (for the most part) the market, such as churches, NGOs, and professional organizations. Based on the reputation of certain prominent civil society coalitions, including the Oasis Forum, for vocally advocating for more accountable governance, the label ‘civil society’ is considered by some to be synonymous with ‘anti-government’, a connotation that is lamented by some members of civil society (field notes, 2009; Synoden, personal communication October 29, 2009). While the ‘non-state, non-market’ definition of civil society may be functional (or at least widespread) in terms of categorizing certain groups and ways of organizing in particular parts of contemporary Zambia, it is conceptually limiting.

The critical tradition of civil society theorizing supports the conceptualization of civil society as a dynamic and heterogeneous realm, whose relationship to democratization and development cannot be taken for granted. In neo-Gramscian theory, civil society is conceptualized as a sphere in which the hegemonic order is both reproduced and challenged (Bieler & Morton 2004; Cox, 2001; Lewis 2002); as such, civil society can contain and express competing and contradictory discourses and functions. Marcussen elaborates:

Civil society is not a uniform and homogenous group of institutions. On the contrary, the institutions of civil society are a myriad of particular interests, which have got an institutional form or an institutional expression. They express conflicts, rivalries and struggles – or consented action. They may act as integrating or disintegrating elements. (1996, p.3)

While this approach goes beyond the conceptual framework in which the term civil society is generally deployed in Zambian popular discourse, it nonetheless should allow space for acknowledging and analysing civil society organizations as one category of actors inhabiting the contested realm of civil society. Furthermore, it will facilitate my exploration of the diverse narratives and contestations at play in the dialogues internal to Zambian civil society, while encouraging critical examination of the ways in which current regimes of knowledge and power in Zambia are situated within broader processes of global capitalism (Cox, 2001).

Because definitions of civil society are deeply bound up in both prescriptive and empirical interpretations of the workings and articulations of human society and its political and economic organization, no one understanding of civil society can be complete or absolute. In order to facilitate productive theoretical and practical engagement with the case of the Oasis Forum in Zambia, this research advances an integrated understanding of civil society that acknowledges complexity, avoids normative assumptions and is pragmatic in terms of accommodating the ways in which the concept is understood by those who self-organize/identify underneath its banner. I propose a working definition of civil society as a dynamic realm, connected to and mutually constitutive of the state and economy, which gives rise to a diverse range of institutional and associational expressions and constellations, including, but not limited to, the voluntary civic organizations most frequently associated with its name.

## **2.3 Participation**

### ***2.3.1 The Concept Of Participation In Development Studies***

Although the genealogy in development thinking and practice traces back to the British colonial office of the 1940s (Hickey & Mohan, 2004), it was not until the 1980s that the notion and practice of ‘participation’ by the ‘beneficiaries’ moved from the margins to the mainstream of development. A heavy focus on ‘mainstreaming’ participation in development policy and programming persisted through the 1990s – in particular through the spread and institutionalization of Participatory Rural Appraisal (PRA) methodology and its cousins (Hickey & Mohan, 2005). As discussions in development moved away from “holistic theorization” and towards “more localized, empirical and inductive approaches” there was a parallel move towards “local ‘participation’ and ‘empowerment’ which has produced a high level of agreement between actors and institutions on the ‘new Right’ and the ‘new Left’, albeit with very different agendas” (Mohan & Stokke, 2000, p.247).

However, a growing backlash also emerged against the ways in which participation managed to “tyrannize” development debates without sufficient evidence that participatory approaches were actually functioning to empower the poor or transform development (Cook & Kothari, 2001). S.C. White (1996) cautions that “sharing through participation does not necessarily mean sharing in power” (p.6) and that, in fact, the

depoliticized language of participation can function to obscure the potential for both challenges to and reproduction of existing power relations. This review will not revisit in depth the critiques of participatory development. Key critiques include an obsession with the ‘local’ that obscures wider structures of oppression (Mohan & Stokke, 2000), the tendency to treat participation as a technical solution or management technique for development projects thus depoliticizing development processes (Cleaver, 1999; S.C. White, 1996), a poor or insufficient conceptualization of how power operates and unrealistic expectations of how empowerment can be induced (Kothari, 2001; S.C. White, 1996).

Out of the proliferation of participatory development methodologies and the sharp criticisms thereof, a more nuanced, critical yet hopeful, discussion of participation has emerged, led by Sam Hickey and Giles Mohan, and by the Participation, Power and Social Change research team of the Institute of Development Studies, among others. In their 2005 edited collection *Participation: From Tyranny to Transformation?*, Hickey and Mohan seek to redress the ‘under-theorization’ of participation (Cleaver, 2004), and to explore the extent to which a new generation of innovative strategies for re-politicizing participation can “(re)establish it as a legitimate and genuinely transformative approach to development” (2005, p.3). The reconceptualization and relocation of participation in a new “radical theoretical home” (Hickey & Mohan, 2005) will be further explored in the ensuing theoretical framework.

Gaventa (2004) identifies a divergence in the treatment of the concept of ‘participation’ in development studies and in political science. Within development studies, the drive for ‘*participatory development*’ has focused on the importance of local knowledge and understanding as a basis for local action, and on direct forms of participation throughout the project cycle. On the other hand, work on political participation emanating from political science and governance debates, tends to focus on questions of legitimate representation, systems of public accountability, policy advocacy, rights education and awareness, and party formation and political mobilization – all issues largely underplayed by those working on participation in the community or social spheres. Conversely, political science literature has paid less attention to questions of local knowledge, grassroots processes, and direct and continuous forms of engagement

by marginalized groups (Gaventa, 2004). However, both development studies literatures and the literature on participatory democracy in political science overwhelmingly focus on the local (especially municipal) level (for example: Crocker, 2007; Cuthill, 2002; Fun & Wright, 2001; Gaventa & Valderamma, 1999; Heller, 2001; Mitlin, 2004; Williams et al. 2003).

### ***2.3.2 The Convergence Of Civil Society, Participation And Politics***

In some ways, civil society and participation are two sides of the same coin; during the 1990s, the discourse of liberal democracy pervaded national level politics and policy in terms of ‘good governance’ and ‘civil society’ while at the programme and project level it appeared as a commitment to ‘participation’ (S.C. White, 1996). In the last decade, the coin has been flipped in a more critical light. The recent convergence of participatory development and participatory governance and the diversity of approaches to participatory interventions in political arenas bring together questions of civil society and participation in interesting ways (Cornwall, 2004; Cornwall & Coelho, 2007; Gaventa & Valderamma, 1999; Hickey & Mohan, 2004).

While innovations in governance have created a plethora of new spaces for participation, especially at the local level, a gap remains between the intention to institutionalize participation and the reality of exclusion of poorer and marginalized citizens. Case studies of deliberative democracy and participatory strategies at local levels abound, particularly in relation to the growing multitude of programmes for decentralized governance that are found in both southern and northern countries (Gaventa, 2004; for example, see Crocker, 2006; Cornwall & Coelho, 2007; Cuthill, 2002). Many questions remain, however, regarding the theoretical and practical challenges of ‘meaningful’ participation in national political arenas and the roles of civil society organizations in advocating for and facilitating such participation.

Constitution-making is one of the national political processes that frequently gives rise to questions regarding citizen and civil society participation. As Vivien Hart notes, “we live in an era of constitution-making...[and] in a changing world, constitution-making is changing” (2003, p.1). Twenty-first century constitutionalism is redefining the long tradition of expert constitution-making and bringing it into the sphere of democratic participation (Hart, 2003; Moehler, 2008). From the U.S. Constitutional Convention in

1787 in which fifty-five chosen white men deliberated in secret and emerged with a completed constitution, through to the period of colonial independence and up until the third wave of democratization, constitution-making remained under the custody of politicians, lawyers and scholars. Following the failure of liberal democratic constitutions adopted during the second wave of democratization to engender liberal democratic governance, renewed attention to constitutionalism in the third wave has been concerned not only with the content of constitutions, but also with the processes of adoption and the development of supportive values (Ihonvbere, 1999; Moehler, 2008).

Studies of the process of constitution-making are relatively recent. In 1993, Elster wrote that “the comparative study of constitution-making is virtually non-existent” (p.174). Over the last two decades however, there has been a proliferation of case studies and comparative studies of constitution-making in the global South – so much so that there is now a wealth of scholarship available specifically addressing on recent attempts at participatory constitution-making in Africa (Bannon, 2007; Hara, 2007; Mbao, 2007; Moehler, 2008; Ihonvbere, 1999, 2000; Whitaker & Griesch, 2009). A central question in this literature is the extent to which popular participation is desirable and feasible, and what forms it should take. This question is addressed through two dominant approaches: debates over and evaluations of the impacts and results of participatory processes on democratic society and governance (Moehler, 2008; Voigt, 2004; Whitaker & Griesch, 2009); and evaluative case studies examining the forms of participation in particular country processes (Hara, 2007; Mbao, 2007; Selassie, 1998). This study is concerned more with the contested *processes* of participation than with evaluating its outcomes in terms of constitutional content or democratic legitimacy.

#### **2.4 Zambian State, Democracy And Society In Transition**

In 1991, after 27 years under the first republican president, Kenneth Kaunda of the United National Independence Party (UNIP), Zambia transitioned to a multi-party democracy. Zambia’s political and economic transition over the ensuing decade has been studied relatively extensively (see for example, Burnell, 2001; Larmer, 2005; Mphaisia, 2000), in part due to Zambia’s ‘model’ status. The rapid pace of economic liberalization, and the ‘peaceful’ transition back to multi-party democracy made Zambia the darling of

international financial institutions and other proponents of neoliberal reform in the 1990s (H. White, 1997; Abrahamsen, 2000). However, despite the early enthusiasm, Zambia has since been consigned, at least by some, to the ranks of “hybrid” African states in which “the democratic transition was either never successfully accomplished or was, after a very promising beginning, sooner or later reversed” (Erdmann & Simutanyi, 2003, p.vii).

Since the transitions of the early 1990s, political theorists and observers have paid particular attention to the nature of the nation’s party politics and electoral processes (Burnell, 2001; Rakner & Svasand, 2004; Tordof & Young, 2005; Scarritt, 2006; Venter, 2003). The contours of Zambia’s political culture and civil society have received some attention, but these studies have been largely limited to examinations of the changing political environment of the first decade of multiparty democracy (Bratton et al., 1999; Bartlett, 2000; Rakner, 2001). Particularly interesting among these is Bratton’s (1999) study of popular political participation following democratization. Using a comprehensive set of original survey data from Zambia, Bratton demonstrates that mass political engagement in new democracies is shaped, more powerfully than by other factors, by the availability of political institutions that link citizen to state. The extent to which citizens become involved in the political process depends on their affiliations, through mass mobilization campaigns, to voter registration agencies, to political parties and to voluntary organizations, especially those that undertake some form of civic education, such as cooperatives, unions and the Catholic Church. Therefore, much popular engagement depends on the way these institutions operate and the extent to which they break with or reinforce the practices of the past, particularly in terms of reinforcing elite control of politics.

Although (and indeed because) the political and civil society landscape of Zambia has changed since Bratton conducted his survey in 1993, his findings underscore the relevance of undertaking detailed inquiry into the attitudes and approaches of various voluntary associations (civil society organizations in this study) to popular participation in democratic processes. Interestingly, in 2008, Ng’oma’s doctoral thesis on NGOs as agents of democratization came up with quite different findings. Following a “quasi-experimental” study of three Zambian NGOs, Ng’oma concluded that while each

organization did carry out various civic education programmes, campaigns and activities, these had little effect on their participants' political knowledge, attitudes, skills or participation. Although this study will not directly attempt to resolve the outstanding question of whether NGOs or voluntary associations are effective agents or facilitators of democratization, it will add depth to existing knowledge on the diversity of approaches to democracy and development within civil society and the ways in which organizations struggle to operationalize their ideals in this regard.

A dearth of literature exists on the political and civil society landscape in Zambia since the election of former President Mwanawasa in 2001. Zambia's most recent constitutional review process (2005-present) has received significantly less attention than the 'constitutional crisis' of 2001, possibly because this time it is not perceived as a threat to the country's basic political stability or electoral governance system (Tordoff & Young, 2005). Evidence from the 1990s suggests that popular support for democratic processes in Zambia is "wide but shallow", with mixed reports on the interface between organized civil society groups and popular mobilization (Erdmann & Simutanyi, 2003; Bratton, 2002).

Gould's (2006, 2007) research on the changing composition and character of 'political space' in Zambia since the 1990s specifically examines the role of the Oasis Forum. Gould focuses predominantly on the Law Association of Zambia and the implications of the discourse and ideology of legalism for state formation in Zambia (2006), and on the broad structural mechanisms constraining Zambia's state, economy and civil society (2007). The analyses of the Oasis Forum in these publications focuses on its role during the third term crisis in 2001 and strategies for maintaining influence and authority in the subsequent years. Gould's work offers compelling analysis of the Oasis Forum's significance as an emergent political force in Zambia. The Forum's more recent work on constitutional advocacy is relatively untouched, however, and the perspectives and understandings of Forum members on their own work are largely absent. Furthermore, in light of recent (post-2007) divisions within the Oasis Forum stemming from LAZ's decision to participate in the NCC, it is necessary to revisit Gould's analysis which (over-)emphasizes the role of LAZ in determining the discourse, strategic positions and mobilization tactics of the Forum.



## 2.5 What's Missing?

Despite this wealth of scholarship, a significant gap in the literature exists in understanding the diverse ways in which those who identify as members of civil society organizations in the global South conceptualize their own roles and functions. Macro-level theoretical analyses of the formations and functions of associational life in African contexts are frequently limited by their homogenization of African societies and their lack of engagement with the complex historical, political and social conditions in which civil society organizations operate across the continent (Orvis, 2001; Osaghae, 2006).

Existing scholarship tends to either explore the participation of established civil society groups (usually NGOs, occasionally social movements) in decision-making and political processes, or assess the work of civil society (again, usually taken to mean NGOs and sometimes other voluntary associations) in facilitating and implementing 'participation' at the project or programme level of community development. As discussed above, until recently, most of the studies in both groups tended to begin from the assumption that 'participation', either of civil society organizations in formalized policy-making processes or of individual citizens in CSO-mediated development processes, is inherently desirable. Studies then often proceed to evaluate the extent to which this participation takes place according to plan. Investigations stop short of exploring the complex debates and negotiations taking place *within* and *between* civil society groups over their roles in agenda-setting for development. Conceptualizations of and plans for operationalizing 'popular participation' vary greatly not only between different initiatives and processes, but also amongst the various actors operating within a given political arena or development process.

The scholarly debates and theoretical trends outlined here are relevant not only in terms of framing and delineating the particular contribution of this research, but also because such debates are not confined to academic journals; rather, the dominant and competing paradigms informed by and reflected in this scholarship are reproduced in development policy at all levels. While I focus here on the relatively theoretical discussions of participation, civil society, development and democracy, there is also a vast body of more procedurally-focused literature, translating different normative, philosophical and (occasionally) evidence-based positions into prescriptions for the

realization of these ‘ideals’ in Southern contexts and countries. Such prescriptions permeate and dominate the vast aid machinery that provides many Southern CSOs with their funding, if not their *raison d’être*. As will be discussed in later chapters, the civil society participants in this study operate in a professional and practice-based world permeated by particular notions of development and democracy. Further worth noting is the considerable time-lag (and sometimes complete disconnect) between more critical scholarship and discourses and development policy, or even the arenas in which policy and programmes are discussed.

Furthermore, although renewed attention is being paid to the ‘theorization’ of participation, little notice has been taken of how actual civil society actors in national political processes implicitly and explicitly theorize their own participation and roles. Theoretical frameworks are debated at arms-length from those actors who are politically engaged in the very processes they purport to explain. Yet civil society groups working in the ‘development’ industry are often astutely attuned to the shifting parameters of development theory and its expression in policy – their financial survival often depends on being able to ‘talk the talk’ (Lewis & Mosse, 2006). Existing case studies fail to adequately explore the ways in which civil society actors implicitly and explicitly identify with and/or draw on particular discourses of democracy and development to mobilize support for their vision of participation.

The very strength of recent scholarship in recognizing the diversity of both civil society actors and of participatory approaches indicates the importance of further contributions to the growing pool of case studies focusing on attempts to improve popular participation in governance. Particularly at this juncture, when new ways of theorizing participation and civil society are being advanced, a dialectic between these theories and the lived realities of actors ‘on the ground’ is critical to ensuring the relevance of theoretical analyses to those striving to create social and political, as well as discursive, change.

Owusu (1997) identifies the need for “more balanced understanding and informed appreciation of the complex process of democratization and liberalization in Africa in the late twentieth century. This assumes an urgent need for systematic documentation based on empirical investigation involving extensive field work” (p.120). Gaventa (2007)

echoes this call, reiterating the importance of ‘bottom-up’ research because “the micro-politics of engagement can subvert the best intentions of institutional design” (p.xiv). Similarly, Cornwall (2004) makes a case for the importance of situated ethnographic and historical research aimed at better understanding the possibilities of participation.

It is my hope that a situated, contextualized exploration of the self-perception of Zambian CSOs will add nuance and understanding to existing literature on civil society in Africa, and on civil society participation in development decision making forums. It should be noted that this case study was not selected as an example of either ‘successful’ or ‘failed’ participation. Rather, as a study of an ongoing struggle which has seen both advances and retreats in civil society attempts to engage with state-led processes and to mobilize grassroots participation, this case will highlight the contested terrain between oppression and empowerment, citizen and state.

## **2.6 Critical Modernism: A Balanced Theoretical Framework?**

Out of this literature review emerge many competing approaches to civil society, to participation in development and politics, and to how these concepts play out ‘on the ground’ in the global South. Much of the writing on both civil society and participation reflects contemporary debates in development more broadly; neoliberal, alternative and post-development approaches each yield different normative understandings of these concepts and their functions in development practice. The result has been something of a push-me-pull-you between romanticized characterizations of ‘magic bullets’ for ‘better’ development (however that is conceptualized) and disenchanting accusations of cooptation, depoliticization and total failure to actually improve anything.

The purpose of this study is not to weigh in on one side or another of these debates. My research questions aim to explore and build on the understandings and self-knowledge of Zambian civil society groups, rather than focusing on evaluation according to predetermined external conceptions of what civil society is and how it should function with regards to social and political processes. As such, I will endeavour to employ theoretical approaches that work with, and are flexible and receptive to the worldviews and interpretations of those from whom I will be learning. In this respect, critical modernism is well suited as a theoretical backdrop for the study. A basic outline of the

main tenets and intellectual tools of a critical modernist lens also assists in forging a flexible middle ground on which to advance an empirical and theoretical engagement with civil society and participation.

Critical modernism is a leftist-inspired framework that seeks to balance a normative vision of development and social justice with a political praxis that is sensitive to different rationalities and modernities. It emerged in the 1990s as a response to “the failure of either populism, postmodernism or political economy approaches to adequately capture the complex positioning of structure and agency within contemporary development arenas” (Hickey & Mohan, 2005, p.254). Distinct in theoretical approach and policy prescriptions from “uncritical modernism or overly critical post-modernism”, critical modernism argues for “rethinking” and “revising” development rather than abandoning it all together (Peet & Hartwick, 2009, p.275).

An important dimension of this framework is the distinction between development as a process of structural change in society (immanent development) and development as deliberate interventions (imminent development). This distinction, advanced by Cowen & Shenton (1996), can facilitate a re-orientation of discussions of participatory development and of civil society. Structural and political economic context are critically important to understanding the contours and contradictions of civil society as well as the spaces and places from which participation is advocated and within which it plays out (Bebbington, 2004).

The project of modernism contains “ethical intentions worthy of respect and support” (Peet & Hartwick, 2009, p.275). Indeed, modernist ideals of equality, emancipation, material transformation of poverty, democracy, continue to function as the core not only of mainstream development (in rhetoric at least) but also of many more radical social movements and social justice initiatives. Yet the global development processes emerging from this modernist paradigm have been characterized by deeply inequitable classed and gendered practices and outcomes.

Critical modernism harnesses the political principles and theoretical tools of diverse critical traditions to analyse development as a system of material power relations. This critique is carried out in socialist terms of class ownership of productive resources, in feminist terms of patriarchal dominance, and in post-structural terms of the hegemony

of elite imaginaries and discourses (Peet & Hartwick, 2009, p.281). These are seemingly disparate schools of thought, but, as Pieterse (2001) explains, there are several key strands to critical theory: “it refers to the exercise of analytical faculties; it means a repudiation of ‘faith’ and dogmatism in the Enlightenment tradition; it entails a commitment to class struggle in Marxism; an emancipatory knowledge interest in critical theory; and equality and social justice in development theory” (p.131). These strands boil down to analysis, anti-dogmatism and social justice as the key elements of criticism. Critical modernism, like its epistemological cousin critical realism, inherits the Enlightenment’s optimistic view of the role of knowledge in human self-emancipation and espouses a commitment to *changing* unsatisfactory or oppressive realities (Benton & Craib, 2001).

Critical modernism’s incorporation of insights and analytical tools from different critical traditions will facilitate a multi-faceted analysis of the discourses and systems of power that social justice organizations in Zambia are operating within, engaging with, and struggling against. Derived from the Marxist tradition, neo-Gramscian approaches encourage an examination of the ways in which current regimes of knowledge and power in Zambia are situated within broader dynamics of global capitalism and advance a conceptualization of civil society as realm of perpetual contestation and evolution in which the hegemonic order is both reproduced and challenged (Bieler & Morton, 2004; Cox, 2001). Additionally, post-structural insights and tools for discourse will play an important role in facilitating my analysis of the ways in which competing discourses of development and democracy shape the conceptual and political space in which Zambian civil society groups formulate visions and plans for popular participation.

Civil society and participation are complex concepts with tangled and at times contradictory theoretical, practical, normative and empirical articulations in relation to immanent and imminent development processes. Both concepts are dynamic, with historically shifting meanings and evolving manifestations particular to time and place. This chapter has traced the outlines of the academic interpretations of civil society and its place in discussions of democratization in Africa, and of the promise and pitfalls of popular participation as a route to social change. These issues are not confined to academia, but are of utmost relevance to the many organizations, individuals and

alliances working to try to shape new political, social and economic realities in contemporary Africa. This chapter has laid out a theoretical framework that facilitates pragmatic engagement with the issue of civil society participation in the constitution-making process in Zambia, while avoiding the traps of overly normative dichotomies between ‘strong’ or ‘weak’ and ‘liberal’ or ‘radical’ civil society, and ‘transformative’ or ‘tyrannical’ participation. Drawing on critical theoretical traditions, the critical modernist perspective provides a productive analytical lens for exploring the experience of the Oasis Forum and Zambian constitution-making as situated within broader political-economic structures and historical context.

## **Chapter 3 - Civil Society And The State In Zambia Since The 1980s: Economic And Political Crises, Liberalization, And The Origins Of The Oasis Forum**

Lewis (2002) calls for a theory of civil society that integrates an understanding of the historical continuities between contemporary and colonial Africa. The control of public space and “the exercise of power either to include or exclude sections of the population as citizens or non-citizens” has long been a component of colonial history, and as such its relevance to contemporary struggles and concepts cannot be dismissed (Lewis, 2002, p.580). Similarly, Hearn (2002) and Osaghae (2006) demonstrate important continuities in civil society formations and function between the colonial and post-colonial contexts. Both scholars foreground the importance of colonial and post-colonial class formation in shaping the dynamics of African civic and political spheres.

