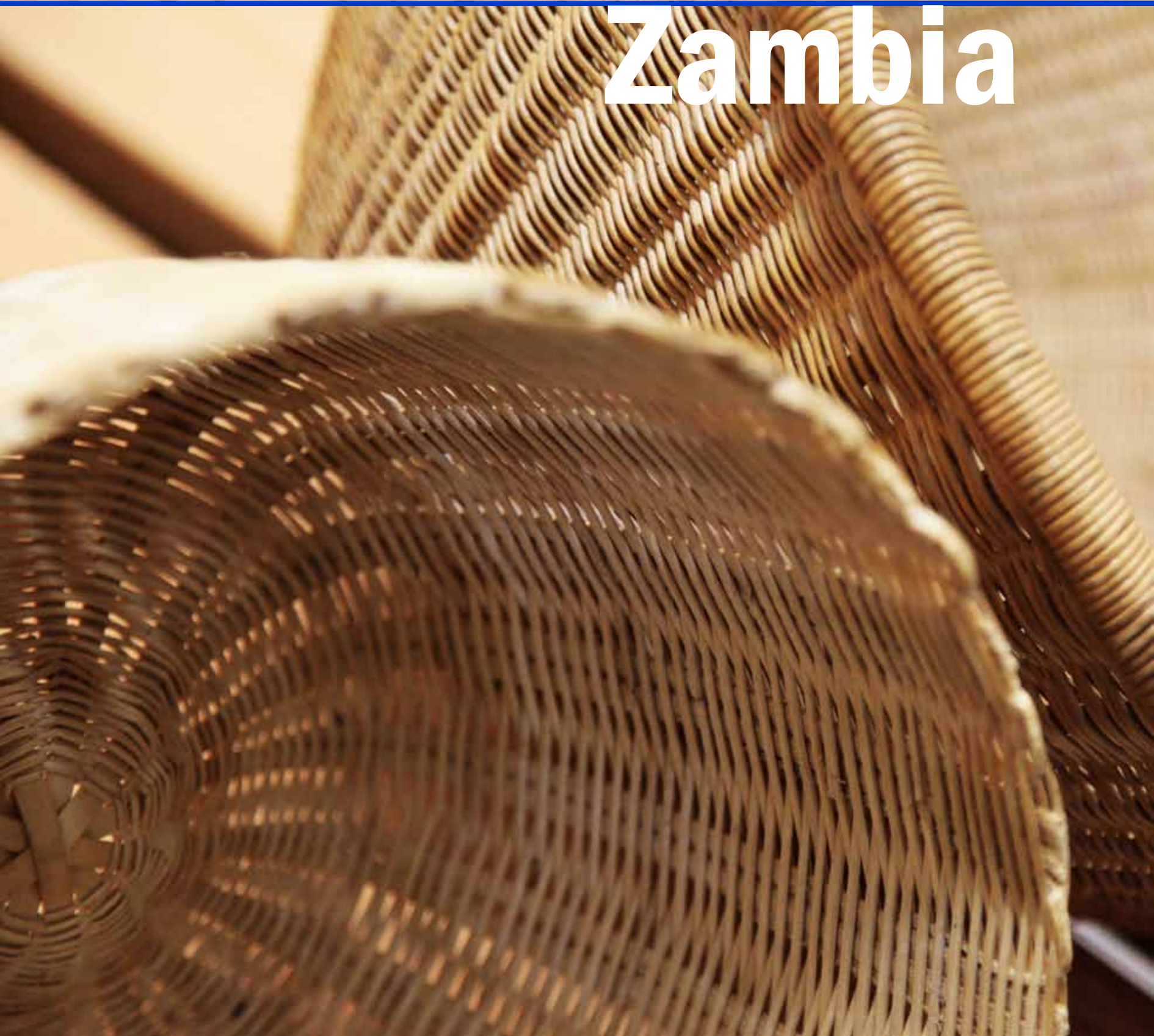




Zambia

Acronyms

AVAP	Anti-voter Apathy Project
CSOs	Civil Society Organizations
ECZ	Electoral Commission of Zambia
FODEP	Foundation for Democratic Process
MMD	Movement for Multi-party Democracy
MPs	Members of Parliament
NCC	National Constitution Conference
NGOs	Non-governmental Organizations
NIMD	Netherlands Institute for Multi-party Democracy
PF	Patriotic Front
SADC	Southern African Development Community
TI	Transparency International
TV	Television
UNIP	United National Independence Party
UPND	United Party for National Development
ZNBC	Zambia National Broadcasting Corporation

1.0 Background of the Study

Zambia, officially known as the Republic of Zambia, gained political independence from Great Britain on 24th October, 1964. This date also marked the beginning of what has now come to be known officially as Zambia’s First Republic. Dr. Kenneth David Kaunda, a former school teacher, became the country’s first President, and assumed the title of “The Father of the Nation”. The political system of the immediate post-independence era was based on multi-partyism. It was, however, not designed by the indigenous people; rather, it was bequeathed to them by the British colonial administration. Kaunda ascended to the position of national leadership under the United National Independence Party (UNIP), which is now rightfully regarded as the oldest political party in the country.

Zambia’s First Republic was short-lived; it was a brief period of eight years, stretching from 1964 to 1972. In 1973, Kaunda abolished multi-partyism and imposed the One-party State system of government on the people of Zambia. The reasons for this dramatic change are beyond the immediate concerns of this report.

The birth of the One-party State heralded the beginning of the country’s Second Republic. The latter lasted until December 30th, 1990 when Zambia ratified a new national Constitution which outlawed One-partyism and paved the way for the country’s re-introduction of democracy. This constitutional change marked the beginning of the country’s contemporary era, officially referred to as the Third Republic. Much ink has been spilt on accounts that document the passion with which the Zambian people rejected the One-party political system, together with much of what it stood for. Literature equally abounds that documents the jubilant manner in which the Zambians embraced democracy as their preferred political system, in their walk to the new millennium.

Zambia’s new political dispensation is characterized by multi-partyism. The citizens are at liberty to form political parties as, and when, they like. They are equally free to join the existing political parties, but also to withdraw their membership from them, as and when they like. There are, at the moment, at least 30 registered political parties in Zambia. However, only about ten of them are politically active at the moment.

The country’s electoral system is based on First-Past-The-Post. This means that who ever wins even with a simple majority takes it all. National elections are held once every five years. They are tripartite in nature, meaning that the Republican President, Members of Parliament and Ward Councilors are all voted for in one and the same election.

2.0 Political Parties and Political Financing in Zambia

Political parties are widely recognized as the most significant feature of democracy. Especially in liberal democratic traditions, political parties perform, or are expected to perform, a number of political functions. These functions are often summarized as interest articulation, interest aggregation, socialization of values, and political recruitment.

Practically, however, political parties are looked at simply as vehicles for political representation, political competition, and political participation.

In order to perform these and other related functions of theirs, political parties – whether in government or in the opposition - need a lot of resources, especially money. In the regional bloc known as SADC that Zambia belongs to, the governments in at least 10 of the 14-member States do fund their major political parties as a way of leveling the playing field. Zambia is not one of the 10 countries that fund their major political parties.

Regardless of whether parties are government-funded, or they mobilize their own financial resources, their use of money in politics must be regulated. For, financial regulation is the only known way of ensuring transparency and accountability in political processes. Financial regulation helps the citizens to monitor where political actors, both individuals and political parties, get their funding from, how much of it they receive every year, the conditions under which they receive it, how they spend it and whether they account for it transparently or not. Financial regulation also allows the citizens to make informed political choices if adequate and accurate information about the financial behavior of political actors is availed to them. Financial regulation, finally, allows the authorities to monitor irregularities in political financing.

This study, known as NURU, a Swahili word meaning “a ray of light,” was designed in the context of the foregoing framework. It was intended to assess the levels of transparency and accountability in political financing in Zambia. The NURU study was sponsored and coordinated by Transparency International (TI) as part of a regional research project involving five countries, namely, Mozambique, Namibia, South Africa, Zambia and Zimbabwe. It was anticipated that the project would culminate into advocacy programmes and campaigns aimed at lobbying the authorities, to ensure that legal measures were put in place where they did not exist, for monitoring and controlling the influence of money in politics as well as for curbing electoral corruption.

2.1. Objectives of the Study

This NURU study was designed to:

- (a) Critically analyze the legal framework in which political finance is conducted in Zambia;
- (b) Assess the financial practices of all the political players in the electoral process, within the context of the existing legal framework; and
- (c) To assess the enforcement, by the authorities, of electoral law, as it pertains to political finance.

