

# **Beyond Policy Transfer: How the Implementation of Electoral and Judicial Reforms Plays out in Zambia's Interactions with the European Union**

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## Abbreviations

ACP	African, Caribbean and Pacific States
APRM	African Peer Review Mechanism
CEEC	Central and Eastern European Countries
COMESA	Common Market for Eastern and Southern Africa
CSO	Civil Society Organisations
CSP	Country Strategy Papers
Danida	Danish International Development Agency
DNRPC	Department for National Registration, Passports and Citizenship
EC	European Commission
ECGIT	European Commission Governance Incentive Tranche
ECZ	Electoral Commission of Zambia
EDF	European Development Fund
EIDHR	European Instrument for Democracy and Human Rights
EMB	Electoral Management Body
EPA	Economic Partnership Agreement
EU	European Union
FAFA	Financial and Administrative Framework Agreement
FNDP	Fifth National Development Plan
FODEP	Foundation for Democratic Process
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GS	Governance Secretariat
HRCZ	Human Rights Commission of Zambia
IDEA	International Institute for Democracy and Electoral Assistance
INESOR	Institute of Economic and Social Research
IT	Information Technology
JASZ I	Joint Assistance Strategy for Zambia (2007 – 2010)
JASZ II	Joint Assistance Strategy for Zambia (2011 – 2015)
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
MMD	Movement for Multiparty Democracy
MoFNP	Ministry of Finance and National Planning
MoU	Memorandum of Understanding
NAO	National Authorising Officer
NDP	National Development Plan
NEX	National Execution
NGO	Non Governmental Organisations
NIP	National Indicative Programmes

NSA	Non-State Actors
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
PAN	Paralegal Association Network of Zambia
PF	Patriotic Front
PFM	Public Finance Management
PRSP	Poverty Reduction Strategy Papers
PTE	Policy Transfer Entrepreneurs
SACCORD	Southern African Centre for the Constructive Resolution of Disputes
SNDP	Sixth National Development Plan
TIZ	Transparency International Zambia
UNDP	United Nations Development Programme
UNZA	University of Zambia
UPND	United Party for National Development
USAID	United States Agency for International Development
ZGF	Zambian Governance Foundation



## **1. Introduction**

In this study, I examine the mechanisms through which developing countries such as Zambia adopt and implement European Union (EU) transferred governance reforms. I analyse these mechanisms in order to identify the inherent factors that encourage countries like Zambia to selectively adopt or oppose the policies promoted and prescribed through the EU's governance approach. The study is thus situated in the broader research on policy internalisation from the perspective of the recipient and EU development cooperation. Within this broader research field, I address the limitations in the available literature on policy internalisation and the approach of the EU's development cooperation in developing countries. In this introductory chapter, I briefly highlight the research gaps and introduce the EU governance approach to situate this study. Thereafter, I detail the research purpose and main question. Before concluding the chapter with an outline of this study, I emphasise the theoretical and empirical contributions of this dissertation to existing and future literature, the improvement of EU development cooperation in Zambia as well as Zambia's political, institutional, economic and social challenges..

### **1.1. Research Rationale**

As mentioned, in this study I analyse adoption mechanisms in order to identify the inherent factors encouraging developing countries to selectively adopt or oppose EU transferred policies. The main motivation for this analysis is studies examining how and why developing countries internalise and enforce policies during the implementation stage of the policy-making process from the recipients' perspective are limited. I elaborate on this gap further in chapter two. Simultaneously, there is an abundance of research on the transfer of policies, however it emphasises the policy entrepreneur and makes assumptions for instance that the transfer processes are automatic, smooth and uncontested (Björkdahl & Elgström, 2015, p. 134). Björkdahl, Chaban, Leslie and Masselot (2015), as well as Diez (2005) challenge this assumption by arguing that with such arguments, the policy recipient's agency remains vague and their normative framework or ability to define their own is ignored. Agency in this dissertation refers to showing a sense of free will, choice and autonomy in addition to political action or conduct (Hay, 2002, p. 94). Furthermore, there is a premise that developing countries adopt due to fear of consequences or material conditions (Dolowitz & Marsh, 1996, p. 356; Marsh & Sharman, 2009, p. 280; Risse, Ropp & Sikkink, 1999; Zimmermann, 2016).

### **EU Governance Approach**

To provide context and better understand why the EU's governance approach is of interest here, I introduce in this section the EU governance approach and European Commission Governance Incentive Tranche (ECGIT). Looking back at the just mentioned assumptions in literature, they can be linked to the EU's approach in its development cooperation. With

increasing EU development cooperation provided to Zambia and other partner countries, the European Commission (EC) was under pressure to ensure its efficiency and effectiveness for it to benefit the disadvantaged. The EU introduced a governance approach to ensure efficient and effective development cooperation in 2006. The Communication, 'Governance in the European Consensus on Development - towards a harmonised approach within the European Union' presents this approach (European Commission, 2006b).