Zambia’s current economic situation cannot be understood in isolation from the pattern of economic development inherited from the colonial period. As one of the British colonies in southern Africa, Zambia (then Northern Rhodesia) was “developing according to British interests, specializing in the production of copper while its agriculture and indigenous industrial base were allowed to disintegrate” (Cheru, 1992, p.126). Ihonvbere (1996) echoes this analysis:

The struggle for political independence, the character of state, its institutions, and social relations of production, the content and context of politics and the relations with foreign capital were influenced and determined by the structures laid and nurtured for decades by British colonialism and other imperialist designs in the territory. (p.48-49)

Although an in-depth analysis of the colonial legacies embedded in Zambia’s political and economic structures is beyond the scope of this thesis, the ensuing analysis is mindful of the continued, evolving impact of these historical arrangements.

This chapter focuses on the profound changes that have reshaped Zambia’s economic and political landscape since the 1980s with significant implications for civil society organizing. Following the world crisis of capitalism in the 1970s, neoliberal economic logic gained influence and governments were persuaded (or coerced in the case

of the global South) to attack the power of trade unions, reduce state expenditures on social welfare and deregulate capital, goods and financial markets (Cox, 2001). As protection for the more vulnerable elements in society was cut back, these elements were implicitly challenged to organize independently of the state both to protest the loss of support and to compensate for this loss by voluntary initiative and self-help (Cox, 2001). Simultaneously, democratization processes opened up new space for civil society in those countries where it had been suppressed by the “Party-state” (Cox, 2001, p.7). In both cases, the political and social space in which civil society could develop was expanded.

After one decade of relatively promising economic performance post-independence, Zambia’s copper-dependent economy began slipping into a free-fall. In the 1980s-1990s, Zambia was subjected, as a conditionality of International Monetary Fund and World Bank loans, to gruelling austerity structural adjustment policies. The rapid liberalization, privatization, and currency devaluation imposed by these policies sent shockwaves through Zambian society and the majority of citizens saw their real incomes and living standards plummet. The neoliberal economic regime was accompanied by its own political exigencies – protection of private property, layoffs and cost recovery for ‘efficient’ public service, government accountability to donors. This package of policies was bundled under the innocuous concept of ‘good governance’. During the same period, Zambia joined the growing list of ‘third wave’ democracies. After 27 years of rule by President Kenneth Kaunda, the last 15 of which were under a ‘one party state’, Zambia peacefully transitioned to multi-party democracy in 1991. This transition was followed by rapid reconfiguring of the focal points of civil society organizing and political power.

The effects of structural adjustment combined with the rise of ‘good governance’ discourse in agenda-setting international donor circles had important effects on civil society organizing and priorities, including those of the Oasis Forum. Yet, despite the profound changes in political and economic organization, executive power remained largely unassailable and Zambia’s position at the bottom of the global economic order has only been reinforced.



### **3.1 Economic Crisis, Structural Adjustment And Good Governance**

Starting in the mid-1970s, Zambia, like many other African countries, began to experience rapid economic and social decline. By the early 1980s, Zambia was effectively bankrupt and suffering the beginning of one of the “greatest and most rapid economic declines” in sub-Saharan Africa (Rakner, Walle & Mulaisho, 2001, p. 55, qtd. in Erdmann & Simutanyi 2003, p.9). The economic crisis is generally attributed to a combination of factors, emphasized to different degrees by different commentators. Ivhonvbere (1996) fingers “internal mismanagement and irresponsible economic policies” (p. 94), while others focus on high oil prices coinciding with the collapse of international copper prices, suddenly pulling the bottom out of the Kaunda government’s primary source of revenue and funding for social programmes (Simutanyi, 1996).

Developments in the global economy and negative repercussions of stabilization and structural adjustment policies prescribed by the IMF and the World Bank as part of the requirement to receive external financing “complicated possibilities for recovery” (Ihonvbere, 1996, p.96). Zambia adopted its first systematic structural adjustment program in 1983. The 1983 agreement included devaluation of the Kwacha, caps on wage increases, removal of subsidies on fertilizer and maize and decontrol of prices of essential commodities (Simutanyi, 1996). Further adjustments implemented in 1985, particularly the introduction of a foreign exchange auction system, resulted in a rapid devaluation of the local currency and simultaneous escalation of costs of living for urban wage earners.

As basic consumer goods and food were pushed out of reach of ‘ordinary citizens’ (Cheru, 1989), living standards deteriorated sparking demonstrations and riots throughout the capital and the Copperbelt – the two most populous and urbanized regions of the country. These so-called “IMF riots” killed over 15 people and in December 1986 then-president Kenneth Kaunda suspended the structural adjustment reforms (Simutanyi, 1996, p.9). Abrahamsen (2000) argues that it was economic desperation as much as desire for democracy that drove the mass movements for a return to multi-party democracy in the late 1980s. This point will be revisited in Chapter Five. The intertwining of economic and political structures in Zambia is a crucial contextual feature of the landscape within which the Oasis Forum operates.

Despite the expectations of many Zambians, structural adjustment policies were not reversed following the election of former head of the Zambia Congress of Trade Unions, Frederick Chiluba and his party, the Movement for Multiparty Democracy (MMD) in 1991. Rather, trade liberalization and massive privatization of the public service and parastatal sectors sped ahead, regardless of the impacts on Zambian labour and industry. The Bretton Woods institutions and governments of the global North had employed foreign aid and assistance to gain ‘political leverage’ in Zambia, reducing the state’s ability to respond to the needs and demands of its citizens (Abrahamsen, 2000; Cheru, 1989). The newly elected Movement for Multiparty Democracy, faced with crippling debt and donor dependency, deepened the market’s rule at the expense of popular interests (Abrahamsen, 2000; Bond, 2005). Simutanyi (1996), Abrahamsen (2000) and Ihonvbere (1996) examine this period in detail, including the external forces dictating Chiluba’s narrow policy options and the elite entrenchment that accompanied his consolidation of power.

The disastrous social and economic effects of structural adjustment in Zambia are well documented (Abrahamsen, 2000; Cheru, 2002; Eberlei, 2005; Simutanyi, 1996; Geisler, 1992; Ihonvbere, 1996; Mkandawire & Soludo, 1998; Riddell, 1992; H. White, 1997). Massive retrenchments, spiralling unemployment, reduction of social services and introduction of user fees for health care and education pushed many middleclass households into poverty and deepened the desperation of already economically precarious sectors of society. Zambia has even been described as “an example of how not to liberalize” due to the disastrous industrial, trade and human welfare outcomes (Mkandawire & Soludo, 1998, p.102) It is against this backdrop of socio-economic crisis that the discourse of ‘good governance’ gained sway, articulating a new paradigm for neoliberal political development.

In the late 1980s, the World Bank began pushing for reform of public institutions along with economic restructuring (Ihonvbere, 1996). In recognition of the fact that “the effectiveness of the Bank’s investment depended upon competent political processes within borrowing countries,” then-president of the Bank, Barber Conable addressed the Organization of African Unity emphasizing “those aspects of governance that impede development and impair quality of life – accountability, transparency, predictability,

adherence to the rule of law” (World Bank, n.d.). The Bank’s new position on ‘good governance’, however, was ambiguous on the importance of *democracy* per se; its approach was more technocratic, emphasizing new public management principles which address the mechanisms and operations of public administration rather than the substance or depth of democracy (Manning, 2001). In his introduction to a 1989 World Bank report on sub-Saharan Africa, Conable asserted that,

A root cause of the weak economic performance in the past has been the failure of public institutions. Private sector initiatives and market mechanisms are important, but they must go hand-in-hand with *good governance* – a public service that is efficient, a judicial system that is reliable, and an administration that is accountable to its public. (World Bank, n.d.)

It is important to note, however, that although this rhetoric may seem to indicate a break from hard-line neoliberal no/small-government-is-good-government approach, the new rhetoric really translated into policies for more efficient implementation of structural adjustment policies. ‘Efficient public services’ meant user fees and cost recovery. ‘Reliable judiciaries’ were to consistently protect private property. And administrations were to be ‘accountable’ in periodic elections and little more (Gould, 2007a; Ihonvbere, 1996).

In the same report, Conable suggested as a strategy for promoting good governance, “empowering ordinary people, and especially women, to take greater responsibility for improving their lives – measures that foster grassroots organization, that nurture rather than obstruct informal sector enterprises, and that promote non-governmental and intermediary organizations” (World Bank, n.d.). As the 1990s rolled on, “non-governmental and intermediary” civil society organizations continued to be promoted by the Bank and other donors as an intrinsic part of the ‘good governance’ agenda.

As Ihonvbere (1996) notes, the Banks’s good governance admonishments were not entirely new; for decades prior to the 1989 Bank report, African and Africanist scholars had been drawing attention to the *political* dimensions of Africa’s post-colonial crises. A critical blind spot in the World Bank and donor-driven good governance discourse is that the issues of governance, empowerment and development are

conceptualized and addressed entirely “outside the historical experience and environment of Africa” (Ihonvbere 1996, p.6). Political conditionalities made it possible to justify redirecting aid and investment to other parts of the world (Ihonvbere, 1996), while skirting the historical responsibility of these same external actors for installing, nurturing and sustaining many of the corrupt and brutal leaders they now censured. The ‘good governance’ agenda “rendered technical” (Li, 2007) African development in new terms, while further entrenching existing global power systems and Africa’s marginalization. In the *African Charter for Popular Participation in Development and Transformation*, African leaders and civil society organizations noted that, “given the current world political and economic situation, Africa is becoming further marginalized in world affairs, both geopolitically and economically” (African Charter, 1990).

In a study of Africa’s economic and political travails, Richard Sandbrook (1993) emphasizes the importance of the “broader ideological implications” of the ascendance of the World Bank’s good governance agenda:

Since their creation, the IMF and the World Bank have consistently aimed to integrate as many national economies as possible into a multilateral global capitalist economy...Both agencies have encouraged, in countries receiving their loans, monetary, fiscal and trade policies which *extend the sway of international market forces*. (emphasis in original, p.4)

International Financial Institution (IFI)-prescribed policies of de-subsidization, deregulation, privatization, commercialization and currency devaluation “only succeed[ed] in breaking down domestic constituencies to make the political landscape more receptive to liberal political prescriptions” (Ihonvbere 1996, p. 8).

Echoing World Bank rhetoric, the Chiluba government of the 1990s attempted to represent its economic policies as intrinsic to the process of democratization. The radical privatization was presented as a way of giving the nation’s wealth back to the ‘people’. Turning conventional understandings of ownership on their head, Chiluba argued that nationalized companies had been the property of the privileged few, whereas privatization would give even “ordinary people... a chance to own a share in a business of their choice”. Privatization was promised to mean that “you and only you will have control over what happens to your money and no one will use it without your consent”

(Chiluba, 1993, p.60). Privatization was a way of “putting you back in control of your own life” (Chiluba, 1993, p.61). These efforts to justify and legitimize the liberalization programme also contained echoes of the favoured World Bank theme of self-help (Abrahamsen, 2000).

In ‘good governance’ discourse and policy, the advancement of liberalization and democratization went hand in hand with privatization, reduction of the public sector and withering of state provision of social services in Zambia and across much of the global South. Civil society, and rapidly proliferating NGOs in particular, began to step in to fill gaps in service provision. Civil society organizations provided “as much as 80% of services in some countries” (Corella et al., 2006). ‘Participation’ of local civil society organizations and of individual citizens in providing voluntary labour for schools and hospitals served donors’ interests in efficiency and cost-effectiveness donors (S.C. White, 1996). Non-governmental organizations providing piecemeal, uncoordinated social welfare services have been accused of being coopted by external donors to “undermine the African state from ‘below’, while it is undermined from ‘above’ through a loss of legitimacy and sovereignty caused by IMF and World Bank mandates” (Gary 1996, p.150). The deepening economic crisis and structural adjustment policies that persisted in the decade following Zambia’s transition to multi-partyism played an important role in shaping the evolution of Zambian civil society and the character of Zambian democracy. Chapter Five will further explore the implications of the hegemony of neoliberalism for Zambia’s constitution-making process and the Oasis Forum’s advocacy for social and political change.

### **3.2 Democratic Transition And Civil Society**

Although the term and concept of ‘civil society’ did not gain currency in Zambia until the post-Independence period, a diversity of forms of associational life thrived before British colonization and under the colonial administration of then Northern Rhodesia. Patron-client networks, ethnic associations, self-help and cooperative groups and some evolving forms of traditional leadership all contribute to the diverse constellation of associational life that characterized pre-colonial African societies; these “actually existing forms of African civil society” evolved, changed and persisted in

different ways through the colonial era (Orvis, 2001). Corella et al. (2006) trace the history of inter-ethnicity voluntary associational organizing in Zambia to miners' groups in the colonial era. Originating from informal labour organizing in the 1920s-30s, the first African trade union was founded in 1948; trade unions and local welfare associations became important actors first in fighting local injustices and later in agitating for independence (Corella et al., 2006).

The Catholic Church also has a long history of political and social activism in Zambia, dating to the colonial era (Mususu, Ndhlovu & Komakoma, 2005; ZEC, 2007a). With a missionary presence dating back over two centuries, the Catholic Church now has ten dioceses covering all the provinces in Zambia. Its extensive and widespread institutionalized presence, large membership (approximately 30% of the Zambian population) and historical significance all contribute to the Church's political clout. The Church was particularly active in the fight against colonialism (Corella et al., 2006). Drawing on inspiration from liberation theologians, the Church continued to champion social justice and human rights throughout the early years of independence and the one-party era (Henriot, n.d.; Namwela, personal communication, November 25, 2009). The Church became an important nucleus of civil society organizing in the campaign leading up to the reversion to multi-party democracy in 1991 (Corella et al., 2006; ZEC, 2007a).

Under Kaunda's one-party state from the 1974-1991, there was little room for popular participation in matters of governance. An attempt to introduce "work councils" failed; they proved ineffective and unsuccessful at providing the envisaged instrument for "meaningful participation" of workers (Erdmann & Simutanyi, 2003). However, trade unions and churches remained politically engaged and were never fully brought under control by the Kaunda government. As the government was weakened by economic crisis in the 1980s, these groups were increasingly able to voice opposition on specific policies and later the one-party state itself (Simutanyi, 1997).

The Movement for Multiparty Democracy emerged in the late 1980s as a broad movement composed of very different social groups and interests, including trade unions, churches, intellectuals, professional groups and private business groups, united by little but their opposition to the Kaunda regime. In the years following Zambia's transition to multi-party democracy, these groups, the most powerful of which were the trade unions,

were demobilized, or at best, ineffectual in their opposition to ongoing structural adjustment and consolidation of power under Chiluba (Simutanyi, 1997). Simutanyi identifies two main reasons for this apparent ineffectiveness. First, the opposition to structural adjustment in Zambia had been intertwined with opposition to the authoritarian one party state. Economic grievances were used to express political grievances in an environment in which organized political opposition was banned and those groups that had autonomy to express political grievances were viewed as ‘unofficial opposition’. Second, the introduction of political and economic liberalization simultaneously acted against effective organization. Organized labour, previously one of the most prominent and powerful forms of civil society association was demobilized through a combination of labour retrenchments, dismissals and wage freezes (Simutanyi, 1997). Furthermore, Chiluba, the former head of the Zambian Congress of Trade Unions, was now the president of the country presiding over continuing adjustment.

Paradoxically, at the very time that the traditional bastions of organized Zambian civil society were struggling to find their footing in the new democracy, hundreds of new civil society organizations were founded that dealt with an array of social, economic, political and religious interests. Following the 1991 election of Chiluba and the continuing economic structural adjustment, the locus of political organizing and power in civil society was shifting. A “new generation of democratic movements, human rights advocates, NGOs, churches, youth and women’s groups and civil society groups” (Bond, 2005, p.435) emerged (or in some cases re-emerged) in the decade following the return of multi-party democracy in Zambia. By 1995, more than a thousand NGOs were registered with the Registrar of Societies and countless community-based organizations sprung up in rural areas (Simutanyi, 1997). This ‘resurgence’ of civil society was not unique to Zambia, but was experienced in many places on the continent in different contexts. Much excitement, and funding, was invested in this phenomenon by scholars and the international development industry, including as disparate groups as alternative development advocates and International Financial Institutions. The former saw the potential for grassroots, locally-controlled processes of empowerment, while the latter supported the devolvement of social services formerly provided by the state to private and voluntary groups (Mohan & Stokke, 2000).

Late Nigerian political scientist, Claude Ake, warned that “before we idealize this phenomenon, it is well to remind ourselves that whatever else it is, it is first and foremost a child of necessity, desperation even” (2000, p. 47). Heavily donor dependent, with weak organizational capacity and weak roots in society, the plethora of new NGOs in Zambia largely lacked the capacities needed for effective political engagement (Corella et al., 2006). The majority of organizations that engaged in ‘development’ activities focused on service provision, and even efforts to ‘empower’ the poor through ‘participation’ often served to depoliticize development, as mentioned in the previous section (S.C. White, 1996). Some advocacy-focused organizations emerged, however, that later developed into powerful voices for human rights, civil education and democratic reform. The Non-Governmental Organization Coordinating Committee (NGOCC), the Catholic Commission for Justice, Development and Peace, the Jesuit Centre for Theological Reflection (JCTR) and Civil Society for Poverty Reduction were all formed in this period and have since had various levels of engagement with the Oasis Forum and constitutional advocacy. From its establishment in the late 1980s, for example, the Non-Governmental Organization Coordinating Committee for Gender and Development has grown exponentially. In the last decade alone, the number of member organizations underneath its umbrellas has doubled to over 100. The NGOCC Secretariat, along with the leaders of some of its more established members, is now a commanding force in Lusaka civil society and one of the most influential voices on the Oasis Forum.

### **3.3 The Oasis Forum**

#### ***3.3.1 Half A Century Of Constitutional Revisions In Zambia***

Zambia is in the midst of its fourth constitutional review process since the nation attained independence from Britain in 1964.<sup>4</sup> In 1953, Britain created, via an *Order in Council*, the Federation of Rhodesia and Nyasaland, comprising the colonies that later became Zambia, Zimbabwe and Malawi. The Order, one of the early steps in creating a constitutional foundation for Zambia, defined the powers of the federal government and those of the territorial governments, among other things (Mwale, 2006).

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<sup>4</sup> For a concise chronology of constitutional processes in Zambia, see Appendix B.



In 1962, the colonial administration for the Federation designed a new 'constitution' in order to accommodate the participation of both the White settlers and the indigenous Africans in the Legislative Council, whilst ensuring that the former held a firm and commanding electoral advantage. This 1962 Constitution was created with the goal of facilitating the granting of eventual independence to Northern Rhodesia (Zambia) outside the Federation on the grounds of universal suffrage. In 1963, the Federation was dissolved and Nyasaland (Malawi) was allowed to secede, followed a year later by Northern Rhodesia. Zambia attained independence under the 1964 Constitution, an instrument negotiated by the "departing colonial Masters", the main nationalist parties leading the independence struggle and a handful of traditional leaders (Mbao, 2007, p.8). The resulting document was widely regarded as "imperfect", but sufficient for facilitating the shift to independent majority governance (Mbao, 2007).

Following almost a decade of liberal multiparty democracy under the rule of first republican president Dr. Kenneth Kaunda, a constitutional revision was initiated in 1973 with the aim of establishing a single-party state. Kaunda and his government "argued that elimination of political pluralism would lead to unity and foster socio-economic development" (Mung'omba Constitutional Review Commission, 2005, p.60). A Commission of Inquiry, headed by then-Vice President Mainza Chona, was mandated to recommend the form of one-party state that Zambia should adopt (the question of whether a one-party state was desirable in the first place was not on the table). There followed almost two decades of 'single party participatory democracy' under Kaunda, though few would argue that the government was participatory or democratic in anything but name. In October 1991, Zambia became the first country in Anglophone Africa to return to multi-party democracy and the first on the continent to oust a 'founding father' peacefully through the ballot box (Abrahamsen, 2000).

In 1996, another constitutional revision was undertaken, this time specifically aimed at blocking former president Kenneth Kaunda's intended return to electoral politics. Echoing the constitutional manipulations of the one-party era, Chiluba's government revised the constitution to include a stipulation that a presidential candidate must not only be born in Zambia, but also be born of Zambian-born parents (despite the fact that 'Zambia' as an independent nation state had only come into existence thirty

years prior). The revision was specifically aimed at excluding Kaunda, whose parents were Malawian. Additionally, UNIP's vice-president, Senior Chief Inyambo Yeta, was disqualified by a new rule that prohibited traditional chiefs from contesting presidential elections. In this way, the MMD's constitutional tampering excluded the two leaders of the main opposition party from contesting the 1996 elections.

### ***3.3.2 The Third Term Crisis And The Formation Of The Oasis Forum***

In 2001, the Movement for Multi-Party Democracy launched a campaign to amend the 1996 Constitution to provide for a third term of presidential office, in order to facilitate the eligibility of the incumbent President Frederick Chiluba to participate in the presidential elections to be held in October of that year. Coming just one decade after Zambia's ostensible return to multi-party democracy the MMD Third Term Campaign aroused significant public debate and opposition. Gould (2006) and I.A. Phiri (2003) among others, have chronicled the 2001 constitutional crisis instigated by Chiluba and the political discontent and divisions it engendered in his own party in great detail.

In the face of a potential impending political crisis, three civic groups were particularly vocal: development, human rights and gender organizations, led by the Non-Governmental Organization Coordinating Council (NGOCC); the three main church 'mother bodies', with the Catholics at the forefront; and the Law Association of Zambia (LAZ). These civil society groups came together in what has been called "an auspicious wedding of the legal authority of the lawyers, the moral authority of the Church, and the popular authority of the women's movement'." (Fr.Komakoma qtd. in Gould 2007, p. ii).<sup>5</sup> The five "convenors" represent a multitude of individuals and civil society groups and organizations: LAZ is the professional association overseeing its 6000 member lawyers; as mentioned above, NGOCC is an umbrella organization for 108 NGOs and community based organizations (CBOs); the three main 'church mother bodies' encompass dozens of denominations and thousands of congregations – Evangelical

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<sup>5</sup> Interestingly, each group (with the possible exception of EFZ) likes to claim to be the originator or animating force behind the formation of the Oasis Forum. Representatives of at least five different organizations asserted in interviews that it was their organization that recruited the others to join, and who led the pack in opposition to the third term.

Fellowship of Zambia (EFZ) with “hundreds” evangelical churches<sup>6</sup>, the Council of Churches in Zambia (CCZ) with 24 mainline protestant churches, and the Zambia Episcopal Conference (ZEC) covering the country’s nine Catholic dioceses. Together, the three church ‘mother bodies’ cover a vast majority of the Christian churches in Zambia. Zambia’s identity as a “Christian Nation” is both enshrined in the current constitution and reflected by the 70-80% of the Zambian population that identifies as Christian. The NGOCC coordinates over 108 organizations and claims that, through the work of these organizations, it covers 70% of the women in Zambia (NGOCC, n.d.). Some of the larger organizations under NGOCC include: YWCA, Planned Parenthood Association of Zambia, Kara Counselling and Training Trust, and Women for Change, each of which have significant presence in multiple regions of Zambia. While the Oasis Forum represents a minority of the approximately 12000 registered Civil Society Organizations in Zambia (Southern Africa Trust, 2007), its convenors are among the largest, most geographically widespread, and most politically powerful organizations in the country.