2.2. Methodology

2.2.1 Data Sources

This report is based on both primary and secondary data. Primary data was collected by the research team, from the key political players in Zambia’s electoral processes, as well as from selected Civil Society Organizations (CSOs) and media houses. The key political players in question were elected politicians (Members of Parliament [MPs]) and the political parties they belonged to. More primary data was collected from political party personnel responsible for documenting income and expenditure, independent experts on political party financing, and government officials (Electoral Commissioners, Registrar of Societies) incharge of monitoring and enforcing compliance with electoral and financial regulations. And the CSOs which provided primary data were selected Non-governmental Organizations (NGOs) with a reputation in Zambia’s electoral processes. Among them were the Foundation for Democratic Process (FODEP) and the Anti-voter Apathy Project (AVAP).

On the other hand, the media houses, both print and electronic, which were accosted in search of primary data were: the Zambia National Broadcasting Corporation (ZNBC) (a government-owned TV and radio station); the Times of Zambia and the Daily Mail (government-owned newspapers); the POST Newspaper (Zambia’s most popular privately-owned newspaper); and Radio Phoenix (Zambia’s most popular privately-owned radio station).

Finally, secondary data on the legal framework as well as on the financial practices of political parties was gathered through desk research which reviewed appropriate documents. The latter included: the national Constitution and the

Draft Constitution, the Electoral Code of Conduct, the Interim Report on Electoral Reforms, Political Party Annual Returns, and local newspapers.

2.2.2. Data Collection Methods

To collect primary data, the research team employed standardized questionnaires which were prepared by Transparency International. The same questionnaires, by the way, were also utilized by the other research teams in the NURU study in other African countries (namely, Mozambique, Namibia, South Africa, and Zimbabwe). They had also been put to use in similar studies in Latin America (in Argentina, Colombia, Costa Rica, Guatemala, Nicaragua, Panama, Paraguay and Peru) as well as in Asia (in Bangladesh, Indonesia and Nepal).

Additional primary data was collected through letters sent to the participant organizations.

And to assess accessibility, by the public, to information on political finance, 15 citizens from various walks of life were sent out with appropriate questionnaires. Among them were: 5 journalists, 5 university students and 5 ordinary citizens. The 15 went to political parties to ask for accounting information as well as to request for copies of annual returns. They also visited the media houses to solicit for information about the advertizing records and costs of political parties and their members. Finally, the 15 took their questionnaires to the Office of the Registrar of Societies to collect similar information. The Registrar of Societies is incharge of registering societies and political parties. The Registrar of Societies is also the custodian of registration documents and annual returns of all societies and political parties in Zambia. The data collected from all these places, by the 15 participants was downloaded into the database, by the researchers.

Secondary data was collected via desk research, from the sources outlined in 2.2.1 above.

2.2.3 Scope of the Study

Three political parties with MPs in Parliament were included in this NURU study. These were the ruling Movement for Multi-party Democracy (MMD), and the two largest opposition political parties - the Patriotic Front (PF), and the United Party for National Development (UPND). Also included in the study were: the presidential candidates of the three political parties and nine of their Members of Parliament.

This NURU study was based on the 2006 presidential and general elections. These were the last national elections that took place in Zambia. President Levy P. Mwanawasa, winner of the 2006 presidential elections, died in office in 2008. A presidential by-election was thereafter conducted. Mr. Rupiah Banda was elected as his replacement.

2.2.4 Data Analysis

As stated in 2.2.2 above, primary data were collected via standardized questionnaires. The questionnaires were, in turn, prepared in the context of a framework which recognized three different types of political financing as follows:

- (a) Non-electoral party finances whereby resources are mobilized to support the party structure and its activities in non-election periods;
- (b) Party finances during election campaigns whereby resources are mobilized to communicate with voters and to conduct other campaign related activities; and
- (c) Candidate finances (separately from their parties) in election periods, taking into account that individual candidates often raise and manage substantial sums of economic resources.

Desk research, likewise, conformed to this framework. Furthermore, data analysis was patterned on the NURU methodology which, like the questionnaires, was prepared by Transparency International. The NURU methodology consists of ten dimensions which measure transparency in political finance, as depicted in Table 1 below.

DIMENSIONS	SAMPLE QUESTIONS FOR DEVELOPING INDICATORS
1 Internal Book- keeping of Parties	Is book-keeping mandatory, by law? How professional is the staff, in practice?
2 Reporting to Control Agency	By law, do parties, candidates, service providers and the media render accounts on their role in political finance? When, and in what format?
3 Disclosure to the Public	Is it mandatory for State Agencies/parties/candidates to disclose information on political finance? In practice, how accessible is such information to experts, journalists and ordinary citizens?
4 Comprehensiveness or Scope of Reporting	Do reports include public and private sources? Do they cover income and expenditure? Do they include monetary contributions, contributions in kind, rebates, etc?
5 Depth of Reporting	By law, do reports include information on individual donations? Do they state the exact value and date of each donation? Do they clearly state the giver of every donation?
6 Reliability	Do the different actors include all the resources in the reports? How accurate are the reports, to the knowledge of the experts?
7 Preventive Measures	Are the donations channeled exclusively through official Bank Accounts? Are there any loopholes for anonymous donations?
8 Sanctions	What are the existing sanctions – civil, criminal and political – according to the law? In practice are the existing laws strictly enforced?
9 State Control	Do the experts find the institutions of State oversight independent? Are they evaluated as efficient? From the perspective of self-evaluation, do they lack human resources? Do they lack training?
10 Public Oversight	Do CSOs monitoring political finance exist? In which areas of political finance do they develop activities? Do experts evaluate organizations of public oversight as independent?

Table 2.1: The Ten Dimensions of Transparency in Political Finance

Source: The Crinis Project: Money in Politics – Everyone’s Concern, 2007

The ten dimensions of transparency presented in Table 1 above can, for convenience, be divided into three groups. The first group, consisting of dimensions 1, 2 and 3 (refer to Table 1 for details), measures levels of transparency in political finance. More specifically, dimension 1, which is “Internal book-keeping of (political) parties”, inquires into the manner in which political parties internally manage their financial resources. This dimension is (expected to be) guided by government regulations, internal party rules, the managerial capacity of the parties and their political will to abide by the regulations. On the other hand, dimension 2, which is “Reporting to Control Agency”, assesses the extent to which the parties and their members, as political players, actually report their financial activities to the appropriate government oversight, in this case, the Registrar of Societies and the Electoral Commission of Zambia (ECZ). More specifically, the focus of dimension 2 is on the extent to which the political actors provide reports detailing their financial activities, in accordance with the legal requirements. Dimension 2 includes, also, the extent to which government oversight bodies are given the opportunity, by the parties and their members, to request additional information from them and/or conduct an audit on their activities. Lastly, dimension 3, which is “Disclosure to the Public”, looks at the public’s access to political finance information. Here, the key question is the extent to which the data on political financing are available to the press, to ordinary citizens, and to academia.

The second group consists of dimensions 4, 5 and 6, which assess the quality of the data submitted to the electoral bodies, by the political players. The questions in this group seek to establish whether or not the information submitted to the government’s oversight bodies, by the political players, is credible, and encompasses all the relevant financial transactions. Such information is expected to include, for instance, hard cash donated, non-monetary sup-

port provided, the names and contact details of the providers of such cash or help, as well as the dates when it was provided.

And the third and final group of assessments consists of dimensions 7, 8, 9 and 10. The latter are measure compliance with established rules and regulations of political finance. The questions in this group are designed to examine whether or not: the channels through which the donations are made comply with the laid down legal procedures, if any (dimension 7); there are, in place, sanctions to be applied against any political player disregarding the regulations pertaining to political finance, and whether or not such sanctions are, in reality, applied in their full measure (dimension 8); the government’s oversight agencies are perceived to be independent, efficient and adequately manned (dimension 9); and whether or not there are CSOs that independently monitor political finance and, if so, the areas they operate in.

The quantitative index is calculated by averaging all the ten dimensions, each of which is given the same weight in the calculation.

2.2.5 Challenges Encountered

In the course of conducting the research that culminated into this report, the NURU research team encountered a number of challenges as follows:

(a) The research happened to take place at an unfavorable time in the history of Zambian politics. In the early months of 2010, a serious dispute erupted between the Movement for Multi-party Democracy (MMD), the party-in-government, and the Patriotic Front (PF), Zambia’s largest opposition political party. Both of these parties were included in the NURU study. The MMD accused a Dutch organization, the Netherlands Institute for Multi-party Democracy (NIMD), of secretly funding the PF, allegedly to initiate regime change in the country. Although the allegation was eventually proved to be false, it left a very hostile political environment behind it. In the aftermath of the impasse, officials of political parties became reluctant to discuss with ‘outsiders’, issues pertaining to their internal political finance. Their fear was that they could unknowingly divulge sensitive financial information to people who would then pass it on to their political opponents. The NURU researchers became victims of this hostility, as they were shunned even by some of the party officials included in the study.

(b) Zambia does not have a law that requires organizations to reveal financial information to members of the general public. As such, all the media houses included in the study refused to release, to the NURU research team, any financial information they had about political parties and their candidates. Their explanation was that divulging such information to the public would amount to a breach of their business contracts with the political parties and their members. As such, no information was available on how much money the parties spent on air time and on advertizing despite several requests for it by the research team.