With this approach, the EU expected Zambia, along with other ACP countries, to commit to reforms and measures in nine governance areas (European Commission, 2006b).<sup>1</sup> Of these nine governance areas, I focus on political and democratic governance because the EU's support towards Zambia was mainly towards this priority (European Commission, 2011; Government of Zambia & European Commission, 2008, 2014). As defined by the EU, the three main areas of focus under political and democratic governance included: political governance/ the rule of law (judicial and law enforcement), democratic governance (human rights, the electoral process, fundamental freedoms and constitutional democracy) and government effectiveness (institutional capacity and public finance management).

### **European Commission Governance Incentive Tranche (ECGIT)**

The ECGIT, an incentive instrument, worth €2.7 billion was introduced to implement the governance approach (European Commission, 2006b, p. 11). The ECGIT intended to grant additional financial support to countries that adopted or were ready to commit to a plan containing governance measures and reforms (European Commission, 2006b, pp. 10-11). Notably, this instrument meant to act as a catalyst for initiating governance reforms in recipient countries as well as achieving a 'harmonised' approach towards governance with other donors (European Commission, 2006b, p. 9-10). Partner countries wanting to access additional support had to go through a process. This process involved the EU developing a governance profile on the partner country and the partner country developing a governance action plan based on the governance profile (European Commission, 2006b, p. 11-12). This process is detailed in chapter four.

Zambia went through the ECGIT process, resulting in the spread of the EU's governance areas. It is unclear how much ECGIT each ACP country received because the ECGIT fed

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<sup>1</sup> The nine governance areas comprised of political governance (human rights, fundamental freedoms, electoral process, constitutional democracy), rule of law (judicial and law enforcement system), control of corruption, government effectiveness (institutional capacity, public finance management); economic governance (private-sector/market-friendly policies, natural resources management), internal and external security, social governance (decent work, gender, HIV/AIDS), international and regional context (regional integration, regional initiatives, migration) and quality of the partnership (political and programming dialogue) (European Commission, 2006b). As explained by the European Commission (2006b, p. 10), ACP countries that adopted or committed to these areas received incentives.

into the Country Strategy Papers (CSP) of the 10<sup>th</sup> EDF (Hackenesch, 2011, p. 28). According to Molenaers and Nijs (2009, p. 573), Zambia received approximately €19 to 24 million for adopting and committing to the reforms. Despite this, Zambia did not implement most of the committed governance areas.

Hackenesch (2011) also found that Angola and Ethiopia did not implement the reforms they committed to while studying how the role of China in these countries influences the effectiveness of the EC's policies promoting good governance. Similarly, a report on the approach showed that the incentive approach was ineffective across various ACP countries (European Commission, 2013, pp. 6-7). Put differently; it had not led to meaningful intended governance reforms in the ACP countries that the EU hoped to achieve. Considering that the ECGIT was accepted at the Zambia-EU level, what transpired during the implementation of the instrument and reforms at the domestic level? Why would Zambia agree and commit to reforming governance reforms at the Zambia-EU level, but do not follow through with implementation at the domestic level?

### **Critiques on the EU Governance Approach and ECGIT**

The criticisms of the approach may provide some answers to these questions. Researchers, CSOs and partner governments criticised the approach and instrument for the following reasons. Firstly, the governance approach and inherent incentive instrument lacked ownership. To illustrate, the EU did not negotiate with the Zambian Government and the rest of the ACP countries on the governance profiles developed by the EU (European Commission 2006b). Instead, EC headquarters in Brussels unilaterally created the governance profiles. The EU excluded the Zambian Government and other recipients from other important decision-making aspects; the EU only shared the conclusions of the governance profile. As a consequence, Slocum-Bradley and Bradley (2010) argued that 'the ECGIT process lacked ownership and was a way for the EU to impose its model of governance under the guise of promoting good governance' (p. 38).<sup>2</sup>

Secondly, certain scholars, development aid institutions and networks criticised the ECGIT that it promoted the EU's interests in the prescribed governance areas (Carbone, 2010; Molenaers & Nijs, 2009). The nine governance areas outlined in the *acquis communautaire*, on which the governance profile is based on, were argued by Bond (2006) to having 'little to do with the governments ability to act in the interests of the country's citizens and of poverty eradication, and are more to do with EU interests' (p. 3). For instance, Concord (2006) affirmed that with the new approach and instrument, the EU 'uses its development

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<sup>2</sup> This ECGIT process is discussed in detail in chapter four.

programmes to advance its short-term economic (opening markets or push for Singapore issues through Economic Partnership Agreements) and security interests (the fight against terrorism and migration policies)'.<sup>3</sup> Thirdly, there was an assumption that the partner countries would automatically adopt and implement the proposed governance areas.<sup>4</sup>

Despite its flaws, the approach plays a critical role in EU development cooperation in ACP countries. The criticisms were taken up by the EU as evidenced by a review of the approach and new EU development cooperation policy direction, the Agenda for Change (European Commission, 2009; IAG & ECDPM, 2011). This incentive approach was slightly adapted and continued in the 11<sup>th</sup> EDF (2014 to 2020), which was accompanied by the Agenda for Change introduced in 2011 and came into effect in 2013. Instead of incentivising commitments to governance reforms, partner countries received incentives for results-oriented reform, that is, the EU pursued a performance-based approach (European Commission, 2011). Nonetheless, there is a lack of structured analysis and empirical data on the approach and why it failed.