Following a workshop at the Oasis Restaurant in Lusaka in February 2001, NGOCC, ZEC, CCZ, EFZ and LAZ announced that they would join in a “loose alliance” with the purpose of “promoting Constitutional Development and... a culture of constitutionalism” (Oasis Forum, 2001, p.6) This alliance, thereafter known as the Oasis Forum, quickly issued a joint communiqué, which became popularly known as the Oasis Declaration, about Chiluba’s apparent third term bid. This declaration has been called “a unique document in Zambia’s political history...widely seen among the progressive and professional middle class as a watershed in the consolidation of a broad-based civic movement” (Gould, 2006, p.933). Zambia’s mainstream civil society had a reputation for chronic competitiveness and divisiveness, lending particular significance to this joint endeavour (Gould, 2007a).

Interestingly, while the Oasis Forum functions predominately as a national-level advocacy coalition, many of its member organizations integrate multi-level political and geographical presence. Each of the convening organizations has a head office in Lusaka and engages in national-level advocacy and organizing. However, with the possible

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<sup>6</sup> I have not been able to get a firm count on the exact number of denominations under EFZ. An EFZ staff member claimed “over 500 churches” under the Fellowship. What is clear is that evangelical denominations, particularly Pentecostals, are expanding rapidly in Zambia.

exception of LAZ, each of the convenors has a substantial presence in communities throughout Zambia, either directly or through member organizations. The three church ‘mother bodies’ coordinate the work of, and provide a unified voice for, the many denominations or dioceses falling under their hierarchy. Christian churches – catholic, protestant and evangelical alike – have a widespread and deeply rooted presence in even the most remote Zambian communities. A member of the Zambia Episcopal Conference claimed that nowhere in the country would one be more than 150km from a Catholic parish (field notes, 2009). These parishes, along with the many protestant and evangelical congregations, are integrated into the daily lives of their congregants and carry out their social support (as well as religious) services at a community and individual level. Similarly, the many community based organizations (CBOs) that come together under NGOCC are predominately small-scale, locally-rooted membership organizations such as women’s groups, home-based care collectives, and agriculture and development cooperatives. The close integration of CBOs and churches with the communities in which they operate constitutes a ‘grassroots’ dimension of the Oasis Forum.

Given vast number of organizations represented by the five convenors, it is not surprising that the formation of the Oasis Forum was a cause of some internal debate and disagreement. The diversity of Oasis Forum members encompasses a few factions that are explicitly and actively against any perceived ‘political’ action, particularly any challenge to the government in power. For example, some of the churches under the three main ‘mother bodies’ take the position that their religious mandate precludes engagement with ‘political’ issues.

If you look at the composition of the OF, it was the three church mother bodies, NGOCC and the Law Association of Zambia. So you’d find that the church would feel like we are sitting with the wrong people. You know, we have people who are not Christians and whatsoever, meaning that our vision is sort of different. So it’s more or less like some of our church members would feel like NGOs just criticize government and according to the biblical perspective, our leaders, we’re supposed to listen to them. They’re ordained by God, they’re from God... And the other thing is they felt that as the Church, it’s difficult for us to engage in a confrontational issue such as the constitutional making process. It was more or

less like we were engaging in politics. So they were like, No our role is to preach the gospel and whatsoever, so why should we confront government on these issues? (Synoden, personal communication, October 29, 2009)

The role of some churches in discouraging their congregants and other church organizations from engaging in ‘political’ activity or challenges to the government demonstrates Gramsci’s theory that cultural institutions of civil society can function to promote people’s social-psychological consent to “an inequitable power matrix – a set of social relations that are legitimated by their depiction as natural and inevitable” (Kincheloe & McLaren, 2002, p.93).

Ultimately, despite some reluctance from a few small churches and groups that did not wish to actively engage with initiatives deemed to be too political, the Forum spearheaded a hugely successful campaign of mass popular mobilization to block the third term bid. The campaign of passive resistance resonated throughout the country, but was particularly active in Lusaka and the Copperbelt. In addition to organized protests and demonstrations, a clever campaign encouraged the widespread use of green ribbons and clothing, coupled with horn honking and other disruptive actions to illustrate the extent of popular opposition to a continuation of Chiluba’s rule. Chiluba was quickly compelled to back down and name Levy Mwanawasa as his successor for MMD leadership. In the Presidential and Parliamentary elections four months later, Mwanawasa squeaked into power with a minority government, under allegations of electoral fraud.

### ***3.3.3 The Quest For A Constitution That Will “Stand The Test Of Time”***

Following the successful defeat of the third term bid, the Oasis Forum turned its attention to lobbying the new president “to re-establish a government of laws, not of men” (Mbao, 2007, p.18). Initially, the Oasis Forum proposed the formation of a small “technical committee comprising stakeholders from a cross-section of the Zambian people” to review the findings and recommendations of previous Constitutional Review Commissions (CRCs) - (Chona 1973; Mvunga 1990; Mwanakatwe 1996) - along with other key policy documents, to identify points of consensus, to highlight areas of possible contention, and to develop a new draft constitution which would be the working document for a “wider participation by the majority of Zambians,” in a Constituent Assembly (Kabanda, 2003, p.6). The Forum argued that another CRC, particularly one

invoked under the Inquiries Act, would be little more than a waste of resources and time to establish popular beliefs that were already documented by previous CRCs (Kabanda, 2003, CRC not necessary).

The use of the Inquiries Act (IA) in particular to instigate constitutional review was opposed by the Oasis Forum for two main reasons. Firstly, the IA only provides for amendment to the existing Constitution and does not allow for the Constitution to be repealed and replaced in its entirety. The Oasis Forum has consistently argued that piecemeal amendments and revisions to the existing Zambian Constitution will never be sufficient to yield a document that will ‘stand the test of time’. According to the Forum, the very foundations of the existing constitution are flawed; the document was inherited from a colonial model at the point of independence, and must be completely repealed and replaced in order to create a truly Zambian constitution. Secondly, the IA was not designed to instigate or facilitate constitutional change. Rather, the IA was indented as a tool for the President to investigate issues of national importance. Under the IA, the President personally appoints each member of the Constitutional Review Commission, including the Chairperson, and determines the terms of reference for the CRC. The CRC then produces a report which the President is not required to disclose to the public. Furthermore, the President is at liberty to accept or reject any of the report’s findings and recommendations. Consequently, when revising the Constitution under the IA, the President can accept or reject any proposed amendments before the document goes to Parliament for ratification.

The Oasis Forum contends that the IA vests an inordinate amount of power in the President, who can then legally circumvent the findings of the Commission, the ‘will of the people’ and/or any attempts to incorporate more checks on executive power into the constitution. For example, in 1993 President Chiluba used the IA to form the Mwanakatwe CRC and then proceeded, as was his purview under the IA, to reject 70% of the Commission’s recommendations through a Presidential ‘white paper’. The Oasis Forum was anxious not to see this scenario repeated by President Mwanawasa (EFZ, n.d., Constitutional Governance Proposal; Tembwe, personal communication, September 29, 2009).

In 2003, however, Mwanawasa used the IA to appoint a new Constitutional Review Commission led by chair Wila Mung'omba. From August 2003 to September 2004, the Commission conducted public hearings in all parliamentary constituencies in the country. It solicited both oral and written submissions from individual Zambians, including those living abroad, and from groups and organizations. There were high turnouts at all hearings (Kabanda, 2008; Mbao, 2007). Additional special sittings were organized for key stakeholder groups and the Commission also carried out comparative study tours to South Africa, Uganda, Kenya, Ethiopia, Nigeria, Sweden, Denmark, Norway and India in order to learn about contemporary best practices in constitution-making (Mbao, 2007).

The Interim and Final Reports of the Mung'omba Constitutional Review Commission indicate that an overwhelming number of petitioners submitted that the Constitution should be adopted by a Constituent Assembly or other body with broad-based, inclusive, gender-equitable representation and that the process should encourage the participation of citizens to increase constitutional legitimacy (Mbao, 2007). From 2005, when the final Mung'omba CRC report was released, to 2007, the constitution-making process ground to a halt in the face of a political deadlock between the Mwanawasa government on the one hand and the opposition parties and civil society formations, including the Oasis Forum, on the other. During this period, the Government released a roadmap for constitutional adoption that spanned over five years. The Oasis Forum responded with an "Alternative Roadmap" that asserted a Constituent Assembly and referendum process could be concluded in a significantly shorter timeframe.

In August 2007, Parliament passed the National Constitutional Conference (NCC) Act which mandated that instead of a Constituent Assembly, a National Constitutional Conference would be formed to adopt the Constitution. The Oasis Forum vehemently opposed this Act, for a variety of reasons, many of which are highlighted in Chapter 4. The NCC Act incited opposition from a broader range of civil society organizations and that year the Collaborative Group on the Constitution (CGC) was established as an expansion to the Oasis Forum. The CGC, led by the Oasis Forum, includes the Southern Africa Centre for the Constructive Resolution of Disputes, the Foundation for Democratic Process, Anti-Voter Apathy Programme, Transparency International Zambia, Press

Association of Zambia, Citizens Forum, Zambia National Women's Lobby Group and Zambia Alliance of Women.

In September 2007, the Oasis Forum organized a Stakeholders' Consultative Conference in Lusaka. The Conference was attended by the member organizations of the Oasis Forum, including many smaller organizations that fall under NGOCC, along with three traditional leaders, representatives of three opposition political parties, the decommissioned members of the Mung'omba CRC and various eminent citizens including former freedom fighters, John Mwanakatwe (former head of the Mwanakatwe CRC), and leaders in the women's movement. Following an overview of the progress of the constitution-making process, a presentation by Professor Michelo Hansungule on the experience of other African countries, and an analysis of the NCC Act, the delegates discussed the positions of their respective organizations regarding the impending NCC.

The Oasis Forum's position was that each member organization should make its own decision on whether to participate in the NCC. Four of the convenors of the Oasis Forum – CCZ, EFZ, ZEC and NGOCC – resolved to boycott the NCC on the grounds that the process tokenized and coopted civil society voices while effectively marginalizing the majority of Zambians and according undue power and control to the executive of the government. TIZ, the Citizens Forum, and a variety of other organizations took the same stance. The Law Association of Zambia waited to consult its members through an extraordinary general meeting the following month, at which it was decided by a narrow margin of votes that LAZ would participate in the NCC.

The seeds of constitutional instability in Zambia were inherited from the colonial era and the transition to independence (Ndulo & Kent, 1996). However, it was a complex confluence of political, economic, and circumstantial factors that led to the third term crisis of 2001 and the formation of the Oasis Forum. Shifting international geopolitics and dominant development discourse intertwined with domestic conditions to form the discursive and political-economic environment within which civil society activism and debates over constitution-making would take place. As will be discussed further in Chapter Five, the hegemony of procedural liberal democracy and the exigencies of the Washington Consensus bounded Oasis Forum advocacy, but would also prove to contain



within them the gains of resistance and possibilities of alternative action for social change.

## **Chapter 4 - 'Process Protects Content': The Oasis Forum**

### **Approach To Participation In The Constitution-Making Process**

As outlined in Chapter Three, after the successful defeat of former President Chiluba's third term bid in 2001, the Oasis Forum remained actively committed to pushing for a constitutional review process with the aim of ensuring that Zambia's guiding governance framework would not be vulnerable to such attempts at manipulation by future political leaders. The Forum's position on the process required to achieve such a constitution has evolved and been refined over the past decade. However, one of the consistent demands of the Oasis Forum has been for a 'people-driven' constitution. This demand has formed the baseline of much Oasis Forum advocacy and intensified after the completion of the Mung'omba CRC and the beginning of the deliberations of President Mwanawasa's government on how to proceed with constitutional adoption and enactment.

Throughout the publications of the Oasis Forum and its member organizations, 'participation' by 'the people' is emphasized as essential to a successful constitution-making process. The Zambia Episcopal Conference (ZEC) declares that constitutional reform "should have as its basis citizen activism and participation" (Banda, n.d., p.1). In a 2007 statement, the Oasis Forum and the Collaborative Group on the Constitution echo this view: "constitution reforms require the involvement and participation of every Zambian" (2007, p.1). A joint statement by Zambia's three major church bodies also calls for a "people-driven" constitution, created by "we the Zambians, and not the Government of the day" (Mususu, Ndlovu & Komakoma, 2007). 'Participation' is evoked frequently as a central component of an effective and meaningful constitution-making process. The prominence of 'participation' in civil society discourses on the constitutional process raises further questions about the Oasis Forum's interpretation of the concept: Why is participation important in constitution-making? What are the objectives of participation? Who should participate and in what capacity?

The evocation of rhetoric of 'participation' and 'the people' is not unique to the Oasis Forum. Even the National Constitutional Conference, the forum boycotted by the

Oasis Forum organizations, is itself working under the slogan, “meeting to adopt a *people’s* constitution” (emphasis added, National Constitutional Conference, 2010). Just what is meant by ‘participation’ and a ‘people-driven’ constitution is not always clear. ‘Participation’ has been called “politically ambivalent and historically vague” (Cornwall & Brock 2005, p.1046), underscoring the importance of interrogating the use of the term by a particular group at a particular historical juncture.

Upon further analysis of Oasis Forum publications, some key conceptions emerged about what ‘popular participation’ means in the context of constitution-making. Although the Oasis Forum’s proposed plans for constitution-making have evolved in the decade since the third term crisis, the core components are consistent: 1) constitutional reform processes should respect the findings of constitutional review commissions (whether those of the Mung’omba CRC or earlier CRCs) which are understood to reflect and represent the views of ‘the people’; 2) a ‘popular body’, such as a constituent assembly, should be formed to finalize and adopt the constitutional changes recommended by the CRCs; 3) the resultant constitution should be submitted for popular referendum (Oasis Forum, 2004a, 2004b, 2005a, 2005c, 2007b; 2007c). Findings from interviews, document analysis and observation reveal that each of these stages embodies a particular understanding of ‘popular participation’: popular consultation through the constitutional review commissions; diverse and balanced representation in the popular body adopting the constitution; and a popular referendum to approve the constitution.

This chapter begins with an overview of the objectives of the Oasis Forum’s alternative roadmap and its points of convergence and contention with the government-sponsored National Constitutional Conference process. A more detailed analysis of the forms of participation embodied in each of the three stages of the alternative roadmap process follows. Finally, the chapter explores the main challenges facing the Oasis Forum in its attempts to operationalize these conceptions of participation.

The analysis in this chapter highlights key findings in three main sections: 1) importance and objectives of participation; 2) Forms of participation in the alternative road maps; 3) challenges of operationalizing popular participation in constitution-making. Firstly, rhetoric of ‘participation’ is central to Oasis Forum constitution-making advocacy, but is employed in ambiguous ways and with different objectives by different

civil society groups within the Oasis Forum. Although similar in many aspects, the National Constitutional Conference process and the Oasis Forum's alternative road maps for constitution-making differ in important ways. Secondly, the forms of participation advocated by the Oasis Forum – consultation, alternative representation, referendum – are designed to diffuse executive power and maximize the chances of implementing the recommendations of the various CRCs, including the amendment of the Bill of Rights to include economic, social and cultural (ESC) rights, in the final constitution. Thirdly, the Oasis Forum faces significant structural constraints and challenges to facilitating even minimal popular participation. Furthermore, a largely unresponsive government marginalizes the voices of the citizenry and blocks procedural reforms that would shift power away from the executive.

#### **4.1 Importance And Objectives Of Participation**

There is a robust consensus amongst Oasis Forum convenors and member organizations that participation is a vital aspect of a successful constitution-making process. Chigunta articulates this position particularly eloquently.

The Oasis Forum has always believed that if you do not have a constitution-making process that is truly representative of the diversity of the people that we have in this country, a constitution-making process that is facilitative of the contribution of the people themselves, a constitution-making process that is hinged on the principle of participation, on the principle of equality, then you will not have a constitution that will be representative of what the Zambian people want. (personal communication, September 20, 2009)

Similar sentiments were expressed by almost every interview participant and reflected throughout Oasis Forum literature. Given that popular participation in constitution-making is a relatively new phenomenon (Elster, 1993), whose benefits and outcomes are still debated (Moehler, 2008), this consensus is not insignificant. The consistency with which the Forum and its members espouse the importance of popular participation establishes a helpful baseline for investigating the nuances of this position.

A 2007 declaration by the Oasis Forum and the Collaborative Group on the Constitution, which together represent a diverse array of hundreds of Zambian civil

society groups,<sup>7</sup> articulate these basic demands for the constitutional review process as follows:

1. That the process of constitution review be **people** driven;
2. That the mode of adoption should be a **popular** one – it should be a process that protects content;
3. That a comprehensive review of the constitution be undertaken and thus ensure that we finally achieve for this country, a solid foundation to allow for other national development processes;
4. That this constitution review should be conducted in a thorough manner and meet the approval of the people and hence stop the trend of constitutional instability. In other words, that this new constitution should stand the test of time; and
5. That the constitution should represent the **people’s** legacy and not a gift from the hands of the benevolent leaders. (emphasis added, Oasis Forum & CGC 2007, p.2-3)

These demands include indications of some desired outcomes of the process: “protection” of content – i.e. the content of the Mung’omba draft constitution is retained in the adoption process; a “solid foundation” for “development processes” – some characteristics of this foundation, including ESC rights, are discussed below; an end to “constitutional instability” – i.e. a constitution that will not be challenged and changed by each successive president; a “people’s legacy” – i.e. a sense of popular ownership and corresponding legitimacy of the constitution. Further investigation of Oasis Forum documents helps clarify these goals and the meaning of these demands when translated into a plan of action.

The Oasis Forum’s slogan in its advocacy around the constitution is “Process Protects Content”. The “content” to be “protected” refers predominantly to the recommendations stemming from the Mung’omba and previous Constitutional Review Commissions. In the Oasis Declaration, “the people’s representatives in the National Assembly are called upon to respect the will of the Zambian people as evidenced in the

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<sup>7</sup> See Appendix A for a detailed list of Oasis Forum convenors and members of the Collaborative Group on the Constitution.

Constitutional Review Commission reports” (Oasis Forum, 2001). The Declaration, first issued in 2001, was referring to the Chona (1973), Mvunga (1991) and Mwanakatwe (1996) CRCs. 70% of the recommendations outlined in the Mwanakatwe report based on submissions by the public were unilaterally rejected by then-President Chiluba and the Oasis Forum was anxious not to see such a rejection repeated. Following the finalization of the Mung’omba CRC in 2005, Fr. Pete Henriot of the Jesuit Centre for Theological Reflection (JCTR) reiterated the importance popular participation to protect content outlined in the CRC: “Constitutional content has been ably presented in the Mung’omba CRC recommendations...Surely the content needs debate and refining. But the content will never get fair treatment without a process in which the people can truly participate” (Henriot, 2005).

The Mung’omba Constitutional Review Commission not only sought input and made recommendations regarding the content of the Zambian constitution. It also laid out a proposal for the process by which the constitution should be adopted. These recommendations formed the basis of the Oasis Forum’s revised alternative roadmaps (2004a, 2007b). The NCC Act passed by the government in 2007 deviated from the recommendations of the Mung’omba CRC report in the following key ways:

- Whereas Mung’omba CRC stated that the current Constitution should be repealed and replaced, the NCC proposed to alter and revise the existing constitution;
- Whereas Mung’omba CRC proposed that the Constitution should be adopted by a Constituent Assembly with a particular composition, the division of NCC delegates is outside the framework of the Mung’omba recommendations;
- Whereas Mung’omba CRC called for the submission of the complete draft constitution to a public referendum, the NCC Act indicates that the submission, of all or part of the draft constitution, to a referendum is subject to a decision made by the members of the NCC (Kabanda, 2008; Oasis Forum, 2007a).

The following table provides a concise summary of the key points of contention between the NCC process and the Oasis Forum’s proposed alternative roadmap process.

Table 1 Differences between the National Constitutional Conference and Oasis Forum alternative roadmaps for constitution-making<sup>8</sup>

<b>Point of Contention</b>	<b>National Constitutional Conference</b>	<b>Oasis Forum alternative roadmap including Constituent Assembly</b>
Origin of process	- Designed by MMD politicians in 2007.	- Mwanakatwe and Mung'omba CRCs both recommended adoption of the constitution through a Constituent Assembly.
Scope of revision	- Amendments and revisions made to the existing constitution (“alter the constitution or part thereof”).	- The current constitution should be repealed and replaced in its entirety.
Timeline	- 12 months initially; - President has can extend at any point, for any additional period of time.	- 60 weeks, not more than 15 months total; - Firm deadline, president cannot extend at will.
Composition	- 279 politicians (158 MPs, 48 representatives of political parties – six per party, 73 councilors) – 56% of total; - 27 ‘eminent Zambians’ appointed by President; - 58 representatives of government departments; - 105 representatives of civil society, including NGOs, churches, trade unions, professional bodies; - 33 traditional healers, leaders, private universities, and others.	- Approximately 1/3 politicians, 1/3 civil society, 1/3 other stakeholders; - 158 MPs; - 12 representatives of government departments; - One representative per political party; - 10 ‘eminent Zambians’ appointed by President; - Two civil society representatives (one male, one female) popularly elected from each district (148); - 70 representatives of CSOs including churches, unions, professional bodies; - 18 randomly selected petitioners to the Constitutional Review Commission; - Members of the CRC; - 18 representatives from the chieftancy.

<sup>8</sup> Information taken from: Kabanda, 2008a; NCC, 2010; Oasis Forum, 2007a, 2007b, 2007c, 2007d, 2009; Oasis Forum & Collaborative Group on the Constitution, 2007.

<b>Point of Contention</b>	<b>National Constitutional Conference</b>	<b>Oasis Forum alternative roadmap including Constituent Assembly</b>
Payment of delegates	<ul style="list-style-type: none"> <li>- K500 000 per day sitting allowance (double the monthly minimum wage for government employees);</li> <li>- Additional K650 000 per day for delegates from outside Lusaka;</li> <li>- K100 000 per day transport allowance.</li> </ul>	<ul style="list-style-type: none"> <li>- Oasis Forum and other civil society groups offered to fund their own delegates, and encouraged political parties and other represented groups to do the same to reduce exorbitant spending on per diem allowances.</li> </ul>
Legal status of recommendations	<ul style="list-style-type: none"> <li>- Not binding;</li> <li>- Subject to the approval of Parliament.</li> </ul>	<ul style="list-style-type: none"> <li>- The recommendations made by the Constituent Assembly should be final and legally binding, subject to the outcome of a national referendum.</li> </ul>
Referendum	<ul style="list-style-type: none"> <li>- The delegates at the NCC may choose to submit certain revisions to national referendum, but are not obligated to submit the revised constitution, in whole or part to such referendum.</li> </ul>	<ul style="list-style-type: none"> <li>- The Constituent Assembly will produce a draft constitution that will then be submitted to National Referendum for approval before going to Parliament for ratification.</li> </ul>

While the Oasis Forum advocated a process that would refine, but minimally revise, the Mung’omba draft constitution, the NCC not only has the power to radically revise, change and reject Mung’omba recommendations, but the resultant draft will then be submitted to Parliament. Oasis Forum members fear that this stage will represent yet another opportunity for unnecessary debate and revision of the constitution by the government. Each point of divergence between the two plans is significant in terms of the amount of power it accords the executive and parliamentary branches of the government (both of which are *de facto* dominated by the President) to diverge from the Mung’omba CRC recommendations and unilaterally determine the content of the constitution (Tembwe, personal communication, September 29, 2009). Therefore, Oasis Forum advocacy implicitly conceptualizes ‘popular participation’ in terms of procedural mechanisms that diffuse or balance executive power.