(c) The Office of the Registrar of Societies, which receives annual returns from political parties, does not have the mandate to divulge, to the public, the financial information of the political parties submitted to it. The NURU research team was advised to submit an application requesting for such information. Later, the NURU research team was informed that its application had been forwarded to the Permanent Secretary in the Ministry of Home Affairs, for approval, or otherwise. To this day, no official communication has been given to the NURU research team, by either the Registrar of Societies or the Permanent Secretary, despite several follow up visits, by the researchers.

3.0 The Legal Framework of Political Finance

In Zambia, only one institution, the Registrar of Societies, is mandated to ask for and receive audited accounts from political parties (and from all other legal entities registered in the country). This mandate has been bestowed upon the institution by Rule 16(1) and (2) of the Societies Act of the Republic of Zambia. The Rule requires that political parties (and all the other legal entities registered in Zambia) file annual returns, by filling out Form S.O.9.

- A checklist obtained from the Office of the Registrar of Societies in the capital, Lusaka, stipulates that Form S.O.9:
- (a) Must be duly completed, signed and submitted in triplicate;
 - (b) Must be accompanied by one copy of the annual report and another copy of the financial report of the year before;
 - (c) Must be accompanied by a fee of K100, 000 = 00 (i.e. about US \$21), payable to the Registrar of Societies;
 - (d) Must be submitted before the 31st March of every year; and that
 - (e) A receipt must always be obtained for every payment made at the Office of the Registrar of Societies.

In the event that a Society fails to submit annual returns as required, or is simply late in submitting them, Rule 16 requires that the Registrar of Societies sends, to that Society, a “NOTICE FOR DEFAULT AND LATE SUBMISSION.” In addition to reminding the Society’s managers of the legal requirement to submit annual returns, the notice stipulates the penalty for breaching Rule 16 of the Societies Act as follows:

- (a) A penalty of K540, 000 = 00 (i.e., US \$112) slapped on the Society itself;
- (b) A penalty of K540, 000 = 00 (i.e., US \$112) imposed on each of the top 10 office-bearers, bringing the total to K5, 400, 000 = 00 (i.e., US \$1120); Or
- (c) The number of years defaulted, multiplied by K100, 000 = 00 (i.e., about US \$21).

As a result of the hostility described in Section 2.2.5 (a) above, two of the three political parties included in the study flatly refused to provide the NURU researchers with copies of their annual returns for the year 2006. Afterall there is no law, as already stated, that obliges political parties (and other legal entities) to release, to members of the general public, any information pertaining to their activities. Only the third political party availed the NURU researchers with a copy of its annual returns. Even in the latter case, however, the copy of the annual returns was not obtained officially. Rather, it was a sympathizer of the researchers who made it available.

In that milieu, it should have been possible for the NURU researchers to secure copies of the parties’ annual returns from the Office of the Registrar of Societies. Surprisingly, the Registrar of Societies required the researchers to present their request in writing, which was done. As elaborated in Section 2.3.5 (d) above, the law does not oblige even the Registrar of Societies to make available, to members of the general public, financial information submitted to it by political parties, or indeed, by any other legal entity registered in Zambia.

The staff at the Office of the Registrar of Societies explained that the application, by the NURU researchers, was going to be forwarded to the Permanent Secretary in the Ministry of Home Affairs, for consideration and clearance. Up to the time this report was being written, which was about six months later, no official response had been given to the NURU researchers’ application to access the financial information of the three political parties in the study.

Nonetheless, the unconfirmed information stumbled upon by the NURU researchers was that the party-in-government had allegedly not filed its annual returns for the last five years. As such, both the Registrar of Societies and the Permanent Secretary in the Ministry of Home Affairs had to do all they could, to avoid releasing any information about political party annual returns, lest they exposed and embarrassed the ruling party.

On a different note, the annual returns of one of the political parties which were obtained by the NURU research team lacked detailed information. More specifically, they did not contain any financial information at all. This is because FORM S.O.9 which is filled out when submitting annual returns does not require that financial information be furnished. Expected to be stated on the form are simply the following:

- (a) The name of the organization (the political party in this case);
- (b) The names and designations of the office bearers for the current year;
- (c) The date of the last annual general meeting;
- (d) The present number of members of the organization;
- (e) Whether or not there has been an application for change of items under which the organization was initially registered.
- (f) The date when the form was completed; and, finally
- (g) The signatures of any two of the office bearers, whoever they may be.

FORM S.O.8, entitled “Notice of Change of Office Bearers”, is also filled out, in accordance with Rule 15 of the Societies Act of the Republic of Zambia. It is submitted along with the annual returns. Its purpose is to notify the

Registrar of Societies whether or not there have been any changes in senior personnel in the past year. Thus, both FORMS S.O.8 and S.O. 9 are not designed to capture information about how much money the political parties and their members raise every year, where, exactly, they raise it from, how they spend it, on what they spend it, and whether they account for it in a transparent and accountable manner or not. .

3.1 Laws Relating to Non-electoral Financing

Zambia has a number of constitutional provisions which address, in very specific ways, various aspects of the country’s electoral processes:

(a) Election of the Republican President
Article 34 of the national Constitution stipulates several conditions which a person aspiring to the Presidency of the Republic of Zambia should satisfy.

(b) Election of Members of Parliament
Article 88(6) stipulates the conditions governing election to Parliament. And Article 71(2) states the conditions under which an MP can lose his or her seat in Parliament.

(c) The Electoral Commission of Zambia
The Electoral Commission Act, No. 24 of 1996 provides for the creation of a full-time Electoral Commission as well as its internal organization and operations.

(d) Elections
The Electoral Act, Chapter 13 of the Laws of Zambia is the principal law on elections in the country. It stipulates how parliamentary and presidential elections should be conducted.

(e) Electoral Offences
Electoral (general) Regulations, S.I. No. 108 of 1991 prescribe the various offences that are prohibited during elections.

(f) Electoral (General) Conduct
This is referred to also as the Electoral Code of Conduct. It is provided for under the Electoral Act No. 12 of 2006. It stipulates the behavior expected of all persons and of all political parties during election campaigns as well as during elections themselves. It also outlines the rights and duties of individuals and political parties, together with the prohibitions imposed on them.

(g) Local Government Elections
The Local Government Elections (Amendment) Act, 1997 provides for the establishment of the Local Government Electoral Commission. Its function is the supervision and conduct of local government elections.

(h) The Referendum
Chapter 14 of the Laws of Zambia is the Referendum Act. It provides for the establishment of the Referendum Commission. It also stipulates the manner in which the Referendum Commission should operate.

4.0 Research Findings

In this study, measurement of the degree of transparency and accountability in the various aspects of political financing in Zambia’s selected political parties was carried out in accordance with the NURU methodology. The NURU methodology, to recapitulate, quantifies the transparency and accountability of political financing practices in political parties using a set of ten (10) dimensions. The scores obtained for each of the items in each dimension are averaged or aggregated to yield a mean score. It is this mean score that is then interpreted to indicate the degree of transparency and accountability, or lack thereof, in political financing in political parties.

Furthermore, in the NURU methodology, every mean score is given a specific interpretation. The scale used to in-

terpret the scores ranges from 0 to 10. A score of 0 indicates complete failure, by the country in question, to meet the set criteria of transparency. On the other hand, a score of 10 indicates complete satisfaction of the set criteria of transparency.

The NURU scale of 0 to 10 is, itself, divided into three categories of evaluation as follows:

- (a) 0 to 3.3 is interpreted as “insufficient”;
- (b) 3.4 to 6.7 is interpreted as “regular”; and
- (c) 6.8 to 10 is interpreted as “satisfactory”.

4.1 The NURU index for Zambia

Using the NURU methodology, Zambia’s mean score was calculated as 1.1 (see Table 4.1 and Figure 4.1). This mean score was interpreted as being very insufficient. The reason for this low mean score is that four of the ten dimensions of the NURU methodology used to calculate the country’s mean score were equally very low. The specific details of the four very low scores, all of which lie below Zambia’s mean score of 1.1, are as follows: Reporting to the Controlling State Agency (0.3); Comprehensiveness or Scope of Reporting (0.0); Depth of Reporting (0.0); and Sanctions (0.2). One other dimension, Disclosure to the Public, had exactly the same aggregate as Zambia’s mean score of 1.1.

On the other hand, the remaining five dimensions used in the NURU methodology to quantify the degree of transparency and accountability in the political parties yielded aggregate scores which were slightly above Zambia’s mean score of 1.1. These dimensions were as follows: Internal Book-keeping of the Political Parties (1.2); Reliability of Reporting (1.3); Preventive Measures Put in Place (2.1); State Oversight (1.4); and, finally, Civil Society Oversight (3.0).