To address these gaps, the interest of this study is the adoption and implementation of transferred EU policies by ACP developing countries. I pay particular attention to Zambia selectively adopting and implementing EU promoted and prescribed electoral process and judicial and law reforms at the domestic level. In chapter four, I provide reasons for selecting Zambia. In this study, I assume that internalising transferred policies leads to changes in policies, practices and arrangements of the programmes or implementing institutions. Fields such as international relations (IR), political economy, comparative politics, public policy and sociology theorised the spread of EU policies and institutions. Scholars in these fields developed concepts such as policy diffusion, isomorphism, and EU external governance to explain this transfer process. These concepts are extensively applied to understand and explain the spread of EU policies to EU member countries, Central and Eastern European Countries (CEEC) and others.

Within these fields, frameworks such as policy transfer, socialisation, localisation, lesson drawing or translation (Acharya, 2004; Checkel, 1999; Dolowitz & Marsh, 2000, Rose, 1991,

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<sup>3</sup> The Singapore Issues refer to 'the working groups of the World Trade Organisation Ministerial Conference in Singapore on investment, competition policy, government procurement and trade facilitation. The debate was whether the first three should be negotiated because they are non-trade issues' (Khor, 2007).

<sup>4</sup> To add to these criticisms, Hackenesch (2011) also found that giving additional financial support entailed rechanneling available funds and reducing aid for some countries and in the end, 'the financial incentive was small for some countries in which political reforms would induce considerable political adaptation' (p. 27).

Zimmermann, 2016) were concurrently developed to analyse the reinterpretation and modification of policies by the policy recipients. Frameworks in these areas are still being developed and empirical studies are scant. This study therefore contributes to the latter as it goes beyond studying the 'transfer' process by focusing on the interactions between the EU and Zambia during the policy implementation process. This interaction is at a point after the EU spreads its idea of good and democratic governance and the Zambian Government adopts or opposes the policies at the international level.

I rely on the policy transfer framework and social constructivist perspective to analyse and explain this interaction. From a social constructivist perspective, policy transfer is understood as a multiply scaled, relational and emergent social process, a complex and power-laden process (McCann and Ward, 2012, p. 328). How does the policy transfer approach benefit from the social constructivist approach? By employing a social constructivist perspective, the explanatory power of the policy transfer approach is enhanced. Furthermore, social constructivism allows the study and policy transfer approach to underline 'the fundamental social (practical, interpersonal and procedural) character of policy-making in general and in social practices of incentivising and persuasion that characterises the transfer' (McCann & Ward (2012, p. 326) and implementation processes of EU policy to Zambia. How the policy transfer approach benefits from the social constructivist perspective and further arguments for this approach are elaborated in section 1.4 as well as chapter two.

## **1.2. Research Question**

Despite the growing research on policy internalisation from the perspective of the recipient and EU development cooperation, there is still a lack of detailed empirical understanding and explanation of why developing countries adopt and reject some transferred policies and the mechanisms used in the adoption process. Based on this, the feasible research question that serves as the source and point of reference for this study is:

*how and why does the Zambian government implement EU electoral process and judicial reform measures in a selective manner?*

This question allows me to explore the interactions between the EU and Zambian national institutions during the policy implementation process from the policy recipients' perspective. As a result, I am able to provide answers to the previously raised questions: what transpired during the implementation of the instrument and reforms at the domestic level? Why would Zambia agree and commit to reforming governance reforms at the Zambia-EU level, but do not follow through with implementation at the domestic level?

I investigate the Zambian Government and two cases of national institutions adopting and implementing EU proposed electoral process and judicial and law enforcement reforms. A

case study approach is used because it is practical and the most appropriate in exploring and explaining the adoption mechanisms, the inherent factors in the mechanisms that may lead to an influence or non-transfer as well as explain the extent of this outcome.

By using this approach, I am best able to make my argument that the transfer and adoption process is not self-perpetuating as recipients of policy are not passive actors. While the EU transfers its governance policies, the policy recipient can decide to accept and enforce policies. Alternatively, the policy recipient can oppose based on inclusion, social, economic, political and cultural factors present in the adoption mechanisms. Therefore, financial incentives such as the ECGIT may ensure that countries commit, but financial incentives alone and fear of consequences due to refusing positive and negative conditionalities do not guarantee that a policy recipient reforms the prescribed and committed governance areas.