Following the publication of the Mung’omba final report and draft constitution, the Oasis Forum compiled and published a list of “Basic Minimums to be Incorporated into the Next Constitution” (Matibini, n.d.). In the uncertainty over the form of adoption that was going to be instigated by then-President Mwanawasa, the “Basic Minimums”



concisely articulated the changes most essential for the achievement of a constitution that would “stand the test of time”. The “Basic Minimums” cover the parameters of executive, parliamentary and judiciary power, the inclusion of economic, social and cultural (ESC) rights, finances and public accounting, local governance and “other matters of fundamental importance” (Matibini, n.d.). Certain among these minimum revisions have specific procedural requirements; for example, modifications to the Bill of Rights can only be passed via popular referendum.

For us, holding a referendum and adopting the constitution through the people’s assembly is the most important aspect of any constitutional review that Zambia would ever undertake. Failure to change the Bill of Rights so that it guarantees and protects the rights which the majority of poor Zambians need does not constitute a constitutional review and is not worthy the huge sums of money that the exercise will gobble. (Munyinda, 2003)

This excerpt from a press statement issued by an Oasis Forum member organization highlights a pervading trend in Forum publications of explaining ‘popular participation’ and a ‘people’s’ process in terms of an outcome that is favourable for the “majority of poor Zambians” rather than a process that directly includes that same majority. Of utmost importance to the Oasis Forum is securing a process for constitutional adoption that will maximize the possibilities of the “Basic Minimums” making it into the final document.

Some Oasis Forum members also articulated the importance of a participatory process for fostering a sense of popular ownership of, and respect for, the constitution. At a 2007 Oasis Forum stakeholder consultation, William Mweemba, the former chairperson of the Zambia Law Association, “argued that once again the people of Zambia had been left out of the constitution-making process. He [said he] was not surprised that the common man in Zambia believed that the constitution belonged to people in power” (Oasis Forum, 2007d). Some other study participants indicated similar concerns, primarily focusing on engendering legitimacy in the final constitution and restoring ordinary Zambians’ faith in their democratic governance systems. Absent is the focus on the empowering potential of the experience of participating that pervades development literature on the topic (for example, Chambers, 1997).

The Law Association of Zambia and its members are more likely to express the importance of participation in terms of the legitimacy of the constitution and legality of the process, while the churches and gender, human rights and development organizations tend to emphasize ‘pro-poor’ policy outcomes as the driving objective behind advocacy for a ‘people-driven’ development process. Fr. Peter Henriot succinctly sums up the position of Zambian civil society organizations as follows: “There simply will be no pro-poor policies without pro-people governance. And there will be no pro-people governance without a people-oriented constitution. And there will be no people-oriented constitution without a people-participative process!” (Henriot, 2005).

In summary, the rhetoric of ‘participation’ figures centrally in Oasis Forum’s advocacy on the constitution-making process. There is broad consensus on the importance of popular participation and while the Forum highlights a number of objectives, the production of a constitution with satisfactory content is of primary concern. Finally, the rationale for encouraging participation differs slightly between different civil society groups, but revolves around shared language.

## **4.2 Forms Of Participation**

Given the general agreement between Oasis Forum members that participation, in principle at least, is important in constitution-making, the next core question is what forms such participation should take. As mentioned above, the Oasis Forum has expressed its vision for the Zambian constitution-making process in a series of proposed ‘roadmaps’, the earliest of which (2004a, 2004b, 2005a, 2005b) were offered as suggestions to the government while later revised roadmaps (2007a, 2007b, 2007c) were presented as ‘alternatives’ to a government plan judged to be inadequate and inappropriate. These proposals reveal important information about the Oasis Forum’s plans for operationalizing popular participation in constitution-making. In order to supplement the data contained in the Oasis Forum roadmaps and publications, key informants were probed regarding their understanding of phrases such as ‘a people’s process’ and ‘popular participation’ as they emerged in the interviews. Unpacking some of these procedural details is a critical step to gaining a deeper understanding of the

potential and limitations of participation for creating alternative spaces for engagement within the constitution-making process.

One of the interesting tensions that emerged in interviews was between the characterization of constitution-making as primarily a technical process requiring disproportionate input from experts with special training, or as a fundamentally democratic, popular process in which diversity and inclusiveness of participants is the primary determinant of success. A lawyer (Habasonda) and a representative of a feminist development organization (Mukali) allude to this tension:

As you know, the constitution itself and making [it], as much as we like to view it, it is in fact a democratic issue. But it is also a very historic process; it's also a very technical process. And I think with hindsight, there was need and there is still need to have voices that have the legal knowledge as well to assist and guide the process. (Habasonda, personal communication, October 30, 2009)

Because we believe that the constitution-making process was not a political process and was not a legal process but was a process meant to make sure that people participate. .... The process of how people are taken along will actually determine the content because people will have said so, people will have spoken. (Mukali, personal communication, October 8, 2009)

This tension re-emerges in discussions of the particular form participation should take at different stages of constitution-making.

#### **4.2.1 Consultation Through Constitutional Review Commissions**

Issues of popular participation in the Zambian constitution-making process are entwined with questions of how 'the people's will' is established and carried through the process. As outlined at the beginning of this chapter, the findings of the various CRCs are consistently upheld by civil society organizations as the best available indication of what 'the people of Zambia' want to see in their constitution. These review commissions are being used as a baseline for broad-based participation culminating in the development of a popular consensus on the constitution. When asked what a 'people-driven' constitution-making process would look like, most interviewees explained the importance of ensuring that the findings of the CRCs make it into the final document.

The constitutional review process is the only stage of constitution-making at which broad-based direct participation in content development is envisioned or promoted by the Oasis Forum. Initially, however, the Oasis Forum opposed the appointment of a new CRC by former president Mwanawasa. This reticence stemmed primarily from the fact that the recommendations of previous CRCs had yet to be implemented. Mukali articulated the frustrations of watching CRCs come and go with little impact:

Since independence, we've had a number of attempts at coming up with a constitution and I think the problem has been that although we've had a number of constitutional review commissions and a number of attempts at getting a good constitution, there's this realization that the process has always been driven by the government ... 70% of the proposals made by the [1996 Mwanakatwe] commission were rejected by the government in power at the time, the government of former president Chiluba. You have a situation here where the commissioners gather evidence, they gather what the people want, they put all this together, and then it's up to the government to decide what they're going to put in the constitution and what they're going to leave out. And certainly leaving out 70% of what the people of Zambia want does render credence to this perception that the constitution is not in fact a reflection of what the people want. (Mukali, personal communication, October 8, 2009)

This example was cited by almost all interviewees as evidence of the need for a reformed constitution-making process and in particular, a process that would protect “what the people of Zambia want” from rejection by the government of the day. As outlined in in the preceding chapter, former president Chiluba was able to reject the Mwanakatwe CRC's recommendations at will because the commission had been appointed under the Inquiries Act (IA). Consequently, the Oasis Forum strongly opposed the appointment of another CRC under the IA by President Mwanawasa.

Mukali's comments above indicate that the Oasis Forum did accept the findings of previous CRC's, most recently the Mwanakatwe CRC as representative of “what the people of Zambia want”. Mukali's position on the CRCs reflects a consistent unanimity amongst the members of the Oasis Forum. A program officer with a faith-based development organization expresses a similar perspective:

The submissions that the commissions have gotten from people initially, they've been very good submissions. But because of the process we have embarked on, the route we have taken to come up with a constitution, we have seemingly been taking the wrong route so to speak, so we have ended up coming up with a document which does not reflect the initial submissions that people made.

(Bwalya, personal communication, September 20, 2009)

The issue was not with the methodology of the CRC itself, but rather the ensuing political rejection of its findings. Once the Mung'omba CRC started its work, the Oasis Forum accepted it as the first stage of developing a 'people driven constitution'. The first challenge was to pressure for the timely release of the Mung'omba CRC's interim and final reports and draft constitutions. Once these were released, they were debated to some degree by civil society, including the Oasis Forum, but generally accepted (Oasis Forum n.d.).

Given the emphasis in the literature on the importance of the particulars and power dynamics of participatory processes and the prevalence of processes that may be 'participatory' or 'consultative' in name but tokenistic and minimalist in practice, I was surprised that the details of the CRC methodology were passed over so quickly by interviewees. The Mung'omba CRC report and draft constitution were widely accepted as the baseline indication of the collective will of Zambians, so it would be worth interrogating the forms of popular participation and engagement employed to determine the direction of this collective will. The CRC is lauded for holding meetings in every constituency and consulting a multitude of stakeholder groups, but much less information is available regarding the specific demographics of those who attended meetings, those who contributed, and so on. Such an investigation is beyond the scope of this study, but the very fact that such questions are not being asked by Zambian civil society organizations is revealing.

In the context of a history of government blatantly disregarding the preferences expressed by citizens and civil society groups through the CRC process, critiquing and dissecting the process by which those preferences were elicited is a much lower priority than simply pushing for some degree of responsiveness by the government. Some informants conceded that the Mung'omba CRC "had its faults" (Mukali, personal

communication, October 8, 2009) and “was not perfect” (Choolwe, personal communication, October 8, 2009). However, in the face of the realistic possibility that the executive, using its powers under the Inquiries Act, could reject many of the important recommendations made by Mung’omba (such as the inclusion of ESC rights and the establishment of an independent electoral commission), members of the Oasis Forum expressed little interest in raking over the shortcomings of the Mung’omba process or findings; any deficiencies on the part of the CRC were not sufficient for the Oasis Forum to disavow the Commission’s findings and its claim to have captured the ‘will of the people’.

#### **4.2.2 Alternative Representation Through A Constituent Assembly**

The second stage of the Oasis Forum’s alternative roadmap process for constitutional reform, and the stage to attract the most public debate and disagreement with the government, was the proposal for the formation of a Constituent Assembly that would be charged with debating, refining, and adopting the draft constitution proposed by the Mung’omba CRC. Rather than forming a Constituent Assembly, in 2007 President Mwanawasa and the ruling MMD government passed the National Constitutional Conference (NCC) Act, which outlined the composition and functioning of the NCC which would adopt the constitution.

The Oasis Forum’s proposed Constituent Assembly would not have differed radically from the government’s NCC. Both are ostensibly ‘popular bodies’ comprised of political and civil society representatives who would be tasked to debate the draft constitution as proposed by Mung’omba, make any necessary revisions and draft and adopt a final version. Yet despite the similarities, civil society groups maintain that the CA would have been a more ‘people driven’ and ‘participatory’ process. One informant maintains that the main weakness of the NCC process is that it “has not really enabled adequate citizen participation” (Bwalya, personal communication, September 20, 2009). A joint statement by the Oasis Forum and Collaborative Group on the Constitution issued shortly after the NCC Act was passed by Parliament calls the NCC process “unpopular and exclusive”.

We wish to state emphatically that the popular adoption of the constitution should start with a consultative process of developing a bill for the Constituent Assembly

or whatever the body is called. You cannot use an unpopular and exclusive process to develop a bill to create a popular body to adopt the constitution. (Oasis Forum & Collaborative Group on the Constitution, 2007)

This is a common criticism of the NCC by members of the Oasis Forum. Significant probing was required during interviews, however, to identify what “adequate citizen participation” would look like in practice at this stage of the constitution-making process, when the CRC had already completed its public consultations.

Oasis Forum formulations of “adequate citizen participation” in the adoption (as distinct from the review, approval or enactment) of the constitution generally have less to do with direct participation of the masses and more to do with *who* could legitimately represent the views of the people. In the Oasis Forum’s proposed ‘three part process’ (CRC, Constituent Assembly, Referendum), direct participation in the second component is limited to the 300-500 individuals selected to be members of the Constituent Assembly. These members, depending on their positions in society might have mechanisms for consulting and involving their constituents or beneficiaries or communities, but any such consultation would be at their own discretion. So the question remains, how does a Constituent Assembly, as distinct from the National Constitutional Conference, fulfill the need for “a popular body that will, for the first time, allow the people to be involved beyond just submitting to the CRC” (Lifuka, 2007)?

Composition of the “popular body” is one of the core differences between the Constituent Assembly advocated by the Oasis Forum and the NCC enacted by the government. The Oasis Forum proposed that the Constituent Assembly be composed of approximately one third government officials and politicians, one third civil society representatives and one third “other stakeholders” including traditional leaders, freedom fighters, military representatives and business representatives. The central goal of this composition was to ensure that no one group had a “built-in majority” that would allow them to “control the outcomes of the voting process” in the Assembly (Oasis Forum, 2005a; Tembwe, personal communication, September 29, 2009). In particular, the balance of politicians and civil society representatives in the composition of the Constituent Assembly or NCC was, and continues to be, hotly debated.

These debates reveal competing understandings of legitimacy and authority of representatives of ‘the people’ and a deep distrust of politicians and government officials. The concern over a government-civil society balance in the body tasked with adopting the constitution is rooted in the belief that government representatives, regardless of partisan affiliations, share certain self-interests derived from their position. This suspicion of self-interested political manoeuvring is informed by past constitutional review processes:

The problem we’ve had with previous constitutions in the country is that they have not been written by the people and they have not been designed to meet the aspirations of the people. That the constitution has tended to be a tool that politicians have used to multiply their political influence and political power. (Chigunta, personal communication, September 20, 2009)

Chiluba’s blatant manipulation of the constitution in attempts to undermine opposition politicians and secure his own leadership in the 1990s is a recent historical example and still fresh in the collective memory of political society in Zambia. However, it is not only the president and executive branch of government with a stake in the process. A number of the constitutional revisions recommended by the Mung’omba CRC and promoted by civil society have a direct bearing on the professional prospects of politicians. These revisions include: enforcing by-elections when a politician crosses the floor (a relatively common occurrence in Zambia); disqualifying members of the National Assembly for appointment to Ministerial posts; and reducing the Power of Appointments residing solely with the president (Citizens Forum, 2007; Banda, n.d.).

The history of using the constitution as a tool in political machinations, coupled with the potential shared interest of all politicians (government and opposition alike) in certain constitutional clauses, engender a wariness of an NCC loaded with Members of Parliament, political parties, government officers and presidentially appointed individuals. Bwalya, who criticized the NCC for failing to enable “adequate citizen participation” clarified his understanding of the term as follows: “Now by citizen’s participation, I mean citizens with independent minds. Those who can debate issues. Citizens whose representation is neutral, so to speak. Neutral not political” (personal communication, September 20, 2009). Bwalya’s distinction between “neutral” and



“political” is interesting. As the interview progressed, it became clear that “political” referred to members of the government, political parties, and presidential appointees, while all civil society representatives and other stakeholders fell into the “neutral” category. “Neutral” in this case, designates a separation from the governing powers rather than an absence of bias or particular interest. This belief that “political” motivations undermine the legitimacy of representation was widely shared in the Oasis Forum.

The most obvious feature of the NCC is that the issue of constitution-making has been made the preserve of the political elite, based on the assumption that the political elite carry the mandate of the people into that constitution-making process. Which is of course not true. And it’s quite naïve, really, to assume. (Chigunta, personal communication, September 20, 2009)

So our other shortcoming in terms of participation is that the composition of the NCC was more than...70% political parties. And we felt that political parties were an interested party. ...The politicians will drive the whole process. It will be what they want. They will just bring out the issues that will be to their benefit, not issues that are going to benefit the nation at large. (Synoden, personal communication, October 29, 2009)

Based on these concerns, the Oasis Forum views the composition of the NCC or Constituent Assembly as a critical issue with direct implications for the possibility of Mung’omba recommendations making it into the new constitution.

‘Participation’ and ‘representation’, both as concepts and as processes, are frequently conflated in Oasis Forum discussions of this stage of the constitution-making process. More diversity of representatives and more balance in numbers of representatives of different potential interest groups are offered as a vision of a ‘popular process’, as a correction to the ‘exclusivity’ and lack of participation of the NCC. This observation does not suggest that the government is any more ‘pure’ or clear in its conceptualizations of popular participation versus representation; rather, the government tends to be less concerned with asserting the importance of the former. A detailed analysis of government narratives is not within the scope of this study.

### 4.2.3 Referendum

The Oasis Forum alternative roadmaps include provisions for a national referendum to approve or reject the draft constitution as finalized by a Constituent Assembly, or other popular body. In all the permutations of the Oasis Forum roadmap, a nation-wide referendum is upheld as an essential final step in approving a ‘people’s constitution’.

We demand that the people be given an opportunity to speak through a referendum to be held after the Constituent Assembly before the document is submitted to Parliament for enactment. (Oasis Forum & Collaborative Group on the Constitution, 2007)

Earlier editions of the alternative roadmap focus on the practical steps necessary to enable a meaningful referendum. These steps include actions necessary to engage and inform the Zambian populace so they can meaningfully participate in the referendum: translate the draft constitution into major local languages; disseminate draft constitution, in full and simplified forms; mobilize rural communities to vote. Additionally, administrative and legal processes necessary for effectively holding a referendum were highlighted: use the 2000 Census to project population figures; include funding for a referendum in the annual budget; and other similar provisions.

Contrary to the recommendations of the Mung’omba CRC, the NCC Act accorded the NCC delegates power to decide whether to submit parts, all or none of the Constitution to popular referendum. Following the passage of this bill, the Oasis Forum shifted its advocacy away from the specifics of how to administer a referendum and refocused on highlighting the importance of this form of citizen participation to the legitimacy and durability of a new constitution. Of particular concern is the fact that according to Zambian law, revision of part three of the Constitution, the Bill of Rights, *requires* assent by popular referendum. The amendment of the Bill of Rights to include economic, social and cultural (ESC) Rights, as recommended by the Mung’omba CRC, is of utmost concern to the Oasis Forum.

Certainly, I do not expect that we’ll have a constitution which will address the Bill of Rights and ...the Bill of Rights is very critical in the sense that the majority of people who want a new constitution would like to see the Bill of

Rights basically repealed so that we have a new Bill of Rights which can include Social and Economic Rights. And under the current constitution, if the Bill of Rights is to be amended, there's a requirement to have a referendum, and to have a referendum, you require to have a census. The last census was done 10 years ago so a census is due next year, and you can't have a referendum without a census, and when I was looking at the budget, next year's budget, I've gone through it, and there's no provision in the budget for a census. And there's no provision in the budget for a referendum. So quite clearly, I do not think government actually intends to have a new constitution. (Habasonda, personal communication, October 30, 2009)

This explanation of the importance of a referendum reiterates the ends-focused orientation of the Oasis Forum. The inclusion of economic, social and cultural rights in the new constitution is a priority for the Oasis Forum; the importance of ESC rights as a way of asserting an alternative vision for people-centred development is discussed in Chapter Five. In the face of the NCC, a process that significantly diverges from the recommendations of the Mung'omba CRC and of civil society groups, the Oasis Forum prioritizes procedural amendments to the constitution-making process that are mostly likely to facilitate the delivery of a final document that meets their "basic minimums" criteria (Matibini, n.d.; Oasis Forum, n.d.).

#### **4.2.4 Popular Participation In Other Oasis Forum Initiatives**

The Oasis Forum proposed and advocated for the above forms of participation as part of the official, government-sanctioned constitution-making process. These spaces for institutionalized participation in official constitutional review processes are relatively constrained and limited both in terms of the numbers of people who can participate, and the form and quantity of input they can give. However, the Oasis Forum, in cooperation with other civil society groups, has also encouraged other forms of popular participation in their advocacy efforts to pressure government on issues of constitutionalism and the constitutional reform process. These instances of popular mobilization and participation are worth noting because while they are not embedded in the official constitution-making process, they demonstrate the potential of civil society coalitions like the Oasis Forum for mobilizing more inclusive, grassroots popular interventions.

Since its formation in 2001, the Oasis Forum has twice engaged in broad-based advocacy and protest campaigns in which they mobilized significant numbers in demonstrations, protests and other public actions. The nationwide Green Ribbon campaign, spearheaded by the Oasis Forum, “proved incontrovertibly that the people of Zambia would not countenance another five years of Chiluba” (Gould, 2007b). The Forum’s campaign incited an “extraordinary” wave of non-violent civil protest across the country and proved “unexpectedly successful” (Gould, 2007a, p.8).

In 2007, the Oasis Forum launched another mass advocacy campaign. Hopes that a new constitution would be in place for the 2006 elections had been dashed by delays in the CRC process and stalling in government preparations for a forum through which to adopt the new constitution. The final report and draft constitution produced by the Mung’omba CRC were released to the public in 2005 and recommended that the Constitution be repealed and replaced by the new draft which was to be reviewed and adopted by a “popular body” followed by a nation-wide referendum. The government, however, was reticent to form a Constituent Assembly with the composition recommended by the Mung’omba CRC, and instead passed the National Constitutional Conference Act.

In response to the NCC Act, the Oasis Forum and Collaborative Group on the Constitution (CGC) launched a new advocacy campaign. The Red Campaign urged Zambians to call their government “off side” and give them a “red card” for their refusal to enact a Constituent Assembly.

The Oasis Forum and CGC wishes to give notice that the Red Campaign for a people-driven constitution continues. We will continue to sensitize the public on the need for them to play a central role in this process. We will continue to advocate that Government and Political parties do not hijack a process that legitimately belongs to the people for their own selfish ends. We will picket Parliament, we march the streets, we wish [to] hold public discussions, and we will petition even the SADC Heads of State if need be. (OF&CGC 2007)

The campaign included community sensitization on the Constituent Assembly and National Constitutional Conference, airing of radio and television programs, public announcements, coalition building activities and call-in shows nationwide, and public

protests and demonstrations, and a stakeholder consultative meeting in Lusaka. The stakeholder meeting held in September 2007 included plans for mass mobilization and protests in its “Ways Forward” document: the Oasis Forum should “...5. Provide transport logistics during mass actions to facilitate CBO [Community-Based Organization] mobilization of the people; 6. Go the cha cha cha way – civil disobedience...” (Oasis Forum, 2007d). The “cha cha cha way” refers to the early 1960s Cha Cha Cha uprising which was one of the few incidents in Zambia’s independence struggle that approached mass insurrection (Van Donge, 1985). The willingness of the Oasis Forum to use more militant language, and its established capacity to mobilize urban mass protest and passive resistance, indicate that the Forum may have capacity to facilitate forms of popular participation that have more radical potential than their ‘road maps’ for constitution-making might suggest.

#### **4.4 Challenges of operationalizing popular participation**

Thus far, this chapter has focused on Oasis Forum plans for participation, as embodied in the alternative roadmaps and previously successful mass mobilization campaigns. These plans and experiences are only half the picture. The Forum and its individual member organizations face profound structural and situational challenges in their efforts to implement more participatory systems of internal organizational governance, as well as increased participation in the official constitution-making process. The nature and impact of these challenges offers important insight into the constraints facing civil society organizations pursuing social and political change in contemporary Zambia. Only by appreciating these challenges can one adequately understand the advocacy strategies pursued by the Oasis Forum.