DIMENSION	Mean Score
Total	1.1
1 Internal Book-keeping of Parties	1.2
2 Reporting to Control Agency	0.3
3 Disclosure to the Public	1.1
4 Scope of Reporting	0
5 Depth of Reporting	0
6 Reliability of Reporting	1.3
7 Preventive Measures	2.1
8 Sanctions	0.2
9 State Control	1.4
10 Civil Society Oversight	3

Table 4.1: The NURU Index for Zambia

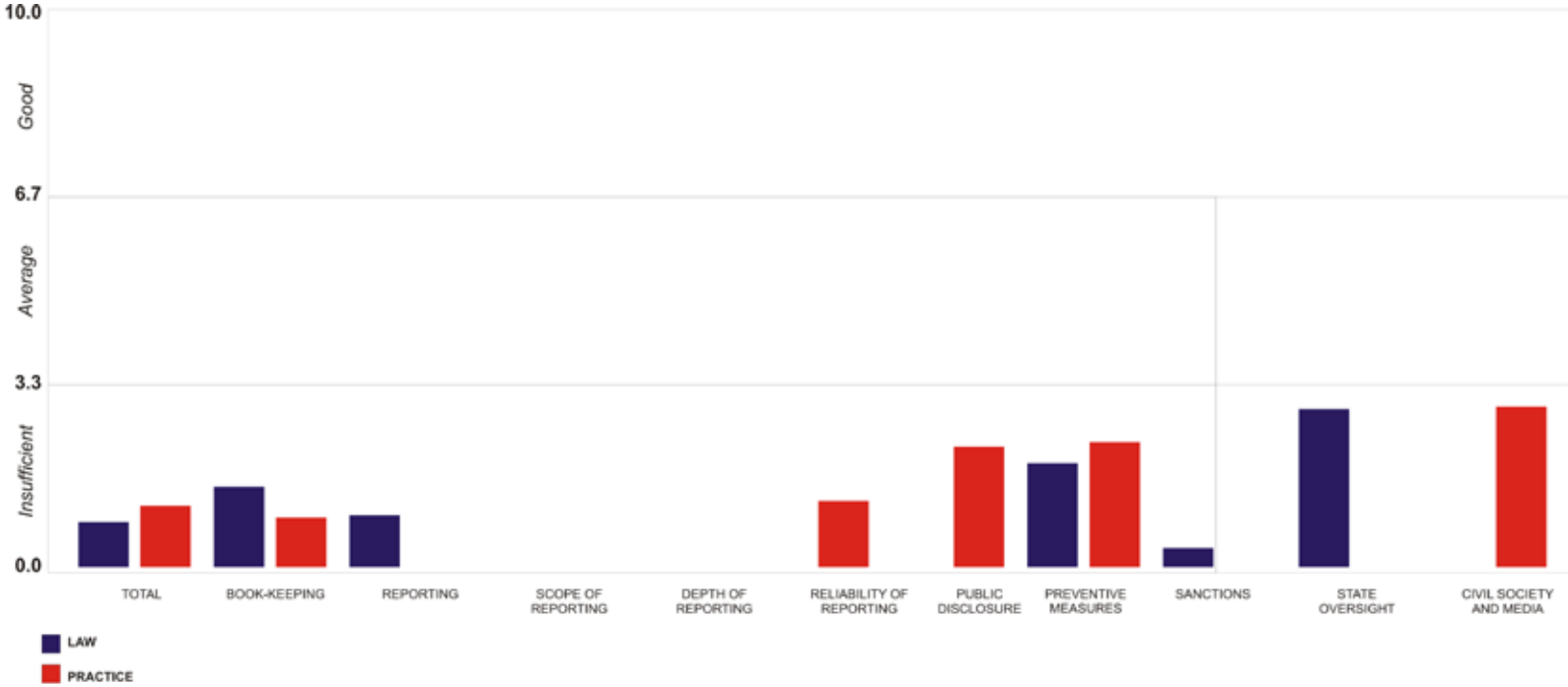


Figure 1: The NURU Index for Zambia

4.2 Comparison Between the Law and Practice

A comparison was made between what the law says about political financing and what actually happens in practice in Zambia’s political parties. A mean score of 0.9 was obtained for the former and that of 1.2 was obtained for the latter. Both scores were interpreted as being very insufficient.

The mean score of what the law says about political financing was very insufficient (0.9) because the majority of the scores of the dimensions constituting it where themselves very low. To be specific, six of the dimensions were scored as follows: Reporting to Control Agency (0.6); Comprehensiveness or Scope of Reporting (0.0); Depth of Reporting (0.0); Reliability of Reporting (0.0); Disclosure to the Public (0.0); and Sanctions (0.3). The remaining four dimensions lay above the mean score of the law (i.e., 0.9) as follows: Internal Book-keeping of the parties (1.5); Preventive Measures (1.9); State Oversight (2.8); and CSOs Oversight (3.0).

Similarly, the mean score of what actually happens in practice was very insufficient (1.2) because the majority of the dimensions constituting it were themselves very low. Specifically, six of the dimensions were scored as follows: Internal Book-keeping of Political Parties (0.9); Reporting to Control Agency (0.0); Comprehensiveness or Scope of Reporting (0.0); Depth of Reporting (0.0); Sanctions (0.0); and State Oversight (0.0). The remaining four dimensions yielded scores above the mean score of what happens in practice (i.e., 1.2): Reliability of Reporting (1.3); Disclosure to the Public (2.2); Preventive Measures (2.3); and Civil Society Organizations Oversight (3.0).

4.3 Political Parties and Internal Book-keeping

As explained in Section 3.0 above, political parties, (like all other legal entities registered in Zambia), are required by law to file annual returns with the Registrar of Societies. They must always do so before the 31st of March every year. However, such annual returns may not necessarily contain financial accounting information. For, the law does not specifically require it. Instead, the law is interested in changes, if any, in an entity’s office-bearers, as well as in its registration conditions. Concerning finances, the law simply states that “An authorized officer may, at any time by notice under his hand, order any registered society (including political parties) to furnish him, within a time not less than twenty-eight days to be stated in such an order, with duly audited accounts of such society”. The law stipulates also the kind of financial sanctions that may be applied against any society that fails to file annual returns.

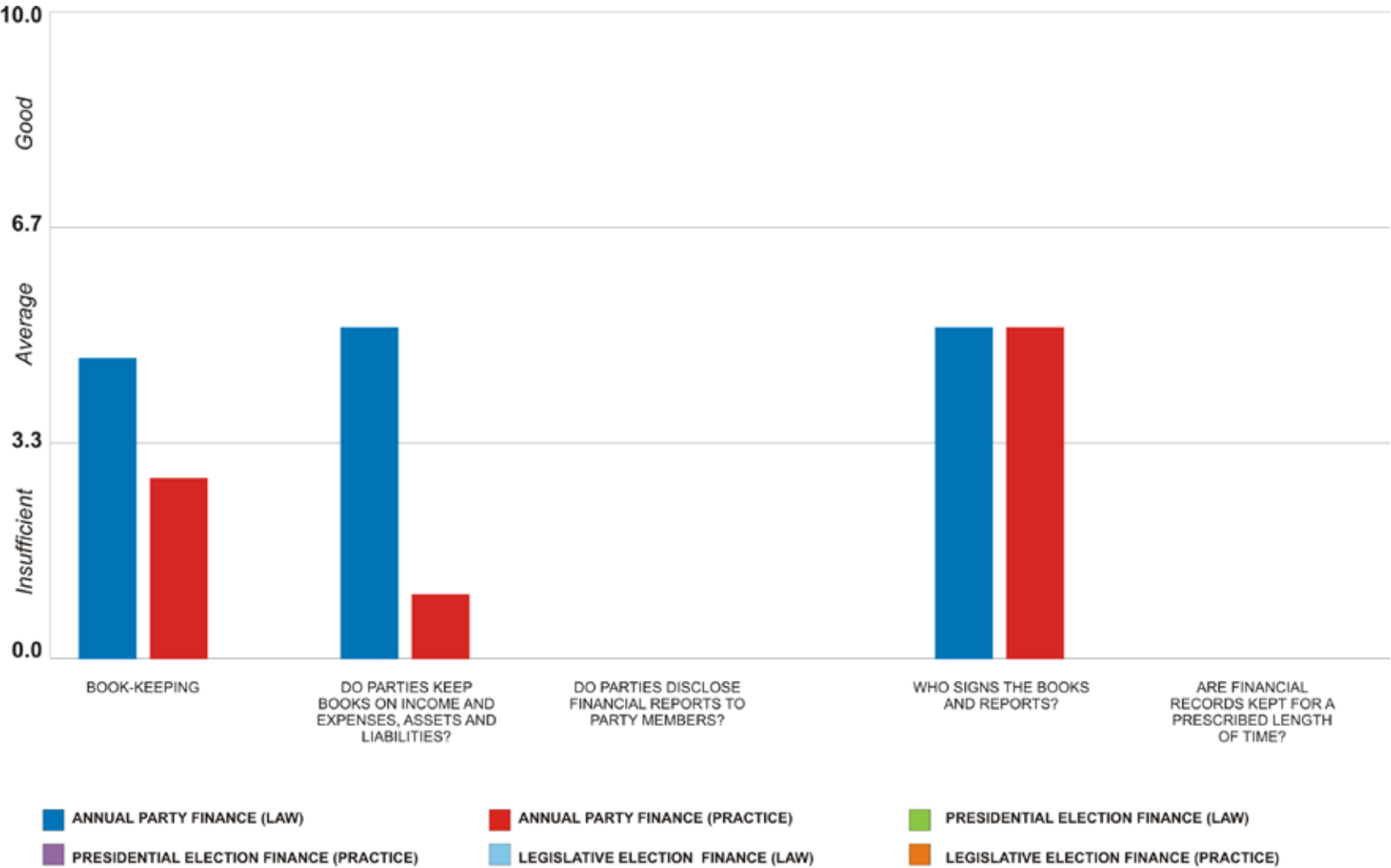


Figure 4. 3: Internal Book-keeping of Political Parties

Using the NURU methodology, the features of what the law says vis-à-vis the internal book-keeping practices of the political parties was calculated as 4.5, which is interpreted as regular. On the other hand, the score of what actually happens in practice was found to be 2.7, which means that it is insufficient.