To answer the main research question and achieve the research purpose, the analysis of mechanisms, factors essential for policy implementation and the gradation of the implementation are necessary. Thus, the following sub-questions are also addressed to assist in answering the main research question in a step-by-step manner: *through which mechanisms are reforms implemented? What factors facilitate or hinder the implementation process? How can the degree of adoption and non-transfer be described?* A qualitative within-case analysis is used. Hence, I analyse two cases, the Support to the Electoral Cycle Management project and Access to Justice programme; it is through these two cases that the transfer and adoption of EU electoral process and, judicial and law enforcement reforms occurred. The Electoral Commission of Zambia (ECZ) and the Governance Secretariat (GS) implemented these programmes with the assistance of the United Nations Development Programme (UNDP) and Deutsche Gesellschaft für Internationale Zusammenarbeit/German Cooperation for International Cooperation (GIZ) since 2006 and 2009, respectively. Amongst other reasons, these cases are selected because they allow for essential knowledge and explanations to the research questions and to make the argument.

Furthermore, using qualitative case studies permits me to account for any differences and similarities between the two cases and provides some explanations on the programme and institutional outcome. I analyse relevant literature and rely on qualitative interviews with Zambian academics, civil servants, bureaucrats, practitioners and ACP and EU officials that work for the EU have experience in implementing EU funded programmes and have worked closely with the EU and Zambian Government/national institutions at one point or another in these areas. The interviews are an added value because of detailed empirical data on the policies and partnership during the implementation process as well as add strength to this study that allows an in-depth analysis. To analyse and interpret this data, a qualitative

content analysis approach is used. The cases and case study approach are discussed in detail in Chapter three. The research is guided by a social constructivist theoretical framework, which is elaborated in subchapter 2.1. Finally, the timeframe relevant for this study is 2006 to 2016, seeing that the governance approach was introduced and implemented during this period.

### **1.3. Key Concepts**

The main concepts used in this study are adoption, implementation, influence, non-transfer, electoral process and judicial and law enforcement. In the following, I briefly introduce these key concepts, which are detailed and extensively developed in Chapter two.

*Adoption* refers to a process through which the Zambian Government and national institutions consciously internalise/accept the EU governance reforms into the development and implementation of programmes, national institutions or policies by copying, harmonising, contextualising, using in combination or use as inspiration (Björkdahl et al. 2015; Dolowitz, 2003; Dolowitz & Marsh, 2000). Adoption is based on the policy transfer concept, that is, the 'process involved in the development of programmes, policies, institutions within one political and/or social system which are based upon the ideas, institutions, programmes and policies, emanating from other political and/or social systems' (p. 3).

*Implementation* refers to the set of actions and interactions involved in the execution of policy or selected option (Bevir, 2009; Brewer & De Leon, 1983, p. 40). Here, it implies applying in practice the proposed EU electoral and judicial and law enforcement reforms into programmes or national institutions implementing the reforms, thus leading to influence in the programmes and national institutions. *Influence* is understood as the outcome of the implementation process, that is, changes in policies, practices and arrangements of the electoral process and judicial reform programmes and Zambian national institutions' governance areas. It is imperative to mention that policy transfer can result in *non-transfer*, in other words, transfer and adoption has failed. This is when policies and reforms are 'not internalised or institutionalised to normative structures that shape the norm recipients behaviour' (Payne, 2001, p. 41).

I maintain the ECs understanding of *electoral process and judicial and law enforcement* in this study. Electoral processes denotes strengthening national processes to ensure free, fair and transparent elections to strengthen democratic institutions and to provide added credibility to the elections (European Commission, 2006d, p. 3). Judicial and law enforcement reforms means promoting the separation of powers, access to justice, improving cooperation between the judiciary, including the prosecutor general, and the police

as actors in the chain of justice (European Commission, 2006d, p. 5). All these concepts are discussed in detail in chapter two.

#### **1.4. Relevance of the Study**

After outlining the research gaps, main research question and purpose of this research, in the following I elaborate on the importance of this research to the Zambian Government, EU development cooperation and existing and future literature in IR studies because of its theoretical and empirical contributions.

##### **1.4.1. Theoretical Contributions**

In this study, I aim to make theoretical contributions to existing and future literature in IR studies by proposing an alternative but existing framework to explain how and why developing countries adopt and implement EU transferred policies. As stated, various scholars developed concepts analysing the adoption of policy, e.g. localisation (Acharya, 2004), socialisation (Checkel, 1999), lesson drawing, (Rose, 1991, 1993) and translation (Zimmermann, 2016). There are some weaknesses to these frameworks. Chapter two details the strengths and flaws of these and other frameworks. Instead of relying on one of these, this study adopts a less used, but suitable framework to achieve the purpose of this study.