Key informants were asked to identify the challenges of facilitating the forms and levels of popular participation desired by the Oasis Forum in the constitution-making process. Some challenges were consistently cited by members of all Oasis Forum organizations, while others were raised less frequently, or inferred. Informants identified both challenges to engaging citizens directly in the constitution-making process, and the barriers to effectively facilitating grassroots participation in internal civil society processes of organizational decision-making, priority-setting and strategy development. In other words, there are two layers of ‘participation’ in question here: 1) popular

participation in the official constitution-making process; and 2) grassroots participation in organized civil society formations, for example in determining the strategic position of the Oasis Forum and the individual organizations convening under its umbrella. Many of these challenges emerged in interviews. While Oasis Forum publications sometimes allude to challenges, particularly related to the intractability or uncooperativeness of the government, they do not explicitly articulate the challenges in attempting to facilitate a ‘people’s process’ or the doubts of some as to whether such a process would truly be feasible or desirable.

#### **4.4.1 The Imperative Of Timeliness In Advocacy Activities**

One of the challenges to implementing participatory processes mentioned by almost all participants was the logistical demands of facilitating widespread grassroots participation. Logistical challenges included geographical isolation of many Zambian communities, costs of the mobilization and sensitization necessary for broad-based participation and time constraints.

70% of Zambia’s population of 11 million resides in rural areas, many of which are difficult and expensive to reach. Even organizations such as the churches that have relatively strong institutional presence in every district of Zambia articulated difficulties in adequately informing and consulting grassroots members countrywide.

The community sensitization would be limited by the available resources and it’s very difficult to monitor whether the information is reaching every member. I think it’s a very expensive exercise. More especially that the communication process is still low in terms of people maybe not using the internet and the mobile phones and maybe not having access to radios, those have been challenges. (Synoden, personal communication, October 29, 2009)

Zambia is very big. It’s vast. We’re a small organization and first of all, you cannot say, ‘let’s go hold workshops in all districts and communities.’ We can’t stretch ourselves; it would be very very difficult. (Kaputo, personal communication, October 8, 2009)

Synoden’s and Kaputo’s comments highlight a number of important challenges faced by their organizations as they endeavour to “sensitize” or educate their rural members on the

constitution-making process. Costs, limited human and financial resources, limited communication technology and difficulty implementing monitoring and evaluation all limit the scope and effectiveness of civil society efforts to draw rural and marginalized communities into national decision-making processes. These barriers to information dissemination and consultation impede attempts to foster an informed and engaged grassroots that could effectively contribute to the constitution-making process if given the opportunity.

Within the Oasis Forum, the necessity of timely response to emerging issues poses a challenge to thorough, broad-based consultation with organizations' grassroots members and constituencies. As outlined earlier, Oasis Forum advocacy and action issues of constitutionalism has very much been a case of reacting to, pre-empting and interacting with government decisions and initiatives. Many of the Oasis Forum organizations uphold the 'principle of participation' and grassroots engagement as central to their programming and *modus operandi*. A number of interviewees expressed regret that their organizations were unable to adequately consult all members and stakeholders before establishing an organizational position and taking strategic decisions and actions on emerging advocacy issues.

You know sometimes when you look at the constitutional issues, we were running pretty quickly to make decisions timely, so at some times it was impossible to reach each and every of our member organizations. ... Because now we are talking about currently having ...[members] spread across the country, so it's not a very easy task to actually involve and get each and every member to say something to inform a decision. Because in most cases, decisions must be made timely. And given the communication challenges as well as the geographical scope, sometimes we cannot avoid. (Mukali, personal communication, October 8, 2009)

It's at a particular time, there's a particular time when we can say it's a hot issue. That's when you want to reach out to people. Sometimes you may not reach out to a lot of people when it is still a hot issue. (Kaputo, personal communication, October 8, 2009)

These comments highlight a tension between the need for effective action on urgent issues in order to ensure the greatest chance of effecting a desired outcome, with the desire to foster inclusive, participatory, consultative processes.

#### **4.4.2 Structural Poverty And Inequality**

One of the most intractable barriers to meaningful popular participation in the constitution process identified by CSO staff members is the deep, structural poverty and inequality that characterizes Zambian society. More than geographical inaccessibility, resource constraints or tensions with government, widespread extreme poverty and illiteracy were cited by some interviewees as a potentially insurmountable barrier to the engagement of the majority of Zambians in questions of constitutionalism.

The understanding wasn't so easy. Especially in rural areas. In the urban areas, I think you find that the people are educated, elite, and they easily understand. But for rural communities, to be honest, up to now I'd say they don't understand the constitutional process. They don't even know how that document can benefit them. But we tried as civil society and as Oasis Forum, we tried to simplify the document, sometimes some of those salient issues we'd put them in local languages, and have local community radio discussions that maybe people can understand. But, all in all, I'd say it's a technical issue. Much as you'd want people to participate, but I think it's those who are able to read and write and analyse the issues. For instance they'd critically have an input. But otherwise for the ordinary poor person, it's a challenge for us to say they adequately participated in that. (Synoden, personal communication, October 29, 2009)

Synoden not only laments the difficulties of engaging those who are not "educated, elite". He also expresses scepticism that mass, grassroots participation of "ordinary, poor" Zambians in constitution-making is much more than wishful thinking on the part of civil society groups. Ultimately, he concludes, constitution-making is "a technical issue" and romanticization of the desirability of popular participation and issue-specific efforts can only go so far to redress the systemic inequalities that deny the majority of the population the tools and opportunities to effectively engage in such processes.

Some interviewees went further, and not only identified poverty, isolation and illiteracy as barriers to participation, but asserted that the government has a vested



interest in maintaining this status quo. When asked to identify challenges facing his organization and the Oasis Forum in their efforts to encourage popular participation in the constitution-making process, one interviewee offered the following reply:

I think the problem that is in Zambia countrywide, and I think that what governments in Africa try to thrive on, is that they try to perpetuate ignorance by the rural, particularly by the rural masses. So the more rural masses are ignorant, then they easily become manipulated by government propaganda. I think Zambia's government has been very good at that, to ensure that the rural communities remain ignorant. And so you find that because of that they have rigid laws around broadcasting. They will not give licences anyhow, television and radio transmissions, particularly for private media is limited. For the very reasons that let the larger part of masses remain ignorant on issues and so it becomes very difficult for them to make decisions from an informed point of view. So I should say that is the biggest challenge. Unless there are deliberate policies by both government and even other development organizations to work with the rural communities with information dissemination so that these people are able to make decisions from informed positions, that is always going to be a problem. But the most unfortunate part is that politicians have realized this and capitalized it to become their strength that it will always be easier to go back to their rural communities and manipulate them to champion their own interest but at the expense of the same rural poor. (Lubinda, personal communication, October 14, 2009)

Regardless of whether Lubinda's comments are an accurate reflection of government and politicians' intentions, they suggest interesting, generally unacknowledged undercurrents to the Oasis Forum's, and more generally civil society's, efforts to engage the populace in national development processes. Lubinda's perception of manipulation of the "rural masses" by privileged elites suggests that questions of participation are not simply, or solely, technocratic development initiatives geared to legitimizing existing development regimes. Lubinda implies that an informed, engaged populace could have a destabilizing effect on the government and ruling elite. A truly far-reaching process of democratic change would clearly be threatening to elite prerogatives. It is entirely likely, therefore,

that they will find ways to prevent it, whether self-consciously or otherwise (Alberto & Menaldo, 2009).

#### **4.4.3 Organizational Capacity And Autonomy Of CSOs**

The dependency of many Zambian civil society organizations on external (often international) funding further limits their ability both to mobilize the resources necessary to respond in a timely matter to emerging issues and facilitate participation in decision-making processes while they are still active and to determine the direction and focus of programming and advocacy. As indicated previously, advocacy initiatives and participatory processes require dedication of significant human and financial resources. For example, in the case of constitution-making, simplification and translation of the draft constitution into local languages, dissemination of information, sensitization and consultation workshops with remote communities, compilation of input from these communities and advocacy based on this input, are all costly and time-consuming processes. The funding cycle and structure for many CSOs, particularly ‘development’ organizations, is rarely conducive to abrupt re-direction.

Related to [facilitating participation] is responding at a particular time, when you are required to respond. Sometimes the response requires things like this [petition] for example. You want to mobilize opinion over an issue and then you respond.

And for those who have to facilitate for you to go out, those cooperative partners, those donors who assist us for example, they don’t assist us at the right time.

Many times they are late. (Kaputo, personal communication, October 8, 2009)

Kaputo goes on to recount a recent instance in which delayed donor funding undermined his organization’s efforts to promote more engaged and accountable democracy in a particular constituency.

This year, I just made it deliberate – one donor, because we were supposed to go to an area to promote the social contract where there was a by-election at a particular time. They did not respond in time, they responded at their own time and said, ‘ok, now we are ready, we can sign the contract’. I just said No. We can’t because then it means we are playing games. We were supposed to be there 4-5 weeks ago. And now the politicians are campaigning and then we are not

going to have an impact, so sorry, we can't be at that one. Otherwise we would play games. (Kaputo, personal communication, October 8, 2009)

The social contract Kaputo refers to is a concept that is being advanced by a number of Zambian CSOs, including some of the member of the Oasis Forum. The idea is for constituents, in the run-up to an election, to collectively identify their priorities and develop a 'contract' outlining the election promises they expect their representative to keep. Once a politician agrees to the social contract, while not legally binding, it provides a basis for constituents to hold their representative accountable. The key here is that truly accountable democracy clearly cannot be bestowed by foreign donors according to their own funds-distribution timeline.

As the quotation above indicates this type of initiative is highly sensitive to local conditions and emerging political situations and is not well suited to the traditional project-funding cycle of development agencies with international donors. Interestingly, Kaputo leads a group that identifies itself as a 'social movement' active in promoting engaged citizenship, but it is still periodically hamstrung by dependence on external funding. Kaputo's frustration with donor's late delivery of promised funds is emblematic of the larger problem of Southern CSO dependency on external donors and the corresponding limitations on their autonomy and capacity to respond to emerging issues in the local and national spheres.

Local civil society organizations have limited ability to step in to fill the gap left by the absence of institutionalized mechanisms for facilitating meaningful popular participation in national decision-making and development processes.

I always say that NGOs operate on very micro bases. So they're only able to target fewer communities, fewer constituencies, that in themselves cannot influence the larger. [This organization] itself, is only operating in a few limited districts. So even when the few selected districts are aware and well-informed of the issues, to what extent are they able to influence the larger picture? Because the numbers still remain small. (Lubinda, personal communication, October 14, 2009)

Two important concerns emerge in this comment. Firstly, Lubinda flags the limited geographical spread and isolated operations of civil society organizations as an impediment to their ability to effectively facilitate broad-based participation, and the

necessary preceding sensitization, in nation-wide processes. Secondly, his comments raise the question of whether even “aware and well-informed” grassroots participants have any hope of influencing policies and decisions in arenas larger than their own small communities.

The organization for which Lubinda works, along with many other member organizations of the Oasis Forum, employs a variety of ‘participatory’ development methodologies in their work with a select assortment of marginalized communities. Sensitization on issues of national development, including national policies, laws, programmes, human rights frameworks and the constitution, is embedded in the community development process encouraged by this NGO. At a local level, community members are encouraged to critically reflect on how these concepts, issues and frameworks are relevant to their own lives and self-identified priorities and aspirations. Yet the possibility of bringing newly developed critical awareness, local perspectives and communally-identified priorities into the national arena is fraught with challenges.

A certain sense of futility emerged in some interviews stemming from the belief that even in the relatively limited instances where the poor, rural, or otherwise marginalized communities that comprise the majority of Zambia’s population, attained a level of familiarity with constitutional issues, the possibilities of their opinions, priorities and voices being heard were minimal. Many staff members of Oasis Forum organizations noted the importance of the coalition’s ability to amplify the clout and voices of individual members and increase CSOs ability to bring the ‘views of the people’ to the fore on the national stage.

The funding structure of many civil society organizations not only has implications for the timeliness and geographical extension of advocacy initiatives; donor-dependence also has significant implications for *Zambian* organizations’ ability to determine the development model used to structure and shape their own programming. Chigunta, a staff member at a mid-size *Zambian* community development organization highlighted this challenge when discussing the efforts of his organization to involve the communities with whom they work in decision-making about issues such as what position and action to take regarding the constitution-making process.

There isn't any participation modality that can be perfect and some of the challenges that we face in ensuring that we have on the one hand, a participatory process where the beneficiaries of our programming should influence or have a level of impact as far as the direction of the organization is concerned. While on the other hand having to fit our decision making process with the demands and the needs of our cooperative partners. And by that I mean the technical side of development, where you have rigid reporting systems, rigid tracking and monitoring systems that need to be adhered to in order for accountability and impact concerns to be addressed between ourselves and the donors. It calls for a balance. (Chigunta, personal communication, September 20, 2009)

This balance is particularly tenuous when it comes to Zambian CSOs engaging in emerging local political issues. The external orientation of much CSO reporting and accountability is not necessarily conducive to prioritization of politically charged advocacy. While international donors are supportive of 'strong civil society' as part of democratization and good governance agendas, they continue to place significant limits on the availability and focus of funding.

With external funding, comes external accountability. As Chigunta highlights, "the technical side of development" poses demanding imperatives that must be delicately balanced with any other philosophical or programming considerations. "Rigid tracking and monitoring systems" aimed at addressing "accountability and impact concerns" of donors must be adhered to. Wallace, Bornstein & Chapman 2007 explain that all NGOs which receive funding from international donors are part of the "global aid chain" which deeply influences the ways they "conceptualize, implement and account for development work" (p.4). Many such organizations, including members of the Oasis Forum, juggle competing discourses and terms of reference: through both coercion and compliance recipient organizations are compelled to meet the requirements of international aid, while simultaneously professing commitment to local ownership and attempting to open up spaces for more responsive ways of working advance participatory approaches that imply that there is room for negotiating the conditions and moderating the unequal power of different parties to a funding grant (Wallace, Bornstein & Chapman, 2007). The

competing loci of accountability for civil society organizations also come into play in the often tense relationship between these groups and the government.

#### **4.4.4 Relationship With Government**

Debates over popular participation in the constitution-making process take place in the context of long-standing tensions between the ruling party and organizations and individuals that identify and mobilize under the banner of civil society (Erdmann & Simutanyi, 2003). In the charged arena of national politics and decision-making, the potentially competing loyalties of donor-funded civil society organizations do not go unnoticed. The claims of civil society organizations, including the Oasis Forum, to operate as the ‘voice of the people’ is called into question by government officials and politicians on the grounds of their lack of local accountability.

Indeed, the government recently used this reasoning to push through a bill designed to regulate NGOs and bring them under tighter government control. The Bill, originally introduced in 2007, but only passed in August of 2009, brings all non-governmental organizations under tighter governmental control. Among other provisions, the Bill requires NGOs to re-register with the government annually, making it easier for the government-appointed NGO governing council to revoke registration of any organization engaging in work that criticizes the government. Chief Government Spokesperson and Information Minister Mike Mulongoti declared that, “NGOs should not just be asking the government to be transparent and accountable to the people, they should do the same” (International Federation for Human Rights, 2007). Civil society groups, both *Zambian* and international, regard the NGO Bill as a blatant attempt to reign in civil society advocacy on issues that threaten the government, including human rights, press freedom and democracy (field notes, 2009). As the Bill is in its first year, its implications are not fully understood, but it could significantly constrain and undermine the work of coalitions like the Oasis Forum which engage predominantly in advocacy on issues related to governance and human rights rather than service provision (which is generally praised by the government).

The nature of the relationship between government and civil society groups is important because the mutually suspicious, semi-confrontational interactions between the

two on constitutional issues colour debates on popular participation, and influences the interpretation of different ‘public’ contributions to debates on the constitution.

You find that certain issues, maybe it’s a national issue... the politicians say, you did not consult the people. They also go and get people to parade them and denounce you for example. They are paraded on TV and they read a statement condemning you. Even the churches, like I’ve said we use the churches, they – politicians - also use the churches. They go to church leaders who don’t understand the issues. They pay them to castigate the NGOs. And once they castigate the NGOs on radio, on national radio, other people hear that and by the time you are going to reach out to them, you are not welcome. So that’s another challenge. (Kaputo, personal communication, October 8, 2009)

I remember the challenges that we had during these constitutional debates. Even when we brought the Esthers from Mpika, Patricias from Kasama, and them, to come and talk on issues, [our organization] would be accused [by politicians] of stage managing them, telling them what to say. Which is not true. Because these are now the communities that are enlightened on what it is that they want. They know that they drink dirty water with the animals, share dirty water with the animals. They don’t have adequate food, health facilities. So when they are talking about these things, you cannot say that it is [our organization] that has stage managed. They are talking from their own experiences and perspectives, coming from the rural communities. (Lubinda, personal communication, October 14, 2009)

These comments demonstrate some of the ways in which both government and civil society are accused of using, manipulating and falsely presenting ‘public opinion’. Kaputo, a self-identified member and organizer of civil society, accuses “the politicians” of paying and coercing citizens and community representatives (religious leaders in this case) to denounce civil society organizations and undermine their claims to speak for the people. There is a strong implication that only hapless citizens or church figures who “don’t understand the issues” would condemn the position of NGOs, and in this case, the Oasis Forum. Similarly, Lubinda recounts instances in which his organization facilitated

transportation and other necessary logistics for members of the rural communities with which it works to be present at national deliberations on the constitution-making process. The organization was then accused of manipulating these rural women and feeding them a script, much as Kaputo accuses the government of doing. In this way, the few non-elite voices that emerge in otherwise relatively exclusive debates are called into question.

In the absence of truly institutionalized, widespread participation of ‘ordinary’ Zambians in the constitution-making process, civil society organizations and government are engaged in a battle for legitimacy as representatives of ‘the people’. When ‘token’ participation is facilitated by either government or civil society, it is viewed as compromised and unable to be viewed separately from the oppositional relationship between government and the Oasis Forum. As indicated in the section on the different perspectives on the appropriate composition of the National Constitutional Conference or Constituent Assembly, the question of who can claim authority and legitimacy as the voice and representation of ‘the people’ is one of the core dimensions of debates over popular participation in a process which at times collapses concepts of ‘participation’ and ‘representation’ into a single process of representative pseudo-democracy. Questions of the importance or possibilities of expanding opportunities for participation and accessibility of national high-level forums are lost in (metaphorical) stone-throwing and wrangles over whether the few who do speak as ostensibly ‘independent’ (or self-representing) voices can actually be received as such.

Whereas the literature on participation tends to focus on the most desirable forms of citizen engagement as determined by inclusivity, impact on outcomes, diversity of participants, power relations at play, productivity of deliberation, consensus-making, and so on, these considerations have little chance to emerge in the discussions and deliberations of Zambian CSOs who are struggling to facilitate *any* degree of grassroots participation against constraints of time, resources, external programming demands and an unresponsive government.



## **Chapter 5 - Discussion**

### **5.1 Looking For Transformation, Finding Ambiguity**

Building on the findings outlined in Chapter Four, this final chapter delves more deeply into the Oasis Forum's proposed process and priorities for constitution-making in Zambia. It probes the areas of incongruity and tension embedded in Oasis Forum advocacy, with the aim of complicating, revising and enriching theoretical narratives on civil society, participation, democracy and social change. Particular attention will be paid to the implications of these contradictions for attempts to use critical theory to engage with and make sense of complicated realities. Contrary to the dichotomy of 'liberal' and 'critical' narratives of civil society, participation and democracy perpetuated in much of the literature (and contrary to my expectations) this case study of the Oasis Forum yielded far more questions, ambiguities and unresolved analytical and theoretical problems than it did clarity, answers or revelations.

One of the unanticipated findings that emerged is that the Oasis Forum advanced a conception of democracy that focused more on making representation more representative, rather than encouraging direct participation by the populace in the constitution-making process. The rhetorical collapse of 'participation' and 'representation' in Oasis Forum advocacy is reflective of broader debates about how civil society groups, as opposed to elected government officials, derive legitimacy as representatives of the people, and what this representative role reveals about constitution and function of civil society in advancing social and political change.

In many ways, the constitution-making roadmap proposed by the Oasis Forum seems only superficially 'alternative' – it is procedurally, but not substantively different from the National Constitutional Conference process. By highlighting the ascension to global hegemony of liberal democracy, this chapter explores some of the discursive and structural constraints within which the Oasis Forum is operating. In many ways, it is a product of, and derives its influence from, the very liberal democratic system it seeks to reform. Yet embedded within the Forum's apparently liberal political projects are efforts

to advance, and articulate with, more far-reaching possibilities for social change. In particular, the Forum's consistent promotion of the inclusion of economic, social and cultural rights in the constitution signifies an effort to challenge the minimalist, restrictive bounds of neoliberal hegemony with the tools of liberalism itself.

The findings outlined in Chapter Four challenged my theoretical framework and analytical assumptions in unexpected ways. Based on the critical literature I had grounded myself in, I began my field work poised to explore "new political spaces", to discuss notions of "radical citizenship" and "deepening democracy" with my informants, and to engage with what I assumed to be central questions of mass empowerment and social change through grassroots participation in constitution-making.

These emerging themes in the literature, of 'deepening democracy', 'political space', and 'citizenship', offer new intellectual terrain for conceptualizing the relationships between civil society, participatory development and democracy. Deepening democracy refers to attempts to transition from the minimalist conception of 'procedural' democracy to more 'substantive' forms of democratic politics built on empowered citizen participation (Gaventa 2007; Wong 2003). There are two principle approaches to this challenge. On the one hand, attempts are made to strengthen the processes of citizen participation – "the ways in which poor people exercise a voice through new forms of inclusion, consultation and/or mobilization designed to inform and to influence larger institutions and policies." On the other hand, "growing attention has been paid to how to strengthen the accountability and responsiveness of these institutions and policies through changes in institutional design and a focus on the structures of good governance" (Gaventa 2007, p.27). Gaventa identifies "a growing consensus" around the importance of addressing "both sides of the equation" (2007, p.27) and, together with Heller (2001) and Fung & Wright (2001), emphasizes the need to focus on *both* more active and engaged civil society which can express the demands of the citizenry, *and* a more responsive and effective state which can deliver needed public services (Gaventa, 2004, 2007).

The concept of citizenship is central to the theoretical framework advocated by Hickey and Mohan (2004, 2005). The concept is appropriated from political science in order to address the narrow view of agency and the neglect of structure that often plagues

participatory development literature (Christians & Speer 2006). An emphasis on expanded, reconceptualised citizenship offers the possibility of multi-level approaches, linking the micro-politics of community participation to democratic governance and the working of the state (Gaventa, 2004). As highlighted in Chapter Three, these multiple levels are already being straddled by many of the faith based and development and social justice organizations in Zambia, whose core work takes place at the grassroots level but whose advocacy initiatives engage with national issues and political processes. A focus on citizenship and the wider political project of social justice helps to broaden thinking about participation, away from a narrow focus on projects and techniques towards the implicit possibilities of dealing with structural inequality through participatory governance and state action.

The literature did, however, also present the alternative possibility that I would find the Oasis Forum to be yet another example of civil society coopted by dominant state and donor interests to function as a socially conservative force, manufacturing consent for the existing social/economic/political order (Gary 1996; Hearn, 2007; Petras, 1999; Tandon 1996). Instead, a much more ambiguous picture emerged as I sorted through the objectives behind Oasis Forum's calls for participatory constitution-making, the proposed forms such participation would take and the surprisingly minor differences between the Oasis Forum and government roadmaps.