4.4 Reporting to Control Agency

Political parties, like all other legal entities registered in Zambia, are required to report their activities to a government control agency, known as the Registrar of Societies. They are required to do so by filing annual returns with the entity, before the 31st of March every year.

On the other hand, presidential candidates are expected to declare their assets to the Chief Justice of the High Court, when declaring their candidature for the Republican Presidency. The Republican President is not required to declare his or her assets at the end of the presidential term of office, though. And legislative candidates are not required by law, to declare their assets before vying for parliamentary seats. The law does not also require donors to political parties to make a declaration about such activities. It also does not require vendors or media companies to report, in specific terms, their financial dealings with political parties.

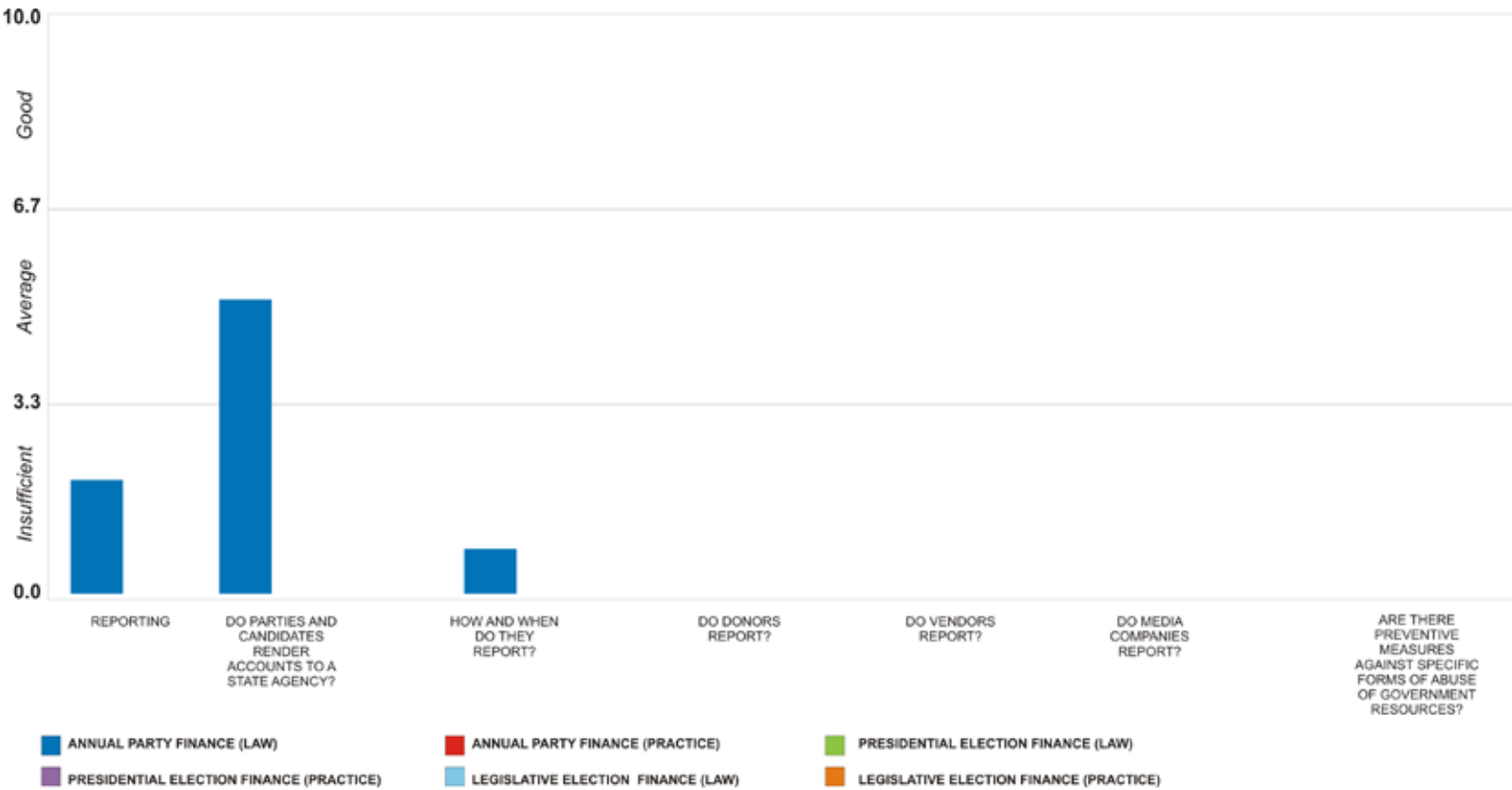


Figure 4.4: Reporting to a State Control Agency

Concerning these issues, the research findings established that the ruling Movement for Multi-party Democracy had not filed its annual returns for the last five consecutive years despite the legal requirement to do so. The United Party for National Development (UPND) and the Patriotic Front did, however, comply with the requirement of the law, although the former did not avail the researchers with a copy of its annual returns despite having been written to about it.

4.5 Scope of Reporting

The law is very clear on the non-financial items that should be included in a political party’s annual returns filed with the Registrar of Societies. It is, however, not as clear when it comes to money matters. The law does not generally expect financial details to be included in the annual returns filed with the Registrar of Societies. As such, it also does not pay any attention to a political party’s sources of funding. It is only in rare circumstances, such as those of public complaints about financial irregularities, that the Registrar of Society would write to the party in question, demanding for a detailed and audited financial report from it.

The researchers were able to obtain only a copy of the annual returns of the Patriotic Front. As such, it was difficult to establish the full picture of the scope of the political parties’ financial reporting by relying on annual returns from one political party only. The annual returns filed by the Patriotic Front were on Form S.0.9. The form did not require that financial information be supplied as well. Instead, only non-financial information was supplied. More specifically, only the names of the office-bearers were provided.



Figure 4.5: Scope of Reporting

The law goes beyond merely requiring political parties (and all other legal entities registered in Zambia) to report, annually, on their activities. It provides, as well, specific forms that must be filled out when submitting annual returns to the Registrar of Societies. Thus, the information that the parties submit to the Registrar of Societies is determined by the details in the forms they are required to complete while filing annual returns.



Figure 4.6: Depth of Reporting

The research findings established that the forms to be completed when filing annual returns with the Registrar of Societies were not detailed enough to be able to capture the full picture of the financial status of the political parties. To begin with, and as already stated elsewhere, the forms in question do not require the political parties to supply any financial information. This is surprising, though, because one of the items on the checklist given to legal entities, including political parties, upon being registered, stipulates that a society shall “keep one or more books of account showing details of all moneys received and payments made by the society (Rule 3).” What this means is that, political parties (and all other legal entities registered in Zambia, are expected to keep accurate records of their financial activities, but only for themselves and not for later submission to the Registrar of Societies. It is for this reason that the copy of the annual returns obtained from the Patriotic Front did not have any financial information whatsoever.

4.7 Reliability of Reporting

The dimension of the reliability of reporting was intended to establish what the law actually stipulates, as a way of ensuring, first, that the financial records kept by political parties do, indeed, contain accurate information reflecting the financial activities of the parties. Second, the dimension was intended to establish whether the requirements of the law are enough to ensure that the annual returns, and any other information submitted to government, by the political parties, is accurate or not.