While analysed from a social constructivist perspective, I use a policy transfer framework popularised and framed by Dolowitz and Marsh in 1996. Subchapter 2.1 elaborates on this theoretical framework. By employing the policy transfer framework and social constructivist perspective, I make two further theoretical contributions to the existing and future literature on EU policy adoption and implementation.

First, by employing a social constructivist perspective, the policy transfer framework can account for how problems are socially constructed (Benson & Jordan, 2011, p. 374) and thereby benefit from this approach, as mentioned earlier. In this case, the Zambian Government and national institutions construct, reconstruct and delineate the dominant frames and narratives of the EU in the adoption and implementation of governance. Thus, the social constructivist perspective contributes towards enhancing the explanatory power of the policy transfer framework and therefore provides future studies with an alternative framework for analysing policy adoption and implementation.

Second, related literature and respective approaches, except for localisation and lesson drawing, to mention a few, have a top-down perspective favouring policy entrepreneurs interested in changing policies. These approaches often ignore the local actors or policy recipients and their role in adopting and implementing policies. By privileging the agenda

setters/policy entrepreneurs, the policy recipients' reflection of 'the self', their agency and 'the other' remains vague, and ignores the recipients' normative framework or ability to define their own (Björkdahl, 2012, p. 8; Björkdahl & Elgström, 2015, p. 134; Diez, 2005) as already stated. Furthermore, this top-down perspective 'prejudges the impact of the EU on domestic politics and policy', it also assumes the EU as the main source of the changes in the partner country (Bulmer & Burch, 2005, p. 866; Radaelli & Pasquier, 2006).

Consequently, this study's contribution is a theoretical understanding of policy recipients' 'self' such as the Zambian Government, local bureaucrats, CSOs and international organisations interacting at this level. The use of the policy transfer framework and social constructivist perspective achieves this theoretical contribution by bringing the agency to the fore in the typologies of adoption and non-transfer (see Table 1 and **Table 2**), which are informed by social, political, economic, institutional and policy context.

#### **1.4.2. Empirical Contributions**

In the following, the specific and general empirical contributions made to the Zambian Government, EU development cooperation and existing and future literature in IR studies are pointed out. These contributions are as follows. First, I illustrate in this study that transfer and adoption are not automatic processes. Björkdahl and Elgström (2015, p. 134) critiqued the literature for the general proposition that transfer and diffusion processes are 'smooth and uncontested' and implementation of adopted policies is automatic. Instead, policy recipients can reject or resist policies (Krampf, 2013). This study empirically demonstrates this with the two cases and first-hand accounts by local bureaucrats responsible for the day-to-day implementation of reforms in programmes.

Second, I pay attention to a developing country and its perspective on why it would adopt some policies and not others. The analysis brings to the fore the understudied focus on diffusion and transfer in developing countries and most importantly from the perspective of these countries. This contribution stems from Marsh and Sharman (2009, p. 280) who highlighted that the literature on diffusion and transfer pays little attention to developing countries in particular. Developing countries too far from being accessioned are less studied. I therefore prove the proposition of Marsh and Sharman.

Third, scholars such as Dolowitz and Marsh (1996) concluded that political leaders in developing countries have 'little alternative but to accept the policies imposed...given that the consequences of refusal are deepening debt and economic and, probably, political crisis' (p. 356). However, do these material factors ensure implementation of transferred policies? This study provides empirical evidence indicating that material conditions may play a role, but

factors such as appropriateness of reforms and ownership are crucial in motivating developing partners into adopting and implementing the transferred policies. This study, therefore, analyses the implementation of EU governance policies introduced in the two cases implemented in Zambia.

Fourth, I focus on the implementation stage of policies. Shipan and Volden (2012, p. 793) argue for the need to develop the literature by focusing beyond the adoption of policies because most studies stop at acceptance. Even though developing countries accept policies, this does not necessarily ensure that the developing countries will enforce the policies and lead to changes in the developing countries. Thus, Gilardi (2016) as well as Shipan and Volden (2012) called for studies on other stages of the policy-making process, in particular, the implementation or enforcement of policies. Policy transfer is discussed at the policy implementation stage in this study as little is known about this stage of the policy-making process (see Gilardi, 2016). By studying policy transfer at this stage of the policy-making process, studies can establish how the EU can influence domestic policies.