The Constitutional Review Commission was the one aspect of the constitution-making process in which broad-based participation was truly encouraged. Nonetheless, the details of the CRC process, including the adequacy or depth of its participatory elements, are of little concern to the Oasis Forum, which is occupied with ensuring that the CRC recommendations make it into the constitution through whatever means necessary. The differences between the NCC and the Oasis Forum alternative road map appear to be procedural rather than ideological. The Forum argues for "participation of every Zambian" but its members acknowledge that this is impossible and perhaps not even desirable. "The people" whom the Oasis Forum claims to represent are an elusive construct. The Forum's leadership seems to alternately lead, follow, (re)present and construct the "will of the people". The prosaic instrumentalism of many of the Oasis Forum's concerns (such as, how to get the right balance of delegates in the Constituent

Assembly to ensure the retention of certain constitutional clauses) does not fit comfortably within the obsession with emancipatory politics, empowering participation, and radical social change that emanates from critical development theory.

Some of the recent scholarly trends highlighted in Chapter Two are particularly optimistic about the potential of popular participation in political spheres to engender significant emancipatory change. A collection of articles edited by Coehlo and Cornwall (2007) takes the position that “the impulses and innovations for more ‘participatory’, ‘deliberative’ and ‘empowered’ approaches to democracy have contributed to a fundamental change in the relation of civil society and the state, creating in many settings a new ‘participatory sphere’ that is becoming a crucible for a new politics of public policy” (Gaventa, 2007, p.xv). In an article belonging to the same paradigmatic moment, Hickey and Mohan call for the explicit focus on and pursuit of participation as citizenship to “not only bring people into political processes, but [to] transform and democratize the political process in ways that progressively alter the ‘immanent’ processes of inclusion and exclusion that operate within particular political communities, and which govern the opportunities for individuals and groups to claim their rights to participation and resources” (2004, p. 251).

As a student of critical development studies, I find these perspectives deeply appealing as an optimistic middle ground that finds transformative potential in relatively reformist approaches to development and democracy. They speak to the causes, rather than simply the symptoms, of grossly inequitable global systems and structures that leave the majority of the world bereft of basic rights and opportunities. What is more, they point to possibilities for change – through counter-hegemonic organizing, through grassroots social movements, through “radical citizenship”. From an awareness of the deeply problematic power systems behind the seductively simple and persuasively pervasive liberal good governance discourse arises a desire to ‘find’ potential for transformation, to see resistance and action for radical social change.

However, the new “radical theoretical home” (Hickey & Mohan, 2004), by constructing yet another notion of ideal participation and the ideal forms of civil society organization for achieving it, risks over-emphasizing exceptionalism and impeding the

sympathetic yet dispassionate study of less perfect, more contradictory articulations of these concepts, processes and actors as they actually exist. Cleaver cautions that,

In normative attempts to find the transformatory prospects in the politics of participation and representation, we tend to look at social processes and highlight the potential of the bits that we like: the transformation rather than the tyranny, the solidarity rather than the conflict, articulation rather than mutedness, the enablement of agency rather than the constraint of structure. (2004, p. 276)

These dualities, however, are inherent in the nature of social processes (Cleaver, 2004). They are ever-present, dynamic and dialectic; neither the transformation nor the tyranny is totalizing. So then, the question emerges: What tools do these theories afford the scholar, the outsider, for respectfully and sympathetically wading through the ambiguous and contradictory realities of advocacy, activism and participation? This challenge pervades the discussion and analysis contained in this chapter: how to move from the multiplicity of realities and perspectives ‘on the ground’ back into conversation with the theoretical frameworks that propose to make sense of these complexities in a way that is fair and true to both.

## **5.2 Participation Or More Representative Representation?**

The findings outlined in Chapter 4 demonstrate that the Oasis Forum’s alternative road maps advocate a three part constitution-making process: 1) constitutional review based on country-wide consultation; 2) Constituent Assembly in which diverse delegates refine and adopt the draft constitution; and 3) popular referendum through which all citizens of legal age can vote to accept or reject the constitution. It is the second phase of constitution-making – the adoption of the constitution by a popular body – that has been, and continues to be, the locus of debate and disagreement about appropriate popular participation and the role of civil society. This section further explores the articulation of participation and representation in Oasis Forum advocacy concerning the constitution-making process.

In 2005, the Mung’omba Constitutional Review Commission (CRC) completed its work and issued a final report synthesizing the input of a wide range of stakeholders and the general public, and the findings of previous CRCs. The Oasis Forum initially opposed the appointment of the Mung’omba CRC given the government’s failure to

implement the vast majority of the recommendations from previous CRCs, particularly the 1996 Mwanakatwe CRC (see Chapter Four). However, by the time the Mung'omba CRC completed its work and issued its final report and draft constitution in 1995, the Oasis Forum turned its attention to ensuring the Mung'omba recommendations were not discarded like their predecessors. From 2005 to 2007, little progress was made on the constitution as the government stalled, locked in a stalemate with the Oasis Forum over the methods for adopting the constitution. From the passage of the National Constitutional Conference (NCC) Act in August 2007 to the present, the Oasis Forum's advocacy has centred on the shortcomings of the NCC as opposed to a Constituent Assembly.

Despite the apparent similarities between the Oasis Forum's proposed Constituent Assembly and the government's National Constitutional Conference, the differences, particularly in composition, are sufficient for the former to be labelled a "people's process" while the latter is condemned as "unpopular and exclusive" (Oasis Forum & Collaborative Group on the Constitution, 2007). An investigation of these competing claims reveals underlying debate over the relationship between participation and representation as well as the legitimacy of civil society groups as brokers of either.

Participation, according to Alison Cornwall and Karen Brock, is one of those "seductive", "warmly persuasive" and "fulsomely positive" "buzzwords" of development policy (2005, p.1043). Cornwall and Brock argue that 'participation', "harnessed in the service of 'poverty reduction' and decorated with clamours of 'civil society' and 'voices of the poor'", is one among a growing catalogue of buzzwords that lend the legitimacy that development actors need to justify their interventions (ibid.) Cornwall and Brock refer predominantly to the use of buzzwords such as 'participation' in externally administered development projects and the policy frameworks that support them. This case study, however, offers an interesting opportunity to investigate the contested ways in which the *in vogue* concept of 'popular participation' is actually operationalized, or translated into proposals for processes and procedures by Southern civil society organizations seeking to influence national policy processes rather than implement specific micro-level development projects. In the case of the Oasis Forum,

however, while the rhetoric of ‘participation’ may be employed in ambiguous terms, it cannot be dismissed as simply a seductive but meaningless catchphrase.

The Constituent Assembly model that the Oasis Forum proposed for adopting the draft constitution affords little space for direct participation of the public. Rather, the Oasis Forum promotes the Constituent Assembly as an inclusive, ‘people’s process’ on the basis of the diversity of the representatives it encompasses. However, in much of the literature on participatory approaches to development and democracy, direct forms of participation are privileged over less direct participation, or systems of representation. Participatory budgeting in Porto Alegre, Brazil, is consistently held up as emblematic of ‘best practices’ in this field precisely because it allows members of the public to “participate *directly* in forging the city budget” (Fung & Wright, 2001, p.7, emphasis added; also see Heller, 2001; Rogers 2007; ). Gaventa (2002) praises another example from Brazil – the formation of more than 5000 local health councils in a large scale “attempt to institutionalize direct forms of citizen participation” (p.8). Devolved local governance through *panchayats* in Kerala, India is another favoured example of the potential of participation and popular democracy (Heller, 2001; Fung & Wright, 2001). Even in literature on constitution-making, “active”, “mass”, and “direct” citizen participation are promoted as the ideal forms of popular engagement (Moehler, 2006, p.279-281).

Clearly the exigencies of different processes and forums severely limit the possibilities of direct participation by large numbers of the general public. Indeed, even the most grassroots participatory processes often involve some form or degree of representation (Hickey & Mohan, 2004). Particularly when moving beyond the local or municipal level of governance and decision-making, ‘direct’ participation by any significant portion of the citizenry becomes less and less tenable. The predominance of local, and especially municipal level, case studies in literature on popular democracy leaves many questions about the viability of these models for facilitating broad-based engagement in decision-making and policy-design processes taking place at national level. The case of the Oasis Forum demonstrates that the challenge in some circumstances may not be so much implementing ‘participatory democracy’, but in making representative democracy more representative.

In systems of representation, “the question...of who speaks for whom across the intersections of spaces and places, and on what bases – [is] a critical one” (Gaventa 2004, p.38). Representation is found along continuums of power, place and space; effective representation across spaces involves legitimacy drawn from a number of sources. Representation can mean *speaking of* – constructing accounts and writing texts – or it can mean *speaking for* – advocating and mediating. Some participatory actions combine the two, believing that “by speaking of the subaltern experience they will change the political relations in their favour” (Hickey & Mohan 2004, p.19). Hickey and Mohan further note that:

the character of the institutional channels available within political systems, and of the resources required to participate at ever higher levels (education and time in particular) means that much of what is considered ‘participatory’ is more a process whereby large numbers of people are *represented* by a relatively small group of participants. (2004, p. 19)

In response to some of the critiques of participatory development which have highlighted the costs of participation, the potential value, as well as the drawbacks, of representation are being reconsidered. In some cases, direct participation may be seen as too risky or unfeasible by the poor, who willingly hand this ‘right’ over to others (Mitlin, 2004). In such situations, local power brokers and other intermediaries are not necessarily simply “self-seeking entrepreneurs of those who might seek purer forms of participation of the poorest themselves”, but are valued by the poor as people who can represent them at higher levels (Williams et al., 2003, p.177-8).

The composition of the Oasis Forum together with its connections to the ‘grassroots’ are worth examining. At the core of specific debates on the most desirable composition of the popular body that will adopt the Zambian constitution and of the broader academic debates concerning civil society’s counter-hegemonic potential, are questions about the nature of the connection, relationship, and identification between organizations of civil society and the poor majority of the population. Gould (2007) is sceptical of the Oasis Forum’s claim to represent ‘the poor’. He argues that the Oasis Forum comprises and is led by a new ‘public bourgeoisie’ class and that this class:



...represents a liberal-bourgeois vision for the future of Zambia rather than any specific social constituency. Their liberalism ties them – especially the clergy and the feminists – to specific segments of the population – i.e., “the poor”. But their claims to represent these groups vis-à-vis the government or donor agencies are simply claims...not established by any tangible mandating mechanism (vote, charter). (Gould 2007, p.18)

However, issues of civil society, and particularly NGO accountability, are more complex than simply the presence of a vote or charter, however.

Slim (2002) sums up debates over NGO “voice accountability” and legitimacy as follows: “*do NGOs speak as the poor, with the poor, for the poor or about the poor?*” (Voice Accountability, para.4, emphasis in original). Slim further observes that an NGO or civil society group’s legitimacy is “both *derived* and *generated*. It is derived from morality and law. It is generated by veracity, tangible support and more intangible good will” (Sources of Legitimacy, para.2). Slim’s observations on NGO accountability and legitimacy were primarily aimed at understanding the challenges facing international advocacy organizations in the mainstream backlash against anti-capitalist protest following the 1999 ‘Battle of Seattle’. Nonetheless, the framework he proposes for conceptualizing NGO accountability exposes the potential complexity of this question with regard to the Oasis Forum.

The Oasis Forum itself is not one organization, but a loose alliance of hundreds of civil society groups that fall under the umbrellas of the Oasis Forum’s five convenors. These groups range from churches to professional associations to think tanks to rural community groups. Each of these organizations has its own systems of connection to the ‘grassroots’, its ‘constituencies’, its ‘beneficiaries’, or its ‘congregations’; and in the case of each of the Oasis Forum convenors (with the exception of LAZ), the institutions, organizations and groups underneath them also have diverse organizational structures, hierarchies, locations and socio-economic standing. Even within the organizations interviewed, there is great diversity in how ‘the poor’ are connected to, or situated within, the organization and the extent to which they are engaged in determining the policy-direction and national advocacy strategy of the organization (Field notes, 2009).

Although the internal structures of all of these organizations cannot be examined in detail, it is worth outlining a few of the different models at play, as well a few of the key ways in which these organizations understand their own legitimacy. All of the Oasis Forum convenors claim relatively large memberships or ‘constituencies’. The interviews with high-ranking staff members of these coordinating bodies yielded important insights into the *derived* and *generated* legitimacy of their organizations, as well as the various internal systems for consultation and accountability within major civil society umbrella organizations.

We always hold general conferences every three years. That’s where we get our mandate – that’s where they say “this is what we want to do as churches, no go act upon this, act upon that”. We always have a strategic plan which we follow, mandated by the churches to do it. Basically, the vision of the church, their mandate, biblical mandate, is to stand with the poor people. So for us,... with the many things that we do, our mandate is to stand with the poor people and to be their voice. And we know that our voice is strong because our total membership, if we put all the churches together, is 4 million plus. (Choolwe, personal communication, October 8, 2009)

[We] do have membership meetings, membership consultative meetings. At which point we do discuss various matters pertaining to the situation of women. So prior to us getting on the network with the rest of the other Oasis Forum members, we agreed, we resolved, with our member organizations to actually get into a coalition that would be able to help us as an organization garner enough support but also work in a concerted manner with other similar organization. We championed the cause for a good constitution that would guarantee the rights of women. And in this case the member organizations, at that time I think the total number was 68 member organizations, there was a common agreement that was reached, where members did consent to being a part of the Oasis Forum. ...So it’s something that was agreed upon and members actually gave their resolution to go ahead...[We] did come up with its own position as an... organization with its own members. We did country-wide sensitization to all our member organizations

to be able to seek their mandate, but also to seek their input as to what the various issues of the constitution-making process should be. (Mukali 2009)

When [the organization]... joined in the OF, it is because all of [the] members, the 173 members, have said to [the organization], “our issues are 1,2,3,4. And when you’re sitting in the OF, these are our issues”. So [the organization] is drawing its mandate from its members. And within the...[member] organizations... when we say the issues on ...rights are very important, it is because we have taken that message from the rural communities that we’re working with and bringing it on board. (Lubinda 2009)

Four out of five of the Oasis Forum convenors claim large, geographically diverse memberships which are periodically consulted to generate the mandate for the umbrella councils. This membership, combined with the legitimacy derived from moral biblical authority (in the case of the churches) and moral human rights-based authority (in the case of the development and gender NGOs), form the basis of these group’s claims to speak for ‘the poor’, ‘women’, ‘the people’.

The descriptions of the organizations’ approaches to consultation and accountability highlight the multi-dimensional, many-layered make-up of civil society; individual congregations, alliances of independent denominations, hundreds of community based organizations, women’s groups, rural networks – all of these exist under the Oasis Forum and enjoy different degrees of participation and influence in shaping the Forum’s mandate. This diversity lends a degree of strength and legitimacy to the Oasis Forum and should caution against simplistic characterizations or criticisms of the Forum as elite or unaccountable. However, the multiplicity of organizations under the Forum, with the accompanying variations in their systems of participation and consultation, also raise questions about the dynamics of power, inclusion and exclusion at play within the Forum itself. Often, interviewees were quick to acknowledge the limitations and shortcomings of their own organizations’ efforts to include all members and affiliates in strategic decision-making processes at national level. Micro-level analyses of NGOCC’s “membership consultative meetings” or CCZ’s AGMs, and even the smaller consultation and sensitization workshops carried out in remote communities, would no doubt yield interesting observations regarding the power relations that privilege

and marginalize different voices even in these ‘participatory’ forums. Therefore, the discussion here is necessarily partial and unsuited to passing definitive judgment on the Oasis Forum’s processes of participation. Rather, this analysis highlights the complexity of multiple layers of direct and indirect popular engagement with civil society initiatives such as the Oasis Forum.

One of the Zambian government’s and state media’s favourite criticisms of the Oasis Forum is that it is not accountable to anyone, and does not have any legitimacy to claim to represent ‘the people’, unlike the formal legitimacy accorded to elected political representatives (Ministry of Information and Broadcasting, 2007). This critique bears a striking resemblance to that frequently levied against NGOs and advocacy organizations in the North (Slim, 2002), as well as to Gould’s (2007) critique. During interviews, participants were asked how they respond to this critique and why they believed heavier civil society representation in the constitution adopting body was constitutive of a more ‘people driven process’. Participants often spoke with deep conviction and emotion, particularly when describing their own interactions with the poor.

We are talking about Zambian people, and we are talking about ordinary Zambian people. So it really does not matter whether you were elected or you were just an interested Zambian person to participate in the process. And for us as civil society, what the government forgets is that we are providing a service to the people as well. Because we are where they are not. In some remote areas, the church is always there for people. We are providing health services in very remote areas where the government does not have clinics. We are there. We are providing education in areas where people have not even heard of a government, they do not even know what a government is. But the church is there. We are there providing counselling services. We bring hope to people everywhere. So we know what we’re talking about. If we talk about poverty, we are staring in the face of poverty every day. I am a minister of religion .... I stare death in the face every day. I see poverty every day. And I believe I am a representative of the people because I preach to hundreds every Sunday. I go to their homes and I see the way they live. I’ve seen the type of food they eat. If I see the sick people in my constituency where I work, I see where they sleep and on what kind of blanket they sleep on.

And therefore I am qualified to speak in the NCC had I gone there. So I don't need nobody to elect me. But I am still a representative of the people. Because they listen to me, I speak and they hear what I speak about. I marry them, I bury their dead, I bring comfort, a word from the lord, so I know what it's all about. (Choolwe, personal communication, October 8, 2009)

Since we were actually directly involved in working with the rural communities; and also that we as an organization have been experiencing how policies and laws that have been generated from the current constitution have tended to affect the rural communities. So, we were bringing to the Oasis Forum, and also the whole constitutional debate, the rural perspective that was missing. But as an organization, even when the debates were going on, we made a stance that on issues affecting rural communities, we would only speak to them at forums where rural communities were not represented. But as much as possible, we bring in our rural communities, our membership from the rural communities, so they're able to speak to issues themselves. And if you look at the Oasis Forum, when it came to mobilizing, [our organization] was always outstanding because it would always bring these people from the rural communities, from its constituencies, to speak to issues that affect them. Though we would have loved that more could have participated, but we believed that the people who we brought to these national indabas and debates adequately represented their colleagues... And this is something that is absent in the NCC. No one is speaking in the NCC with this passion. Because they don't feel it. They haven't experienced the poverty that rural communities experience. They haven't experienced the poverty that the poorest of the poor in the country are experiencing. So they are speaking on assumptions. (Lubinda, personal communication, October 14, 2009)

Last week, when I was on radio, no it was this week on Monday, somebody called and said, "how can you claim to represent us?" I said, "what I mean by representing you, 1) when I know that this issue is killing you, is affecting you negatively and I speak against that issue, it means I am speaking for you. That's

what I mean by being a representative of the people. There are issues, there are certain political decisions that are taken that affect the people. I speak against those political decisions, whether you know it, you don't know it, whether you understand, you don't understand, I am speaking on behalf of the one that is suffering because of that issue." So I do respond to that. I tell them, "ok, legally you are representatives of the people, but we are also representatives of the people" (Kaputo, personal communication, October 8, 2009)

Proximity to and familiarity with service provision for the poor were common themes in participants' explanations of how they understood the legitimacy of their organizations and the Oasis Forum. Slim (2002) notes that through "tangible relationships, knowledge, expertise and performance," along with "intangible sources of trust, integrity and reputation," civil society organizations can generate legitimacy even in the absence of strictly democratic structures and functioning (Tangible Performance, para.1-2). Knowing "people who experience human rights violation, poverty and extreme suffering...or people who are in a position to do something about it" can be an important source of legitimacy (Slim 2002). Civil society, despite its heterogeneity and internal conflicts, is assumed to act as a balance against government power, and potentially as a source of more legitimate representation of the needs of the majority.

Both the churches and the gender and development NGOs under the Oasis Forum frequently describe their function as a bridge, bringing the concerns, needs and experiences of the marginalized communities with whom they work to the arenas of power with which they have contact (particularly those organizations with Lusaka offices). The form this bridging takes differs, however. While Choolwe describes her role largely in terms of speaking *for* the poor and *to* the poor, Lubinda highlights the efforts of his organization to facilitate opportunities for the poor to speak *as*, and *for*, themselves. Other organizations falling under NGOCC are themselves small, rural-based community organizations and self-organized groups whose members and even leaders have little more privilege than their neighbours and can reasonably be understood to be speaking *as* the poor, in their contributions to the NGOCC, if not directly to the Oasis Forum.

Cornwall and Coelho (2007) advance the concept of space, and participation as a spatial practice, as a useful frame of analysis. Cornwall (2004) makes a distinction

between *chosen* spaces, “fashioned and claimed by those at the margins”, and *invited* spaces, “artefacts of external intervention” into which those who are considered marginal are invited – though she cautions that the boundaries between such spaces are unstable. Gaventa (2004) notes the third type of space on this continuum – *closed* spaces; as much as participation may be the new buzzword in politics and development, the reality remains that many decision-making spaces are closed. That is, decisions are being made by a set of actors behind closed doors, without any pretence of broadening the boundaries for inclusion. These spaces all exist in dynamic relationship to one another and are constantly opening and closing through struggles for legitimacy together with resistance, cooptation and transformation: “Closed spaces may seek to restore legitimacy by creating invited spaces; similarly, invited spaces may be created from the other direction, as more autonomous people’s movements attempt to use their own fora for engagement with the state” (Gaventa, 2004, p.35).

The Oasis Forum agitates for access – both for its own members and for a broader range of stakeholders and marginalized groups - to relatively closed spaces, including the various forums in which decisions about the constitution are made. However, it simultaneously resists the cooptation of its participation in “invited spaces”, such as the National Constitutional Conference, that serve predominantly to confer legitimacy onto processes that, whether or not subaltern groups are officially at the table, systematically exclude, marginalize or outright ignore any participation or contributions by such groups that might challenge the outcomes desired by more powerful and established actors. At the same time, the Oasis Forum creates new spaces for engagement with constitution-making. Stakeholders’ conferences, sensitization and consultation workshops, press conferences, public rallies and radio call-in shows are all examples of the creation of alternative political spaces in which civil society groups and individuals can debate and engage with issues of constitutionalism. Indeed, the Oasis Forum turned the tables, inviting political parties and elected officials to participate in some of their own major conferences and consultative events.

However, it is important to note that while the Oasis Forum may be creating and claiming new political spaces for civil society organizations to assert themselves in the constitution-making process, these spaces cannot be conflated or confused with spaces

chosen or claimed by the most marginalized of Zambian society. Although civil society groups in general, and the Oasis Forum in particular, may reside at the margins of the decision-making apparatus of the state, these groups, and the individuals who derive their livelihood from them, constitute relatively elite and empowered elements of Zambian society. Herein lies the “paradox of participation”: those who participate and accumulate social capital tend not to be the poor and socially excluded (Luckham, 1998, p.313).