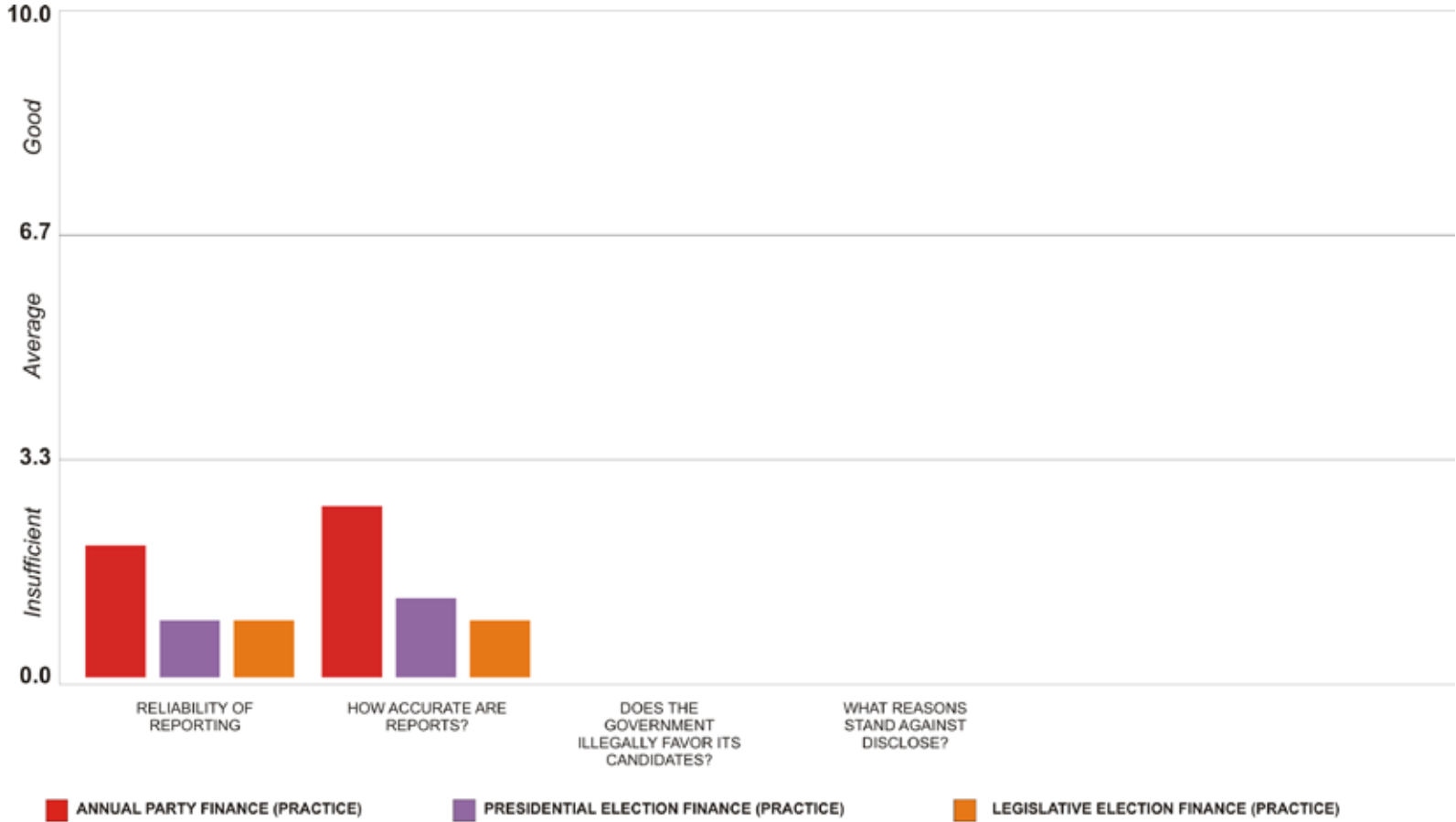


Figure 4.7: Reliability of Reporting

The research findings established that it is possible to get only a general picture of the activities of the political parties, from their reports. This is because the reports that are prepared and submitted to the Registrar of Societies contain non-financial information only. The reports are silent on the donations made to the parties; it is also not possible to deduce the extent to which the party-in-government benefits from State resources, although the Zambian people believe that this is a big problem. The reason why it is not possible to get accurate financial information from the

parties’ reports is that the law does not provide detailed guidelines stipulating what, exactly, should be reported on.

4.8 Public Disclosure

Zambian law does not require political parties to disclose their accounting information to the public. This is why the NURU research team was not availed with any financial information, by the political parties. The law does not require the government to provide subsidies to political actors. This is why the NURU researchers could not obtain information about such subsidies from anywhere. The law does also not require that political actors be given free airtime. This, again, explains why the NURU researchers could not find any information about free airtime for political actors.

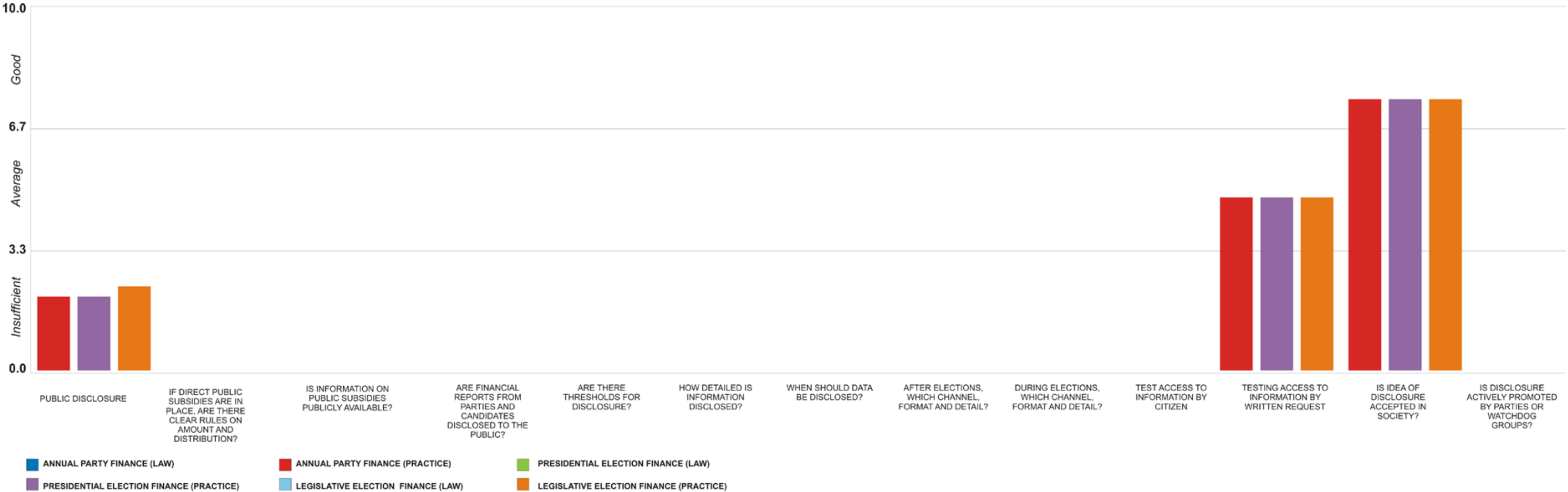


Figure 4.8: Public Disclosure

4.9 Preventive Measures

Zambian law concerning reporting of financial accounting information to the Registrar of Societies cannot be said to be adequate. This is because it does not address the areas that,

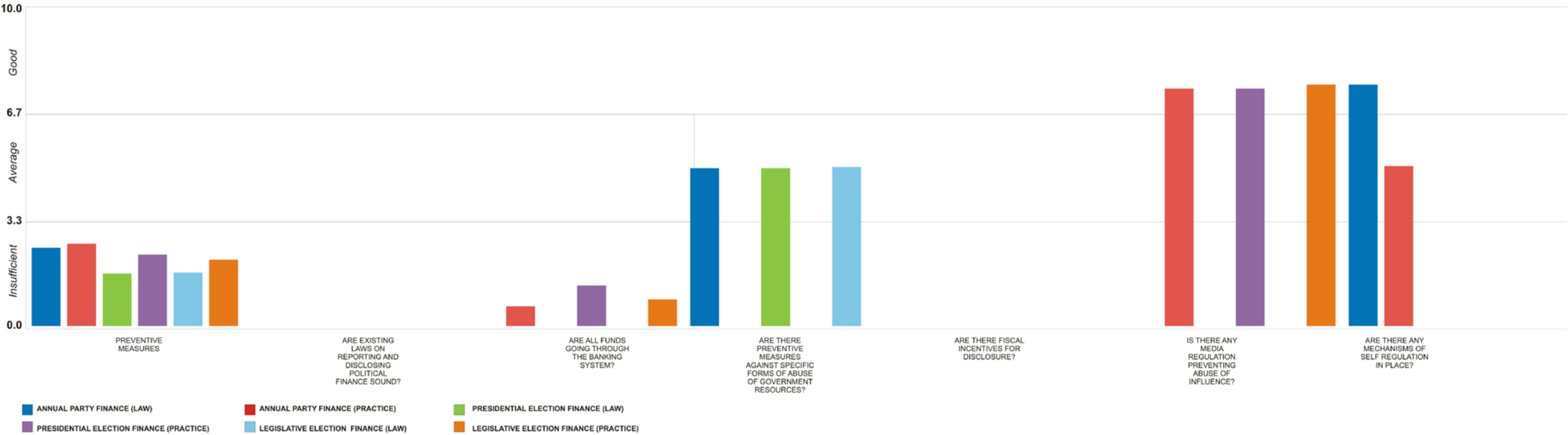


Figure 4.9: Preventive Measures

in accounting practice, may be regarded as sealing the loopholes that allow for fraudulent accounting. For example, the law does not require that all donations be reported, including their sources and amounts. The law is also silent on the need for all money transactions to be conducted through the banking system. No fiscal incentives exist, to entice donors to report their giving to political parties.