Studying the implementation stage may present valuable opportunities for learning and imitation over time and across governments and thus extend the literature (Shipan & Volden, 2012). In particular, Gilardi (2016) explained that, most policy transfer and diffusion literature aimed to establish that transfer, diffusion, or convergence occurred through various mechanisms, but the existing literature does not go beyond showing that transfer matters or that a specific policy was actually transferred and implemented (Gilardi, 2016, p. 9). The literature falls short of explicitly discussing the practical implications of transfer (Gilardi, 2016). Stone (2012, p. 488) also highlights the deficit in the documentation of transplantation, especially poor, incomplete and partial transplantation. Subsequently, the present study uses two cases to illustrate the transplantation or not at the domestic level. Specifically, these cases are used to study how EU electoral and judicial and law enforcement reforms are implemented (or not) to bridge this gap. This study is therefore relevant to academics and practitioners, as it explicitly discusses practical implications of policy adoption and implementation; thereby moving beyond establishing that policy was transferred or adopted.

Finally, the study is a contribution to the current and future literature on EU instruments and adoption of EU policies by developing countries. The input is two-fold. To start with, the implementation of the EU's governance approach and its accompanying instrument, ECGIT, in ACP countries has hardly been substantiated by a structured analysis and empirical data. The incentive approach took a central approach and was discussed in the programming of EU development cooperation (Hackenesch, 2011, p. 27). However, existing literature on the instrument and EU governance approach focus on the set up of the ECGIT, except a report

commissioned by the EU (Hackenesch, 2011; Hout, 2013; IAG & ECDPM, 2011; Molenaers & Nijs, 2010). This present study intends to explore the implementation of the ECGIT and governance areas at the domestic level after the incentive tranche was received.

By analysing factors leading to adoption and enforcement, I offer policy analysts and practitioners through this study a better understanding of the implementation of EU development instruments in Zambia and ways of ensuring efficient and effective use of the EU's development cooperation for both partners. Understanding the implementation stage of the policy-making process is imperative as it provides academics, policy analysts and practitioners precious insights into the interactions and changing relations between the Zambian Government, national institutions and EU that may not be evident on the surface because internalisation of transferred policies domestically affects political transformation processes (Risse & Sikink, 1999, p. 3). For negotiation and decision-making purposes, this study is of interest to practitioners as it highlights whether the interactions between the EU and Zambian Government differs from those in other stages of the policy-making process.

### **1.5. Outline of Thesis**

The study consists of seven chapters. This **first chapter** provided a background to the research problem and presented the research purpose and argument. Additionally, the chapter highlighted the research question and intended empirical and theoretical contributions before outlining the structure of the dissertation.

**Chapter two** presents the framework consisting of five mechanisms deduced from the policy transfer framework, development aid delivery to Zambia and the main actors used to promote and prescribe governance reforms in Zambia. Furthermore, the framework presents and outlines factors and degrees of adoption that can also explain how and why the Zambian national institutions implemented specific reforms selectively. This framework analysed from a social constructivist perspective guides the data collection technique, the analysis of research findings and conclusions. Finally, the chapter provides theoretical reflections of the research topic to provide theoretical and empirical context. The policy transfer framework is discussed and compared to various frameworks analysing EU policy adoption and implementation to identify mechanisms, factors and highlights the degrees of adoption or internalisation in existing literature. The social constructivist perspective, which is also discussed, complements the framework by strengthening its explanatory power.

**Chapter three** presents the qualitative research method used in this study. The research questions are revised and the theoretical premises informing this study are explained. The chapter also presents and discusses the data collection techniques, which included

document analysis and interviews in Lusaka and Brussels. After that, the chapter introduces the two cases implemented by the ECZ and GS through UNDP and GIZ used in this study. The chapter furthermore emphasises why these two cases were selected and a within case study design, which is informed by the theoretical perspective of this study is employed. Before concluding, the chapter discusses the data analysis process; qualitative content analysis was used. Because the cases are compared from time to time, a structured focused comparison is used. Furthermore, I elaborate on the validity, ethical considerations and limitations of the study.

**Chapter four** is the first of three analysis chapters providing insights into a complex and multi-layered process by which the Zambian Government and national institutions selectively enforced EU governance reforms. This chapter presents research findings collected using research methods described in chapter three and applies the theoretical framework presented in chapter two to the findings. Chapter four first highlights three mechanisms used to adopt and oppose EU reforms at the Zambia-EU level. Before discussing how the governance reforms are adopted through these mechanisms, the actors in this adoption process are discussed to familiarise the reader with the actors and their role in the process. The second subchapter identifies factors such as alignment and harmonisation; inclusion and ownership; financial and trade benefits as well as political will that contributed to the Zambian Government to harmonise, contest and resist reforms. The added value of the chapter is it sets the stage for the analysis of the two cases by highlighting circumstances that influence the adoption and implementation of reforms at the domestic level. Furthermore, the findings at this level can be used for comparison at the domestic level during implementation.