The point here is not to comprehensively evaluate or attempt to ‘determine’ the legitimacy of the Oasis Forum or its constituent organizations as representatives of the poor. Rather, these findings suggest that it is simplistic to dismiss the Forum and its efforts on the grounds that they lack ‘legitimacy’ and authority to speak for, with, as or about the poor majority. The Oasis Forum, and civil society organizations more generally, are not *inherently* organizations of or for marginalized communities, yet nor are they *inherently* unrepresentative. Given the “paradox of participation”, analyses and critiques of the privileged position of these organizations vis-à-vis their ‘beneficiaries’, and the potentially oppressive and problematic consequences and implications of according these organizations unquestioned authority to speak for the ‘masses’, are important and relevant (Petras, 1999; Hearn, 2007).

The apparently contradictory nature of CSOs’ claims to legitimacy creates conscious struggles in the daily lives of internal players. Although the ‘official’ or public stance of Oasis Forum organizations, and their leaders, is deeply defensive of CSOs’ legitimacy as representatives of the poor, internal debates and informal discussions within some of these organizations do self-reflectively question the validity of these claims to representation (field notes, 2009). In the gender and development organizations where I had the opportunity to conduct participant observation, staff members regularly reflect on and question the complicated power dynamics between themselves, the ‘beneficiaries’ of their work and their international ‘partners’ (i.e. donors). In particular, some staff flag the tension between the organizational philosophy of engaging marginalized communities and the desire to advocate for policy change based on the ‘enlightened’ political position and expertise of the urban, educated, *relative* elite.

Critical theoretical perspectives offer important tools for understanding these tensions and assessing their implications. For example, Kothari (2005) argues that the



professionalization of development serves to co-opt contesting discourses into serving the hegemony of neoliberal ideology and practices. Although her analysis focuses on professionalization of the UK development industry, the issues she raises regarding the (re)production of authority of the development agent or ‘expert’ and the way this regime of authority functions to reinforce unequal power relations and disempower the supposed ‘beneficiaries’ of development hold important cautionary insights for the study of the Oasis Forum. The Forum derives power and influence from its simultaneous positioning as an expert on issues of constitutionalism and an authority on questions of ‘development’ and the ‘good of the people’. The former position is reinforced by the Forum’s close affiliation with regionally prominent academics (such as Professor Michelo Hansungule) and through the consistent reinforcement of the importance of LAZ’s legal expertise for the constitution-making process (Afumba, personal communication October 10, 2009; Habasonda, personal communication October 30, 2009; Mweemba, 2007). The latter role – authority on and representative for the poor – is (re)produced through CSOs’ intermediary roles as service providers filling the gap left by neoliberal government retreat.

While critical interrogation of the Oasis Forum and its position within the neoliberal order is important, uncompromisingly critical theory threatens to obscure subtle complexity and the coexistence of competing discourses and realities. The Oasis Forum may indeed derive authority and influence from the very development regime that systematically disempowers the same sections of society for whom the Forum claims to advocate. This critique, however, implicitly evaluates the Forum’s efforts against an assumed alternative of self-empowerment, spontaneous grassroots mobilization and revolutionary popular emancipation of the poor – an alternative that, given the deeply structural poverty and marginalization that pervades Zambian society, is not necessarily on the horizon of current political possibilities. In light of this current impossibility, the capacity of critical theoretical lenses to understand and conceptually integrate nuance and contradiction must be improved if they are to retain purchase on the lived realities of civil society organizing in Zambia.

### 5.3 Hegemony Of Liberal Democracy

After the fall of the Soviet Union, the main competitors against political and economic liberalism receded from the “world ideological marketplace” (Mortimer, 1989, p.29, qtd in Held, 2006, p.220). In the decades following Fukuyama’s declaration of “the end of history”, it has become increasingly challenging to imagine alternatives to liberal democracy (Luckham, 1998). In this ideological environment, Shivji warns against confusing “the long human struggle for democracy (equality) with its particular historical form – western liberalism (individualism)” (1991, qtd in Saul, 1997, p.339-340). Barber (2003) argues that the liberal conception of the individual and individual interests “undermines the democratic practise upon which both individuals and their interests depend” and can therefore only ever lead to a “thin” theory of democracy – one whose democratic values are means to exclusively individualistic and private ends (p.4). From the foundation of these “provisional, optional, and conditional” democratic values, “no firm theory of citizenship, participation, public goods, or civic virtue can be expected to rise” (Barber, 2003, p.4).

According to Horowitz (2008), all constitutions have, or ought to have, two sets of features, which can be crudely characterized as the mechanical and the other as ideological-aspirational. The mechanical features of constitutions set out, in at least general terms, how the governance of the nation will work: where particular competencies reside, how power will be divided or shared, what exercises of power are limited and how abuses of power will be redressed. The ideological-aspirational dimensions “embody some statement about the sort of common life the body politic aims to establish” (Horowitz, 2008, p.8). It is by virtue of their connection to these collective aspirations that people tend to get invested in their constitution (ibid.).

While the mechanical features of the Zambian constitution are up for debate in the current constitutional process, the ideological-aspirational dimensions never truly made it onto the table for discussion. Zelezeck (2008) notes that the question of which form of democracy is chosen in a polity is “part and parcel” of the ideological-aspirational feature of the constitution (p.26). However, in the context of the “increasing hegemonization” of liberal democratic constitutional principles, constitution-making processes since the 1990s have invariably produced constitutions embedded in this liberal democratic model,

regardless of degree of popular participation in the process (Klug, 2001, p.130). The Zambian constitution-making process has certainly been pervaded by the hegemonic norm of liberal democracy cum multipartyism that enjoys a mutually constitutive articulation with capitalism.

The 1991 constitutional reforms in Zambia were assembled hastily and focused on making the changes necessary to facilitate the transition to multiparty democracy. Riding a wave of economic desperation and mass frustration over disintegrating living standards, trade unionist Frederick Chiluba came to power. Yet the structural adjustment policies that brought people to the streets, and the Kaunda government to its knees, in the 1980s continued with renewed and frightening vigour and speed. Zambia exemplifies Onoma's argument that:

One constant policy you can predict in most African countries, regardless of which party wins elections is that the government will continue with IMF and World Bank inspired neoliberal market reforms. The implication is simple. It is not within the power of such majority to decide on these policy areas. Decisions on the governance of the economy are not within the sphere of decision areas subject to democratic decision making in many African countries. (2005, p.8)

The seeming inevitability of this structural adjustment regime has important implications for the 'culture of constitutionalism' in Zambia.

A strong cohort of African scholars and Africanists has advanced the argument that the social and political dimensions of development and democracy on the continent cannot be neatly excised from the economic structures with which they are enmeshed. In his introduction to a 1992 collection of Yowari Museveni's speeches and writings, Nyerere declares that, "freedom, democracy and the economic well-being of the people are inextricably linked" (p.11). More recently Onsarigo (2005) makes the case that, "democracy involves the transformation of economic, political and social structures...The democratization of political structures and institutions alone cannot be meaningful and cannot be borne by the current economic structures. The democratization of African societies, therefore, means that the African people must master their economies as well as their political and social structures" (p.85). The centrality of socio-economic concerns to political transition has been demonstrated by analyses of the

interplay between resistance to structural adjustment and the movement for democratization in Zambia.

Abrahamsen (2000) and Ihonvbere (1996) have demonstrated that in Zambia material improvement and increased capacity for true self-determination for the masses are both an essential precursor to, and the most popularly desired aspiration for, more meaningful, participatory and transformative democracy in Zambia and on the continent. Rather than a solely ideological commitment to the values of democracy and political rights, the grassroots surge of mobilization for a return to multi-party democracy in the late 1980s, was motivated by the exigencies of survival and a desire for economic as well as political transformation (Geisler, 1992). To this end, Harrison argues that democratic change must allow the social mobilizations it produces to “engage with the structural and class issues which dynamized their emerging activities as much as constitutional change or a desire for liberal rights” (2001, p.398).

Furthermore, the expansion of ‘civil society’, at the expense of state control over the economy, is an integral component of the ‘shallow democracy’ promoted by Northern governments and IFIs in the South. Tariq Ali neatly summarizes this trend as “capitalist democracy = privatization + ‘civil society’” (qtd. in Lavalette & Ferguson, 2007, p.453). Gould argues that the Oasis Forum’s use of the ideological frame of “legalist liberalism” is inherently contradictory. The liberal discourse of good governance provides standards for critiques of the prevailing political culture of unaccountable government, but at the same time, the engagement of this discourse, derived from “the same realm of transnational institutions as the development industry,” serves to empower a “procedural, formalistic legalism that is prone to privilege (individual) ‘rights’ over collective ‘justice’” (2007, p.11).

Onoma (2005) draws attention to the historical continuity between different African popular struggles, including independence and pro-democracy movements. Rather than unconnected historical episodes, Onoma argues that these struggles, and their perversion by elite and foreign interests, are constituent parts of the continued marginalization and disempowerment of African masses. Zelezeck (2008) concurs, maintaining that African political elite and the dominant powers of the global North (whose relationship has been characterized by both collusion and conflict) have been

instrumental in perverting popular struggles. Ihonvbere (2000) argues that in both independence and pro-democracy struggles, the interests of the elites resided predominantly in replacing the erstwhile colonial or autocratic rulers and inheriting their privileges, rather than transforming the exploitative state into an instrument of socio-economic and political betterment for all (Ihonvbere 2000, p.9-10). Meanwhile the global North, through bilateral agreements as well as the IMF and World Bank, has had a vested interest in promoting and supporting a minimalist form of democracy that guarantees its peaceful hegemony in relation to African minds and resources and pre-empts reflection or action for an alternative (Ake, 1996).

The post-Cold War hegemony of Western-modeled liberal democracy has prompted a variety of responses from activists and the critical left who understand, in diverse and often divergent ways, democracy to be an unfinished emancipatory project rather than simply a set of institutions and a system of rule. Of these two competing narratives of democracy, liberal democratic theory has tended to side with the latter, to some degree detaching democracy from its ethical moorings in favour of rational methodology (Luckham, 1998, p.308). The former narrative views democracy as a continuing process, “kept in motion by the failure of existing political arrangements (including liberal democracy) to assure social justice” (Luckham, 1998, p.308). This critical narrative cannot be neatly reduced to a single particular theory or model of democracy; rather it encompasses a range of theoretical and advocacy approaches ranging from the reformist to the radical.

Luckham (1998) identifies four relevant traditions of analysis in debates over how to rebuild democracy from below in ways that foster broadly based development: 1) literature on alternative, participatory, deliberative or radical democracy that advocate a more active conceptions of citizenship, reinvigoration of civil society through new social movements, recognition of difference and extension of democracy beyond public sphere into the workplace and household (for example, Gould, 1988; Escobar & Alvarez, 1992); 2) the school of thought that begins with the reform of liberal democratic institutions themselves and of the mediating institutions that link them to political and civil society (for example, Barber, 2003; Miller, 1993); 3) exponents of participatory development through practical methodologies as a route to empowering the poor and potentially

expanding their participation from productive tasks to political arenas (for example, Chambers, 1997); and 4) loosely neo-Marxist approaches that focus on piecing together fresh counter-hegemonic strategies aimed at ‘democratising democracy’ to ensure its structures address the interests of the poor as well as the elites (for example, Ake, 1994; Mamdani, 1990).

The Oasis Forum’s approach to constitutionalism, popular participation, and deepening democracy incorporates some elements of each of these traditions, but when it comes down to both its methods of engaging the state and its demands, the Forum is decidedly reformist. Through its activism on constitutionalism, accountability and transparency of governance, the Forum focuses on holding existing liberal democratic institutions to their promise of providing popularly sanctioned and accountable government. Given the political history of unaccountable government in Zambia and the powerful internationally-enforced and accepted hegemony of neoliberal economic structures and accompanying minimalist liberal democracy, the Forum’s focus on a basic proceduralist conception of democracy may reflect strategic and realistic analysis of spaces for change more than staunch ideological commitment to this vision of democracy. While such a reformist approach is inherently limited in its efforts to engineer democratic change from above (Luckham, 1998), it nevertheless can provide an important corrective to the limitations of weak, technocratic, elite-centric multipartyism in a Zambian context in which there is little political space for articulating or pursuing more radical alternative forms of democracy.

#### **5.4 Oasis Forum As A Product And Potential Reformer Of The Hegemonic Order**

As the preceding analysis demonstrates, civil society cannot be abstracted from economic and political conditions. The dominant economic and political order is not simply a backdrop for the activities of the Oasis Forum. Rather, civil society organizing is both a product of and constitutive of the broader political economy (Harrison, 2002). Some of the most disparaging critiques of the role of civil society in Africa are rooted in analyses of the articulation of local organizations with the global capitalist economy. As this thesis strives to understand both the potential and limitations of Oasis Forum activism for challenging the hegemonic order and advancing meaningful social change, it

is critical to confront these critiques and assess the extent to which they accurately describe the Oasis Forum.

Petras (1999) and Hearn (2007) scathingly criticize Southern civil society organizations, and NGOs in particular, in Latin America and Africa for functioning as ‘compradors’ – bourgeois agents operating in the interests of international capitalism against the interests of the indigenous popular classes. Building on Fanon’s portrayal of the comprador class in the decolonization process in Africa, Petras characterizes NGO leaders as “a new class not based on property ownership or government resources but derived from imperial funding and their capacity to control significant popular groups” (1999, p.430). The (re)production of this class is intertwined with the global economy: “What NGOs have done,” argues Petras (1999), “is provide a thin stratum of professionals with income in hard currency to escape the ravages of the neo-liberal economy that affects their country” (p.430). Tandon (1996) argues that African NGOs act to “divert attention from the root causes of African poverty, to pacify and to peddle Western values and civilization” (p.3). Gary (1996) identifies the emergence, during the 1990s, of “a new ‘NGO bureaucratic bourgeoisie’ dependent on the huge amount of money now flowing to the NGO sector in Africa” (p.164). Hearn (2007) builds on these critiques to make a case for future research that “prizes itself away from the hegemonic policy-dominated discourse” and faces “the reality...[that] foreign aid to Southern NGOs has created a social group that is dependent on external resources and patronage and in return is central to and popularizes Northern development policy” (p.1107-8).

Gould (2007) advances a similar critique in his analysis of the Oasis Forum as a constituent of political space in a nation possessing only “subsidiary sovereignty”. “Subsidiarity”, in Gould’s analysis, describes Zambia’s “vulnerability to forces beyond her control”, including international commodity markets, international financial institutions and other transnational creditors, and even the international episcopal hierarchies. Following a detailed analysis of the “Oasis saga”, with particular attention to the role of the Law Association of Zambia, Gould concludes that the ideological frame and political project of the Oasis Forum is “intrinsically contradictory” for while it “provides standards for critique of the prevailing political culture” it does so by empowering “a procedural, formalistic legalist liberalism” that derives directly from “the

same realm of transnational institutions as the development industry, the steward of Zambia's subsidiarity" (2007, p.11). In other words, while the Oasis Forum might call for the Zambian government to be more accountable to its citizens, it is only reinforcing the very structures that preclude the possibility of any such meaningful democratic accountability. This critique warrants serious attention. While accepting the major premise of Gould's analysis – Zambia's subsidiarity – the findings of this study challenge and complicate his conclusions regarding the Forum.

Gould argues that the leaders of the Oasis Forum, like senior members of government and high-level civil servants, constitute "elite political society" in Zambia and share "a large number of social qualities with respect to education, income, property ownership and lifestyle which are beyond the ken of most of their fellow Zambians" (2007, p.12). Similar to Gary's (2006) assessment of the NGO sector in Ghana, Gould characterizes the Oasis Forum as an embodiment of the emergent "public bourgeoisie", an "ancillary, even parasitic class" that derives its incomes from service provision and rents, and whose wealth predominantly originates abroad (2007, p. 13). Wealth "originating abroad" refers to the international aid flows that funnel donor money to the government and to non-governmental organizations, and that function to reinforce Zambia's subsidiary status. Gould argues that the Forum's "silence on the issue of subsidiarity" reflects the fact that the convenors of the Oasis Forum are all "beneficiaries of the donor dollar to some extent" (2007, p.19). Its failure to directly engage in a class-based analysis of and resistance to the "broader structural mechanisms that constrain Zambia's economy" fundamentally undermines any potential to address the marginalization of the voice and "genuine interests" of the vast majority of the population (pg.20). Although Gould is not dismissive of the significance of the Oasis Forum's success in halting Chiluba's third term bid, his analysis not only finds no potential for transformative social change in the Oasis Forum's initiatives, but characterizes the Forum as driven by "aristocratic" liberal legalist values that derive from and perpetuate the political and constitutional arrangements that marginalize the majority of Zambians.

The critical scholarship on Southern civil society organizations exemplified by Petras (1999), Gary (1996) and Hearn (2007), among others, offers important insights into the co-production of civil society and the broader political economy. In order to



effectively conceptualize different forms of civil society mobilization and political action, we need to understand “the ways in which capitalism creates contradictions and forms exploitation in specific times and places” (Harrison, 2002, p.391). The changing character and constitution of civil society in Zambia is intertwined with colonial legacies and the changing political, social and economic landscapes in the country. Not only did the political liberalization of the 1990s legally open new spaces for political organizing and advocacy, but the firm assertion of the policies and norms of the neoliberal global capitalist order also played their part in changing the terrain of civil society. As Gould demonstrates, the Oasis Forum is itself simultaneously a product and (re)producer of the very political-economic order that it seeks to reform.

The critical analyses of Hearn (2007), Petras (1999), Gary (1996), Gould (2007) and others serve as an important counterpoint to the enthusiastic liberal conception of civil society as an unproblematic, inherently democratizing force. However, just as liberal theoretical constructs clash with the historical and contemporary realities of many African polities, so too the critical characterizations of Southern CSOs as compradors, public bourgeoisie and uncritical beneficiaries of subsidiarity fail to adequately capture the complexities, contradictions and human spirit of these organizations as they actually function in reality.

Gould’s analysis conflates the Oasis Forum with the highest levels of its leadership – the heads of its convening members. While the leadership of the Forum and its five convening members certainly plays a central role in coordinating and conducting the Forum’s advocacy activities, this leadership group cannot be separated from the diverse organizations, associations and congregations that constitute the bulk of the coalition. These more varied groups are much harder to systematically slot into Gould’s class analysis. Furthermore, while the leadership of the Oasis Forum may indeed derive livelihoods in whole or in part from industries that benefit from or rely on foreign donors, the implication that they are consequently acting based entirely on mercenary self-interest or false consciousness is unsatisfactory at best and insulting at worst.

Such an intellectual stance consigns all action for social and political change that does not directly challenge underlying power structures to futility. In Zambia, however, the political space for articulating, let alone realizing, radical alternative societal

organization is significantly restricted. The Oasis Forum's more reformist approach may be limited by its failure to directly engage with the oppressive structures of the broader political economy, but it may also be the most realistic approach for achieving a step towards a more responsive government and material improvement for the majority of Zambians. Furthermore, underpinning the Forum's apparently superficial political projects is a drive for more substantial and far reaching social change.

## **5.5 Challenging Hegemony With Its Own Tools: Economic, Social And Cultural Rights**

Embedded within any hegemonic order are the seeds for resistance, for counter-hegemonic thought and action (Cox, 2001; Harrison, 2002). The Oasis Forum may indeed rely heavily on "legalist liberal" (Gould, 2007a) logic. However, it also employs one of the tools of liberalism, human rights discourse, to try to carve out space to challenge the existing neoliberal order in which development is conceptualized in purely aggregate economic terms and 'good governance' is confined to those procedurals and institutional features necessary for efficient administration of neoliberal policy. The Oasis Forum's consistent and aggressive promotion of economic, social and cultural rights is a strategy for using the constitutional review process to fundamentally shift the framework within which national policies are pursued and to prioritize the aspects of basic human development that are necessary predecessors to an empowered, politically engaged citizenry.

Critical modernism, as outlined in Chapter 2, simultaneously identifies the social value of many of the ideals of modernity and acknowledges the profoundly problematic, inequitable and inappropriate imposition of a particularly static/pro-western/euro-centric/policy framework on its name. I suggest adding similar nuance to this discussion of the value, limitations and potential of initiatives rooted in and advocating for modernity's favourite political system: liberal democracy.

The Oasis Forum's rhetoric, aims and self-identity are indeed staunchly rooted in liberalism. The Forum's mandate is:

- i) to promote a culture of Constitutionalism;
- ii) to promote the doctrine and practice of separation of powers;
- iii) to promote gender equity;
- iv) to promote law reform;
- v) to promote civic activism;
- vi) to promote and conduct public interest

litigation; vii) to promote professionalism and integrity in the holders of the public offices; and viii) to promote a culture and practice of accountability and transparency in governance. (Oasis Forum, 2005d)

Gould (2007, p.438) described these goals as “a shopping list of liberal aims,... ambitious, but unexceptional”. However, these liberal aims do not tell the whole story of the Oasis Forum, nor necessarily paint an adequate picture of the visions of governance and development promoted by the majority of Oasis Forum members. Although the Forum’s liberal goals may be inadequate for pursuing radical social change, they are not without merit, nor will they be easily achieved. Many members of the Oasis Forum believe that pursuing these liberal goals is the first step to opening space for more far-reaching political projects.

There are important nuances to the Oasis Forum’s embrace of liberal ideology and good governance rhetoric. While the Oasis Forum’s demands of and priorities for the Zambian state fit snugly within a liberal good governance framework of rights, transparency, and accountability, its emphasis on the inclusion of economic, social and cultural (ESC) rights in the constitution is an attempt to establish grounds for reversing the neoliberal state retreat from social service provision that was imposed by structural adjustment in the 1990s, and for reframing liberal democracy within developmental and social justice aspirations.

Members of the Forum consistently articulate the importance of having justiciable ESC rights.

What we were saying is that, as a church, we are implementing development programmes actually. We are running schools. We have health institutions; we have hospitals that are under us. We have agricultural programmes. We have various development programmes in addition to skills development. So what we were saying is, yes, this is just a supplementation to government programmes, but we feel that we cannot continue, we rely on donor money to run these programmes. But what we were saying is that the government can have that responsibility; if those issues, the basic human rights, can be enshrined in the constitution, then even the issues we are talking about will be sustained. Because there wasn’t any guarantee with the donor funding that it will always be there for

us to do that work, so what we're telling them is what we want to see is for government to assume the role of ensuring that the basic human rights are enshrined in the constitution and are offered as services to the people of Zambia. (Synoden, personal communication, October 29, 2009)

A common criticism of development NGOs is that by providing services retracted by structural adjustment era governments, they legitimized this disintegration of the welfare state and even benefitted from a shift in international development paradigms that saw donors bypassing the state to directly fund service provision through NGOs and other civil society actors (Lavalette & Ferguson, 2007) Some commentators argue that even when NGOs opposed neoliberal policies, they deliberately distanced themselves from the political arena, effectively coopting and undermining the more radical movements of the left (Sader, 2002; Petras, 1999). However, Synoden's remarks demonstrate an awareness of and specific reaction *against* the erosion of state-run social services and the accompanying expectation that civil society organizations will step as service providers to fill the gap.