4.10 Sanctions

Sanctions are, in this case, fines (to be) imposed on a political party, for financial misconduct, or for failing to file annual returns. *Zambian* law does, indeed, stipulate the financial sanctions that may be applied against any political party that fails to submit annual returns. The problem, though, is that such sanctions are not harsh enough to serve as a deterrent (see Section 3.0 of this report, for details).

The research findings established that sanctions against erring legal entities are applied only when the entity in question is not the party-in-government. For examples, and as stated elsewhere, the ruling Movement for Multiparty Democracy had not, up to the time this report was being written, not filed annual returns for the last five consecutive years. Despite sanctions being stipulated, the Registrar of Societies could not apply them against the party.

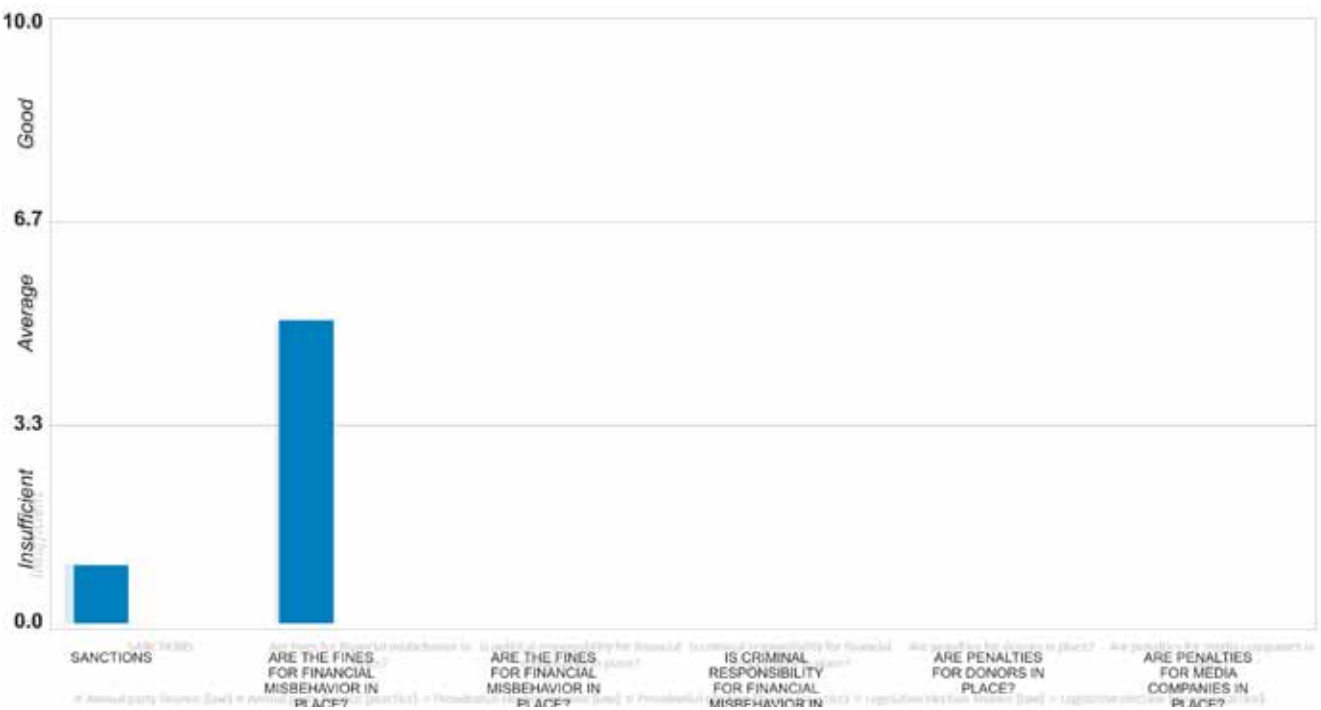


Figure 4.10: Sanctions

4.11 State Oversight

State oversight refers to the watchdog functions of the Registrar of Societies and the Electoral Commission of Zambia (ECZ). The law allows the two institutions to supervise the activities of political parties in Zambia, focusing on different aspects. The Registrar of Societies’ role is to ensure that political parties stick to their terms of registration and file annual returns by March 31st every year. The ECZ, on the other hand, monitors the activities of political parties, to ensure that all their electoral activities are in line with the expectations of the country’s electoral law.

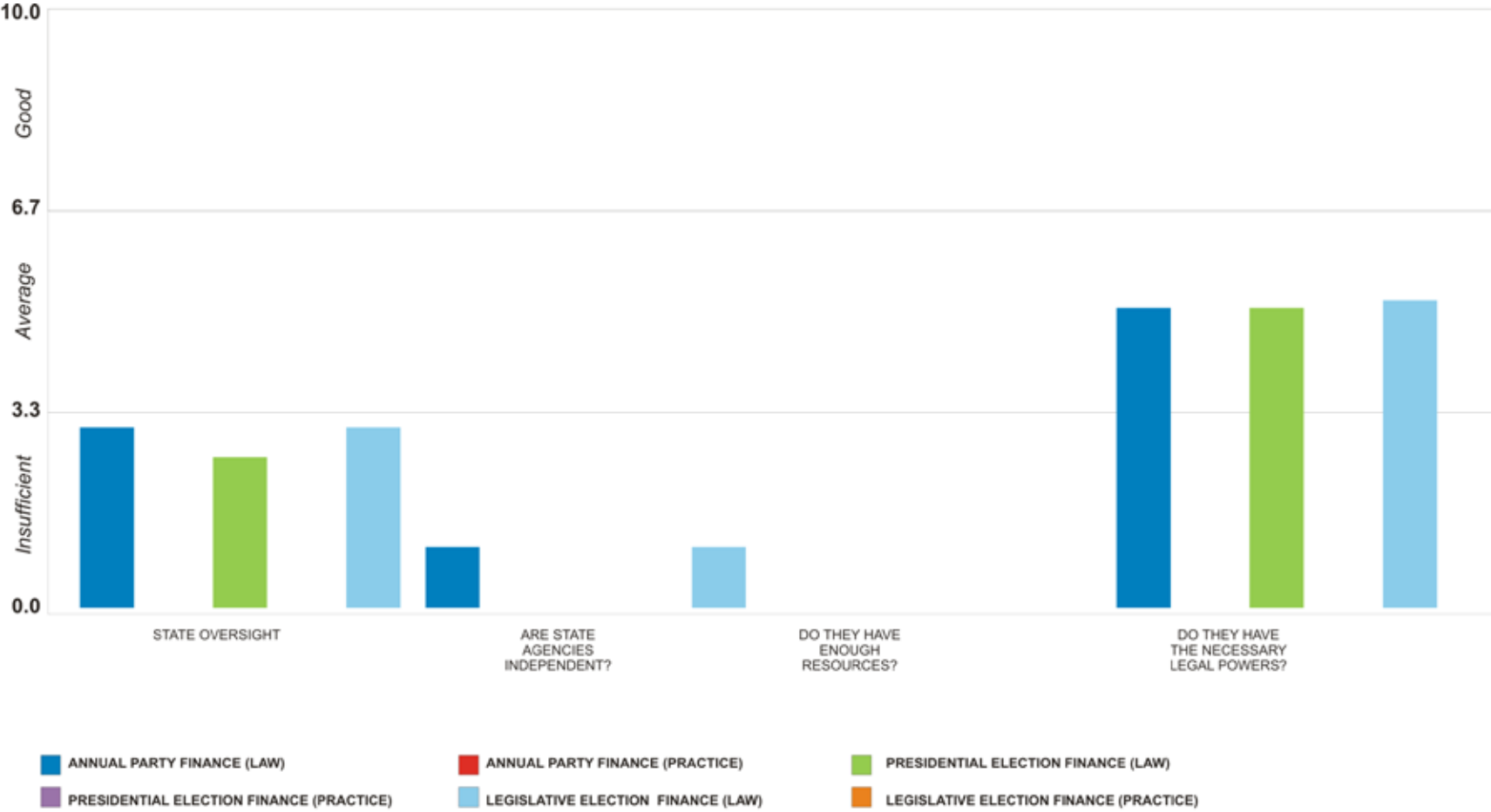


Figure 4.11: State Oversight

The powers of the two institutions are enshrined in the Constitution of the Republic of Zambia.