**Chapter five** presents the findings of the first case study on the adoption and implementation of electoral processes in the Support to the Electoral Cycle Management project. The theoretical framework presented in chapter two is used to analyse these findings. While discussing the effective mechanisms in the first subchapter, the subchapter also highlights the actual policies implemented in the programmes. The chapter indicates that conditionalities, incentives and multileveling were useful in the ECZ adopting financial and administrative management systems, electoral process and freedom of expression reforms. The subchapter goes in detail and describes the policies promoted in the governance profile and commitments made by the Zambian Government in the governance action plan. I found no 'new' reforms, the reforms were proposed by the Zambian Government. These reforms are compared to the actual achievements and outcomes in the case study to deduce the actual policies implemented. The second subchapter discusses ownership and inclusion, social appropriateness of reforms, trusted partners and decentralisation, institutional and financial resources as factors present in the modes. As a result, the ECZ and Zambian

Government harmonised and copied the Electoral Cycle Approach and restructured the ECZ. The added value of this chapter is showing that the Zambian Government and ECZ are not passive actors and how the adoption and implementation processes can be smooth and uncontested if such factors are present in the adoption mechanisms.

**Chapter six** is devoted to discussing the findings of the adoption and implementation of judicial and law enforcement reforms in the Access to Justice programme. The chapter first analyses the five mechanisms and finds that conditionalities, incentives and multileveling were useful. While discussing these pathways, the first subchapter also presents the actual policies influenced and implemented; these include financial and administrative management systems, judicial and law enforcement and human rights components. The Zambian Government also proposed these reforms, the EU thus introduced nothing 'new' in its governance approach with the exception of the financial and administrative management systems and some human rights components. The second subchapter discusses factors such as ownership and inclusion and social appropriateness of reforms, present within the mechanisms that led the GS and Zambian Government to harmonise the judicial and law enforcement reforms, while some human rights components were resisted, contested or faced reluctance to reform. The relevance of the case is its indication of how the Zambian Government and GS selected and rejected reforms; consequently showing that they are active actors and the adoption and implementation process is not automatic and smooth.

The Zambia-EU partnership is multifaceted. Hence, analysing the adoption and implementation of governance areas is not a simple task. Even so, this study accomplished to deconstruct various processes and establish reliable conclusions. The purpose of **chapter seven** is to summarise the study and highlight the main theoretical and empirical contributions to the Zambian Government, EU development cooperation and existing and future literature in IR studies. While doing so, the chapter also links the theoretical framework and other relevant literature. I observed that reforms were internalised through conditionalities, incentives and multileveling. The Zambian partners are active recipients that selectively internalise reforms based on social appropriateness, nature of the partnership, ownership and inclusion, fulfilling agreement conditions and due to the financial, social and institutional benefits. Finally, the chapter briefly discusses the outlook for future research.

## **2. Theoretical Framework**

The purpose of this study is to go beyond the transfer of EU policies to developing countries. I adopt the developing country's perspective and discuss the internalisation of transferred policies, which encourage changes in the internal practices, policies and arrangements of programmes and national institutions in the developing country. I thus explore step-by-step the adoption mechanisms, the factors within these mechanisms leading policy recipients like Zambia and the respective national institutions to internalise the transferred policies, and explain the extent of adoption and non-transfer.

In this chapter, I aim to define the main concepts used and to outline a theoretical framework that can provide explanations. To accomplish this, this chapter is structured as follows. The first subchapter introduces the policy transfer concept and presents the basic assumptions of the social constructivist perspective and how it is used to analyse policy transfer in this study. After that, the subchapter describes how the policy transfer concept and social constructivist perspective are used in this study to outline the theorised modes through which policies are adopted. Not only are mechanisms accounted for; the framework conceptualises factors facilitating and hindering adoption and finally provides explanations for the degrees of adoption and cases of non-transfer.

While discussing the theoretical framework, the second subchapter presents a myriad of literature focusing on policy adoption within fields such as political science, anthropology, sociology, education, and medicine, amongst many fields. The reviewed literature serves the purpose of synthesising the state of research while highlighting different perspectives that also aim to explain why developing countries translate specific EU policies into domestic practices; and the mechanisms used in the process. These frameworks are categorised according to those privileging the policy recipient and those emphasising the policy entrepreneurs. I compare and contrast these frameworks to the policy transfer framework and the extent to which this study differs from and replicates existing ones. Moreover, this review, contrast and comparison is conducted to highlight the pros and cons of the theoretical framework used in this study. Finally, the third subchapter also identifies gaps and limitations within this current literature. From these research gaps, the research questions addressed are developed.

### **2.1. Policy Transfer and Adoption Framework**

Dolowitz and Marsh (1996) proposed the policy transfer framework, which is rooted in the USA comparative policy analysis and organisational analysis, to analyse the spread of policies (Bulmer & Humphreys, 2007; Dolowitz & Marsh, 1996; Radaelli, 2000). Despite being called policy 'transfer', Radaelli (as cited in Walker, 1969; Gray, 1973) emphasised that

this framework was 'developed with the aim of explaining the adoption of policy and the spread' of policies (p. 26). How policy transfer achieves this, is indicated shortly. Nonetheless, the term policy 'transfer' can be confusing considering the purpose of this study. Considering this, from here on, I refer to the policy transfer framework as the policy transfer and adoption framework to avoid any confusion.