Zambian civil society continues to be pervaded by the desire for socio-economic improvements and strong social services, and opposition to neoliberal policies. Ake maintains that,

insofar as the democracy movement in Africa gets its impetus from social and economic aspirations of people in Africa yearning for 'a second independence from their leaders', it will be markedly different from liberal democracy. In all probability, it will emphasize concrete social and economic rights rather than abstract political rights; it will insist on the democratization of economic opportunities, the social betterment of people, a strong welfare system. (1996, p.139)

In her account of how third wave African democratization has been "disciplined" by development discourse of "good governance", Rita Abrahamsen (2000) notes that part of the process of discursive enforcement of a neoliberal form of democracy was the detachment of democracy from the ideals of social and economic rights. She argues that "for the majority of poor people, democracy is not only about civil and political rights, but is intrinsically bound up with social and economic rights" (2000, p.xiii) and that to

divorce the two amounts to an implicit endorsement of the existing social order, allowing for the continuation of elite privileges and the persistent suffering and deprivation of large sections of the population.

With this in mind, the Oasis Forum's drive for and focus on the inclusion of ESC rights in the constitution can be read as a challenge to the existing order. The challenge may be limited by its truncated analysis of the causes of the status quo and by its conformity to the language and parameters of liberal democracy, but it is a challenge nonetheless. Ake's distinction between "liberal democracy" and a democracy rooted in concrete social and economic rights and material improvements and opportunities for the majority, highlights the possibility of a different reading of the Oasis Forum and its "shopping list of liberal aims", dismissed by Gould (2007) as an uncritical expression of bourgeois interests. Evidence from this study suggests that civil society activism and mobilization promoted by the Forum cannot be written off as uncritically reinforcing "a form of democracy whose main aim is what has been described as 'elite habituation' for peaceful rotation at the helm of state while widespread corruption, neo-patrimonialism, systemic unemployment, mass poverty and outside exploitation of the continent are left untackled" (Zezeck, 2008, p.16).

A speech by the chairperson of one of the Oasis Forum member organizations on the constitution goes one step beyond economic, social and cultural rights, to call for the inclusion of "the Solidarity Rights such as the Right to Development" in the Bill of Rights (Munyinda, 2003). This is not the only nod to "third generation human rights" by the Oasis Forum. Tembwe (2009) suggested "clean environment" as one of the rights that would render the constitution relevant to the majority of poor Zambians. Although the concept of these "third generation rights" is rooted in the European Enlightenment,<sup>9</sup> if they were taken seriously as human rights and as guiding principles for not only

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<sup>9</sup> First-generation human rights refer to civil and political rights, predominantly related to protecting the individual from excesses of the state and allowing participation in political life. Second-generation rights are social, economic and cultural rights, including rights to housing, health care, employment and education. Third-generation human rights are those that go beyond the civil and social. These rights, expressed predominantly in international aspirational "soft law" documents, are diverse and include collective rights, right to development, right to self-determination, right to a healthy environment, right to intergenerational equity or sustainability. This division, initially proposed by Czech jurist Karel Vasak (1977), follows the three watchwords of the French Revolution: Liberty, Equality, Fraternity.

Zambia's government but the international community as well, a profound rearrangement of a global system that privileges capital over people would be required.

Despite this implicit critique of inadequate state support for and implementation of basic social services, the explicit connection of this critique to deeper structural issues is constrained in Oasis Forum discussions. Highlighting the importance of ESC rights rarely strays far from questions of constitutionalism and government responsibility. The linkages between pervasive poverty in Zambia and global political economy, historical exploitation or other external factors were rarely explicitly articulated in interviews or Oasis Forum material. This public press statement issued by a gender-focused community development organization active in the Oasis Forum calls for a reorientation of national development priorities.

The absence of [economic and social rights] in our constitution has contributed to the majority of Zambians wallowing in abject poverty, disease and hunger because government is not obligated by the constitution to provide for an adequate standard of living for her citizens. The real issues that affect the lives of Zambians include the lack of social security, hunger, unsafe water...lack of hospitals, lack of schools and teachers, and many others. If the Bill of Rights, the most important chapter in the constitution, is made bereft of these standards, it cannot be made relevant to people in a poor country such as Zambia. (Women for Change, 2003)

However, the Forum's analysis of Zambia's inability to increase the quality of life for the majority of its citizens since independence does not extend beyond a critique of the current government and constitution. While the Oasis Forum identifies the absence of ESC rights in the Zambian constitution as a contributing factor to the country's desperate poverty, no mention is made of the historical and international factors that have also contributed to the situation. The apparent contradiction between the transformative potential of advocacy for ESC rights and the Forum's choice to not carry its arguments further and explicitly articulate this radical potential may speak more to the realism and political astuteness of the Forum's leadership than its complicity in reinforcing an inequitable and oppressive order. The omission of structural analysis from most of the

Forum's public communications should not be taken as indicative of the stance of Zambian civil society organizations beyond the confines of the constitutional debates.

Within the Lusaka-based community of Zambian civil society organizations, the effects of structural adjustment, donor conditionalities, unfair trade rules and lack of meaningful African self-determination all figure frequently in both informal and professional discourse. The organizations of the women's movement consistently analyse, confront and draw attention to patriarchal structures at local, national and international levels. My participation in and observation of Zambian civil society was largely limited to gender and development focused organizations in Lusaka, making it difficult to ascertain the extent to which the diverse individuals and organizations who comprise the Oasis Forum identify with or share the more radical critiques and goals I took note of in Lusaka organizations. Even within organizations staffed by critical individuals, astute to the workings of international financial, political and aid regimes, programming tends to focus on maintaining the delicate balance between accountability to beneficiaries and to donors. Advocacy initiatives pursued under a 'development project'-dominated funding model tend to carry specific targets for results and outcomes that encourage attention to issues that are perceived to have more ready potential for short- to medium-term change or resolution, rather than deeply entrenched structural forms of oppression.

That being said, many of the organizations that have aligned under the Oasis Forum banner have histories of actively participating in other advocacy coalitions that are aggressively addressing more structural issues such as debt relief and management, land rights, agricultural policy and food security and climate justice (field notes, 2009). Although the discussions on constitutionalism often adhered closely to procedural issues, questions of rights created some space for raising more far-reaching critiques. For example, Lubinda highlighted land rights as one of the critical issues requiring constitutional reform:

And then there were also issues around the Land Act, which we believed was weak and which we also believed was being pushed by IMF and World Bank based on IMF and World Bank's interests. And we were saying, Zambians should have the right to own land and to determine how they will want to use their own

pieces of land and not being superimposed by IMF and World Bank. So those are critical areas that we thought the current constitution put in place should be able to address. (Lubinda, personal communication, October 14, 2009)

These comments allude to some of the questions of land privatization, security of customary and collective land tenure, and accessibility of Zambian land for foreign lease that have emerged and raised concerns in activist and policy circles since the 1990s.

These comments also reflect a critical awareness of, and desire to challenge, the domination of Zambia's policy decisions and development priorities by international agents, particularly the Bretton Woods Institutions. While this critique rarely appears in Oasis Forum publications, it periodically emerges in meetings, strategy sessions and informal discussions within Zambian civil society groups, and particularly those led by a few of the more charismatic founding leaders of the Oasis Forum (field notes, 2009).

Given that many of the member organizations of the Oasis Forum do have histories of engaging more directly with critiques of patriarchy, neo-colonialism and neoliberalism, it is not entirely clear why such critical discourses do not appear more prominently in the Oasis Forum advocacy on constitution-making. Based on the limited research for this study, I suggest that in the face of considerable financial, logistical and political constraints and a seemingly endless litany of injustices, demands and deprivation, Zambian civil society groups tend to strategically invest their resources and efforts in initiatives that target a specific issue and doggedly pursue achievable goals. In the case of the constitution-making process, achieving the inclusion of ESC rights has proven an enormous challenge. The Forum's effort in this regard should not be disparaged. The expansion of Zambia's Bill of Rights may not represent revolutionary change or radical rearrangement of the hegemonic order, but as a goal it represents the Oasis Forum's attempt to advance a more holistic understanding of democracy – one built on a constitutional order relevant to the poor, capable of expanding and moving beyond procedural liberal democracy devoid of developmental concerns.

## **5.6 Reworking Conceptual Tools For Understanding Ambiguity**

In a synthesis of debates on civil society, the state and democratization, Tar (2009) contrasts “the liberal conception” and “the radical conception” – the former is associated with de Tocqueville and present-day followers and the latter with Hegel, Marx



and Gramsci. Liberal understandings of civil society derived from de Tocqueville not only privilege a certain empirical incarnation of civil society (voluntary civic associations) but promote an idealistic construct of these associations as fundamentally democratising, harmonious, modern. As outlined in Chapter Two, this study draws theoretical inspiration and grounding from the more critical constructions of civil society – in particular the position that civil society, as “a domain in which social order is grounded” (Cox, 2001, p.4), can encompass a diverse, fragmented plurality of potentially conflictual formations of associational life whose function in regards to the hegemonic order is uncertain, contingent and changeable.

The Oasis Forum represents the very fraction of civil society that liberal discourses seize on for its purported “democratizing potential”: “In current discourses of ‘civil society’ and its democratising potential, one is bound to find reference to a particular fraction of civil society: urban-based voluntary civic associations, as a force *par excellence* for engaging the *state* in the interest of the *people*” (Tar 2009, p.17). The Oasis Forum is indeed an urban-based alliance of voluntary civic associations, led largely by educated professionals. Furthermore, the Forum defines and promotes itself in staunchly liberal terms precisely as a democratising force, “engaging the *state* in the interest of the *people*.” Therefore, a central problematic of this study is the attempt to use a critical theory-inspired framework to understand and interrogate a group that conceptualizes and roots its own identity, function and goals in heavily liberal terminology and ideology.

Hearn (2001, 2007) argues that African policy oriented organizations have been being systematically coopted by foreign donors in cooperation with national governments to function as pawns for the entrenchment of neoliberal policies and for building societal consensus around an oppressive status quo. She maintains that ‘partnership’ with foreign donors and the state is contributing to “the current version of civil society in Africa becoming a means for stabilising rather than challenging the social and political status quo” (2001, p.44). Correspondingly, Bond asserts that by the early years of the new millennium, “it appeared that even post-colonial African civil society organizations which once had a more radical development agenda were largely civilized, tamed and channelled into serving each new incarnation of elite interest” (2005, p.435).

The Oasis Forum, for all its ‘bourgeois’ roots and liberal rhetoric, can hardly be viewed as a “tamed” servant coopted by political elites. With minimal direct foreign funding or assistance (though many of its member organizations are heavily reliant on external donors), a history of politicized mass mobilization, and an unwavering refusal to bow to pressure to participate in, and thereby legitimate, a constitutional process it views as exclusionary, the Oasis Forum is not an unwitting victim of more wily national and international forces. Indeed, the risks of cooptation, particularly in the face of the monetary and security benefits to be gained by joining the NCC, are a frequent subject of discussion at Oasis Forum meetings and strategy sessions (field notes, 2009).

However, while the Forum is relatively vigilant against the risk of “states and other powerful actors interven[ing] to influence political agendas...with the intention of diffusing opposition”, it also does not necessarily fit the other option proposed by Hearn – “the *locus sine qua non* for progressive politics...a site of resistance” (2001 p. 43). In its charter, the Oasis Forum “calls upon the women, men and youth of this country to close ranks and resist ever again from being used and abused in any political process for selfish political ends that may threaten our nation’s peace and security” (Oasis Forum, 2001). The militaristic call for vigilance and unity against manipulation and cooptation is interestingly juxtaposed with the closing affirmation of the paramount importance of national “peace and security”. The rhetoric of “peace and security” is powerful in Zambia. Zambia’s post-colonial history and identity as a “peaceful society” is frequently evoked as a point of pride in public and popular discourse, including within local civil society organizations (field notes, 2009). From a more radical activist or theoretical standpoint, the Oasis Forum’s call (to activism) could be read as an admonishment that activism must be confined to strengthening and refining the (neo)liberal democratic order in Zambia, rather than challenging that order in ways that, by disrupting hegemony, would or could also necessarily destabilize “national peace and security”. While there is validity in this critique, to cynically ascribe the Forum’s professed commitment to social change to self-interest, and its activities to futility, would also be mistaken.

Gould (2007) maintains that the Oasis Forum neither contains nor creates space for questioning or challenging the broader global political structures that maintain Zambia’s condition of “subsidiarity”. On the whole, the findings of my research do not

contradict this conclusion. However, through both interviews and observations of various civil society organizations and events, there emerged indications of deeper, more structural critiques that situated Zambia's economic and political challenges in the context of international political economy. And these critiques by and large emerged from the very "elite professionals" whom Gould (2007) suggests are gagged by their professional positions in organizations dependent on external funders.

This critical perspective on civil society, while important and useful for understanding the heterogeneity of civil society and its multiple functions and their context within the global political economy, promotes a dualism that is unhelpful to understanding the motivations and roles of the Oasis Forum in Zambia. Similarly, conceptual trends emanating from development studies encourage a search for "transformative" and "radical" potential of participation and of civil society, haunted by the critiques that both the rhetoric and practice of participation and the discourse and organizations of civil society have been coopted by hegemonic development forces to legitimize and shore up an international development regime that holds no possibility for meaningful social change for the majority world.

Hearn draws on Cox's neo-Gramscian framework in which, "in a 'bottom-up' sense, civil society is the realm in which those who are disadvantaged by globalization of the world economy can mount their protests and seek alternatives...In a 'top-down' sense, however, states and corporate interests influence the development of this current version of civil society towards making it an agency for stabilizing the social and political status quo" (Cox, 2001, p.10-11). Bond proposes another "dichotomous reading" of African civil society, this one pitting a pessimistic Gramscian interpretation of civil society as "a stabilizing conservative force" against Polanyi's more hopeful vision of "a new social movement' challenge to neoliberalism" (2005, p.435).

The Oasis Forum challenges these polarizing approaches and demands a more nuanced position. To accurately conceptualize the complex and contradictory real world of Zambian civil society, critical theoretical approaches must be able to acknowledge the limitations of the Oasis Forum's liberal activism and ideology but refrain from dismissing the coalition as either a self-serving public bourgeoisie desperate to maintain moral authority without challenging the system from which they derive privilege, or an

inadvertent purveyor of dominant development ideology co-opted by international donors to deliver depoliticized liberal good governance.

The Oasis Forum and its advocacy strategies are embedded in the dominant political and economic order. Zambia's constitutional shift to liberal multiparty democracy in 1991 changed the legal and political landscape in ways that shifted loci of civil society power away from organized labour and towards service provision organizations such as church charities and NGOs. The imposition of neoliberal economic policies and the accompanying ascension of 'good governance' rhetoric and procedures aimed at efficiently implementing these policies served to delimit the boundaries of political possibility in Zambia. The formation and the prominence of the Oasis Forum, a coalition of voluntary civic association, is a product of the broader political-economic climate. The Forum advocates for procedural changes necessary to actualize the promises of liberal democracy (transparent government, accountable representatives, sound constitution) while simultaneously pushing for a more holistic democratic order, one capable of responding to the social and economic priorities of the poor majority.

Hickey & Mohan (2004; 2005), Drydyck (2005; 2007) and Gaventa (2004, 2007), among other, theorize extensively on how participation can and should be reclaimed, how development should be made more democratic, and the paths along which empowerment can be realized. This study suggests that much more attention is required to the mutually constitutive nature of hegemonic structures and the agential subjects struggling within and against them. The uniquely context-specific articulation of global systems and local realities shapes and constrains the spaces available for actors to pursue inevitably partial and insufficient incremental social change in situations where more radical emancipation and transformation are not readily conceivable.

This thesis has critically, but sympathetically, explored the complexities and nuances of the Forum's engagement with the constitution-making process. By privileging the experiences, interpretations and lived realities of those who organize under the banner of civil society in Zambia, this study complicates, and deviates from, both liberal and critical civil narratives. Ultimately, the case of the Oasis Forum demonstrates that even within superficially liberal language and objectives, there can be efforts to advance, and articulate with, more far-reaching possibilities for social change.

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## Appendix A - Members Of The Oasis Forum And The Collaborative Group On The Constitution

### Oasis Forum Convenors

Organization	Description
Council of Churches in Zambia (CCZ)	<ul style="list-style-type: none"> <li>- An ecumenical Christian organization composed of 24 'mainline' protestant churches in Zambia, including the Anglican Church and the United Church of Zambia.</li> <li>- Claims a total of 4 million members (approximately 30% of Zambia's population)</li> </ul>
Evangelical Fellowship of Zambia (EFZ)	<ul style="list-style-type: none"> <li>- Coordinating secretariat for evangelical churches in Zambia, including Baptists and Pentecostals, each of which have thousands of congregations.</li> <li>- Over 500 members including churches, para-church organizations and individuals.</li> </ul>
Law Association of Zambia (LAZ)	<ul style="list-style-type: none"> <li>- Professional body governing the conduct of the 600+ lawyers in Zambia; other key functions include pursuing public interest litigation</li> </ul>
Non-Governmental Organization Coordinating Committee for Gender and Development (NGOCC)	<ul style="list-style-type: none"> <li>- Established in 1985 by a few women's organizations to coordinate and act as a focal point for the women's movement in Zambia.</li> <li>- 2009 membership of 108 organizations, of which, 52 are NGOs and 56 are Community Based Organizations.</li> <li>- Members spread across all nine provinces, but with a concentration of 45 headquartered in Lusaka Province.</li> </ul>
Zambia Episcopal Conference (ZEC)	<ul style="list-style-type: none"> <li>- Body of the Catholic Bishops of Zambia, who cover ten dioceses.</li> <li>- Functions as the Board of Directors of Caritas Zambia, the 'development' organization of the Catholic Church, formerly known as the Catholic Commission for Justice, Development and Peace.</li> <li>- Claims 3-4 million members (26-30% of Zambia's population)</li> </ul>

Information from: NGOCC, n.d.; Zambia Episcopal Conference, n.d.; Law Association of Zambia, (n.d.); Mukali, personal communication, October 8, 2009; Synoden, personal communication, October 29, 2010.

### **Collaborative Group on the Constitution**

- Oasis Forum
- Southern Africa Centre for the Constructive Resolution of Disputes (SACCORD)
- Foundation for Democratic Process (FODEP)
- Anti-Voter Apathy Programme (AVAP)
- Transparency International Zambia (TIZ)
- Press Association of Zambia (PAZA)
- Citizens Forum
- Zambia National Women's Lobby Group
- Zambia Alliance of Women

## Appendix B      Chronology Of Constitution-Making In Zambia

### Chronology of Constitution-Making and Constitutional Review in Zambia

Year	Event	Description
1958	Federation of Rhodesia and Nyasaland	Britain creates, via an <i>Order in Council</i> , the Federation comprising the colonies that would later become Zambia, Zimbabwe and Malawi.
1963	Federation dissolved	Nyasaland (Malawi) secedes and gains independence.
1964	Zambia gained independence	Zambia gained independence under a constitution passed by the British Parliament based on the Westminster model. There was no involvement or consultation of the public. The constitution facilitated the transition to statehood and provided a basic framework for multiparty democracy. Kenneth Kaunda, leader of the United National Independence Party, was President.
1968	Kenneth Kaunda re-elected	Kaunda re-elected unopposed as President.
1969	Constitution changed to facilitate easy amendment	Independence constitution amended to remove requirement that any constitutional amendment be supported by national referendum. Kaunda gained 85% popular support in a national referendum to make this revision. The Zambian legislature was now given the power to amend the constitution.

<b>Year</b>	<b>Event</b>	<b>Description</b>
1972	Chona CRC	Kaunda appointed a Constitutional Review Commission under the chairmanship of Vice President Mainza Chona to consider changes to the constitution to accommodate the proposed one-party system of government. The Commission was charged with determining the best form of one-party system, not whether a transition to one-party rule should happen at all. The main opposition party, the African National Congress under the leadership of Harry Nkumbula unsuccessfully challenges the Chona Commission and its terms of reference in the High Court and the Court of Appeal.
1973	One-Party State constitution	An amended constitution is introduced based on the recommendations of the Chona Commission establishing a one-party state under UNIP.
1990	Push for multi-party democracy	A National Interim Commission for Multi-Party Democracy formed to push for reintroduction of political pluralism.
1990	Mvunga CRC	Kaunda appointed a Constitutional Review Commission under the chairmanship of the Solicitor General Mphanza Mvunga to draft a constitution enshrining the principles of political pluralism. By the end of the year, Article 4 of the One Party Constitution of 1973 was repealed to allow for the formation of independent political parties.
1991	MMD registers as a political party	The Interim Commission for Multi-Party Democracy registers itself as political party called the Movement for Multi-Party Democracy. Frederick Chiluba was subsequently elected party leader.
1991	MMD and Chiluba elected	National Presidential and Parliamentary elections held. MMD wins an overwhelming victory.
1993	Mwanakatwe CRC	Chiluba appoints a Constitutional Review Commission under the chairmanship of John Mwanakatwe to collect views from the general public and provide proposals for content of a new constitution.



<b>Year</b>	<b>Event</b>	<b>Description</b>
1995	Mwanakatwe Report	The Mwanakatwe Commission releases its final report. The government responded with a 'White Paper' in which President Chiluba rejected 70% of the Commission's recommendations.
1996	Constitution of Zambia (Amendment Bill)	The MMD government under Chiluba passed the Constitution of Zambia (Amendment) Bill. The Bill provided for the designation of Zambia as a Christian nation, introduced the requirement that the parents of presidential candidates be born in Zambia, and provided that no person who had been twice elected president be eligible for election to that post.
2001	Third term bid	President Chiluba announces his intention to revise the constitution to allow him to run in the upcoming elections for a third term as president.
2001	Formation of Oasis Forum	CCZ, EFZ, LAZ, NGOCC and LAZ come together to form the Oasis Forum in response to the third term bid and launch the Green Campaign against the third term bid.
2001	Third term bid defeated, Mwanawasa elected	Chiluba backs down and appoints Levy Mwanawasa as his successor, who is then elected as President by a small margin to form an MDD minority government.
2003	Mung'omba CRC	President Mwanawasa appoints a Constitutional Review Commission under the chairmanship of Wila Mung'omba to conduct nation-wide consultations and synthesize these with the findings of previous CRCs to make recommendations for a new Constitution.
2005	Mung'omba report	Mung'omba CRC releases its final report and proposed draft constitution. The report recommends that the new constitution should be adopted through a Constituent Assembly and approved through a national referendum.
2006	National elections	Presidential and parliamentary elections take place in the absence of a new constitution. The MMD retains power.

<b>Year</b>	<b>Event</b>	<b>Description</b>
2007	NCC Act	The MMD government passed the National Constitutional Conference Act decreeing that the constitution will be adopted through a Constitutional Conference rather than a Constituent Assembly.
2007	Oasis Forum Red Campaign	The Oasis Forum launches the Red Campaign for Constituent Assembly with the support of the newly formed Collaborative Group on the Constitution.
2007	NCC convenes	The National Constitutional Conference convenes.
2008	Death of Mwanawasa	President Levy Mwanawasa dies. The NCC is adjourned to reconvene at a later date. After serving as interim President for three months, former Vice President Rupiah Banda of the MMD is elected.
2009	NCC extended	The deadline for the NCC to complete its work and produce a constitution is extended.
2010	Predicted NCC end date	June 2010 is the current projected date for the finalization of the work of the NCC. Many are skeptical this will occur.
2011	National elections	Presidential and parliamentary elections. It is now generally acknowledged that the new or amended constitution is unlikely to be enacted in time to govern these elections.

All information from: Banda, n.d.; Matibini, 2002; Mbao, 2007; Mwale, 2006; Hansungule, 2007.