In practice, however, the work of the Registrar of Societies is made difficult by the fact that the officer occupying the office is a government appointee. As such, he or she cannot take action that is perceived to be anti-government, should the party-in-government be found to have breached the law. Furthermore, the Registrar of Societies’ continued stay in office is not guaranteed by the law. Rather, it is dependent upon the government’s wishes.

4.12 Civil Society and Media Oversight

Zambia has a very vibrant civil society. Many CSOs as well as media companies – (both print and electronic -) are to be found addressing various issues in society. However, because the law does not provide for their monitoring of money matters in political parties, they do not, and cannot, exercise direct oversight over the financial activities of political parties.

The evidence gathered in this NURU study indicates that the Foundation for Democratic Process has, in the past, conducted financial management workshops for political parties. This, nonetheless, was done voluntarily by the NGO. It must be added that this is about how far NGOs and media companies can go in their discussions of money matters with political parties. Beyond that, the political parties cannot cooperate; for, there simply is no law that requires that political parties reveal their financial details to civil society organizations, or any other such entities. This,

thus, explains why the research team did not come across information suggesting CSOs’ direct oversight of party activities.

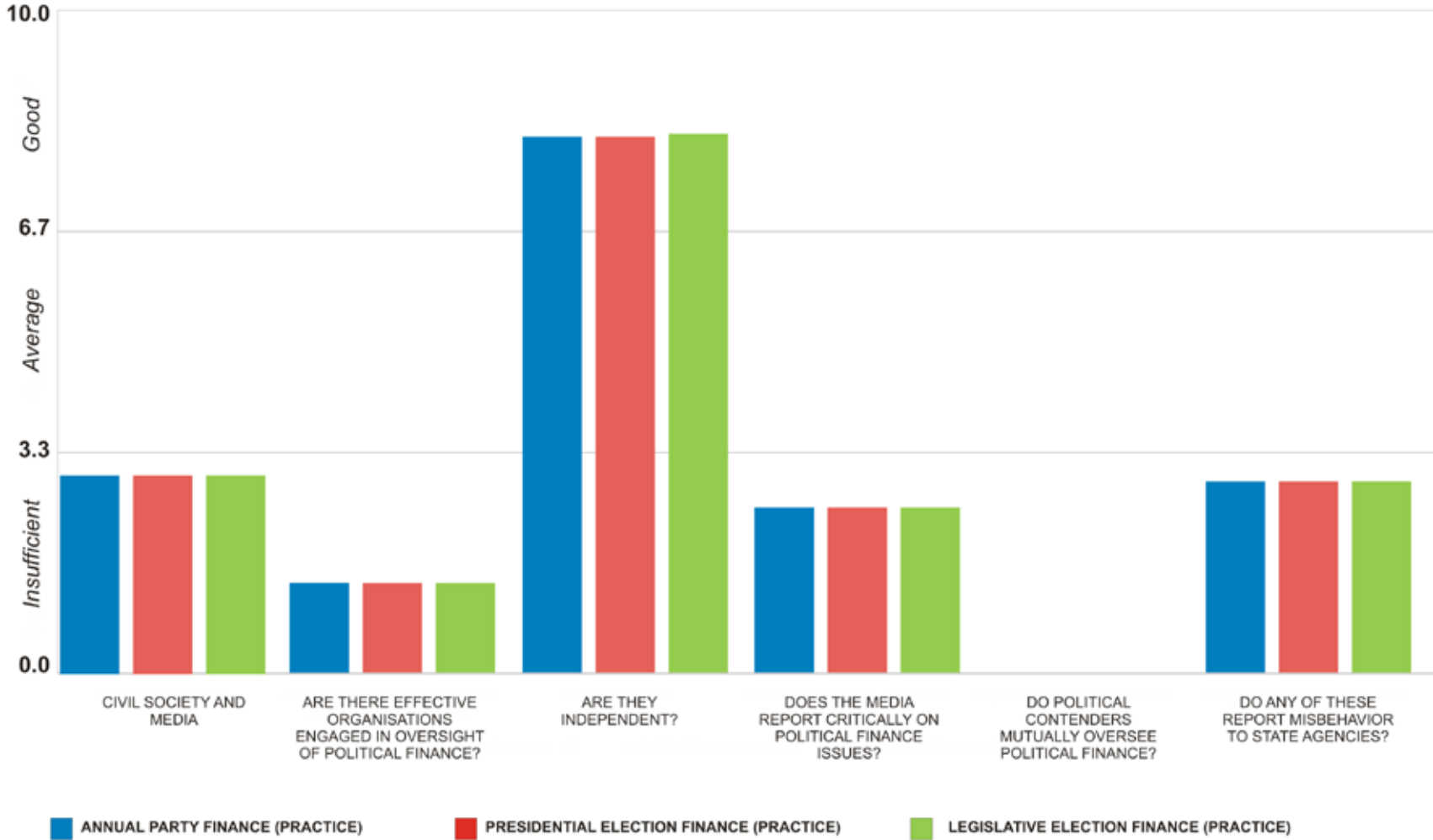


Figure 4.12: Civil Society and Media Oversight

5.0 Conclusion

The findings of the research indicate that Zambia’s electoral behavior and practices have been shaped largely by the constitution-making process which, scholars say, has been inconclusive. It all began in 1973, when Zambia became a One-party State which lasted until 1990. During that 17-year period, officially referred to as the Second Republic, only one political party, UNIP, was legally allowed to exist. The institutional description one often heard, then, was that of “The party and its Government”. Because the government was, in a sense, looked at as the “property” of the party (UNIP), the party did not have to report anywhere, or to anyone, outside of itself, about its financial activities. To the contrary, it was free to help itself to State resources, as well as to the use of the national media as it liked.

The findings of the research indicate further that Zambia’s current political dispensation lacks transparency and accountability in its political financing processes. This, again, is because the changes that were made to the Republican Constitution in 1990 did not go far enough to ensure that such values were enshrined in the new Constitution, as required in a democratic dispensation..

Furthermore, Zambia’s legal framework does not require political parties to give a full account of their sources of funding, how much of it they get annually, how they use such funding and whether they account for it accurately and

transparently or not. As such, it is not possible to establish how much money Zambian political parties receive and spend annually. This, thus, denies the citizens vital information they require in order to be able to make informed political decisions and choices.

On a different note, Zambia’s political environment cannot be said to be fair to all the political players. This is because the ruling party has been allowed access to State resources, through the office of the Republican President and that of the Republican Vice President respectively. The Republican President and the Republican Vice President are allowed to freely use government vehicles and the media while campaigning for their political party. The leaders of the opposition political parties are not entitled to similar privileges.

Finally, the Registrar of Societies, which is mandated to receive annual returns, is not independent. To begin with, the officer occupying the office of the Registrar of Societies is a government appointee. As such his or her office cannot apply sanctions against the appointing authority, even when the party-in-government has breached the law pertaining to its operations. A case in point is the current situation whereby the ruling MMD is said to have failed to file annual returns for five consecutive years, and the Registrar of Societies has not been able to, and cannot act against that breach of the law.

6.0 Recommendations

In order to address the foregoing shortfalls, it is hereby recommended as follows:

- (a) Zambia should have a fresh and critical look at the legal framework in which political finance takes place, if transparency and accountability are to be accorded the significance they deserve to have in electoral processes. More specifically, a law is required that should compel all political parties to furnish the Registrar of Societies with detailed information about their financial activities. Such a law should require all political parties to reveal the names of their funders or donors, the amounts given to them, the dates when the funds were given to them, and, finally, how such funds were utilized. Furthermore, the law should require that all financial transaction be conducted through the official channels provided by the banking industry.
- (b) There is also need for a constitutional clause requiring that all political parties have their books of accounts audited by independent auditors every year. Such a clause should further require that political parties keep their books of accounts open to the party members as well as to the general public. The parties’ audited books of accounts should be kept by the parties for at least ten years before being disposed of, if they have to be.
- (c) A law should be passed requiring the Republican President to declare all his or her assets at the end of the presidential term of office. Such a law should further require that the declaration of assets made by the President be audited by an independent expert. Members of Parliament should undergo the same process as well.
- (d) An upper ceiling of the amount of money that can be spent by political parties and their candidates before, during, and after the elections should be set.
- (e) Sanctions against breaches of the Societies’ Act should be strengthened and revised regularly, to make them an adequate deterrent. The current sanctions do not appear to be stiff enough to serve as a deterrent.
- (f) In addition to proving sanctions against breaches of the Societies’ Act, incentives should be provided for consistently fulfilling all the legal requirements. And, finally;
- (g) Civil Society Organizations generally, and media institutions in particular, should be given a platform on which to monitor, scrutinize and report on political financing in the nation. As it is now, there is no legal provision allowing them to demand for financial information from any legal entity, including political parties.