Dolowitz and Marsh (2000) defined policy transfer as 'the process, by which knowledge about policies, administrative arrangements, institutions and ideas in one political system (past or present) is used in the development of policies administrative arrangements, institutions and ideas in another political system' (p. 344). Dolowitz (2003) refined this to 'the occurrence of, and processes involved in, the development of programmes, policies, institutions, etc. within one political and/or social system which are based upon the ideas, institutions, programmes and policies, emanating from other political and/or social systems' (p. 3). Through this, Dolowitz (2003) included a social aspect to this transfer and adoption. As a consequence, policy adoption is understood as a conscious process through which transferred ideas, programmes and, institutions from one political and/or social system are unambiguously internalised into domestic programmes, institutions and practices of another political and/or social system (Björkdahl et al. 2015, p. 4, Dolowitz, 2003, p. 3).

Almost anything is transferred and adopted in this process, but the interest of this study is the adoption of 'policy'. In this study, 'policy' is understood as 'a broader statement of intention that denotes the direction that the domestic policymakers desire' (Dolowitz & Marsh, 2000, p. 12). In other words, policies imply theories that become projects and programmes used to implement the policies.<sup>5</sup> Amongst others, the value of the policy transfer and adoption framework is that it can be used to analyse transfer from the policy entrepreneurs' standpoint or to examine adoption from the policy recipients' angle. This flexibility is inherent in its mechanisms; it is discussed in due course.

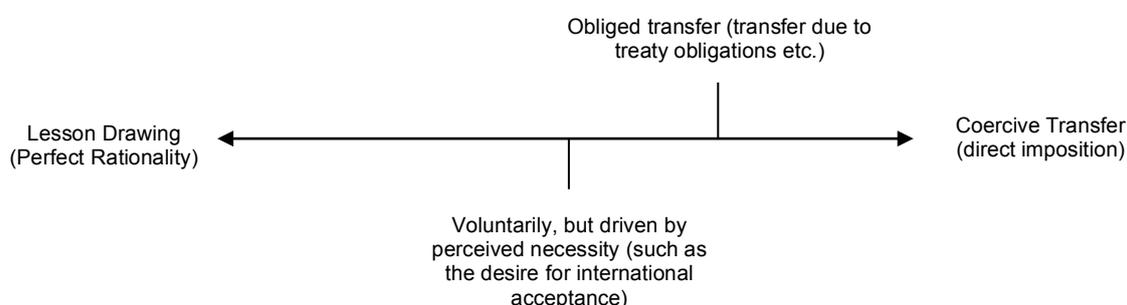
Evans and Davies (1999) found that policy transfer is 'intentional, action-oriented and a result of strategic decisions taken by actors inside and outside government' (p. 366). As a result, Dolowitz (2000) stressed that to understand transfer and adoption, it is crucial to know what drives actors to engage in the process in the first place. Knowing what drives actors is essential as it explains why different policy recipients look to particular policies and why recipients internalise inappropriate policies (or not). For this, the policy transfer and adoption

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<sup>5</sup> Policies and programmes should not be conflated. As explained, policies refer to a broader statement of intention that denotes norms and the direction that the domestic policymakers take (Dolowitz & Marsh, 2000, p. 12). These become projects and programmes used as instruments to implement these policies. Thus, there could be one policy with various projects and programmes to implement it.

framework assumes that actors engage in policy transfer because of voluntary, coercive and lesson drawing reasons (Dolowitz, 2000; Dolowitz & Marsh, 2000; James & Lodge, 2003; Dente & Dossi, 2012). To distinguish these and explain how the framework can analyse transfer and adoption as well as its flexibility, Dolowitz and Marsh (2000, p. 13) used a heuristic device as seen in Figure 1 below.

**Figure 1: Dolowitz and Marsh Continuum, From Lesson Drawing to Coercive Transfer**



Note. Transfer lies along a continuum running from lesson drawing to direct imposition of a programme, policy or institutional arrangement because many cases of transfer involve both voluntary and coercive elements. The two ends of the continuum are lesson drawing and coercion with perceived necessity in the middle. Source: Dolowitz (2003, p. 103), Dolowitz and Marsh (2000, p. 13).

According to Figure 1 above, the lesson drawing end is based on the view that actors choose transferred policy as a rational response to a perceived process. When problems emerge, actors will voluntarily search for ideas to solve these problems (Dolowitz, 2000; Rose, 1991, 1993). Between lesson drawing and coercive transfer is voluntary transfer, which is perceived by necessity. What Dolowitz and March (2000, p. 13) implied by necessity is that actors in the transfer and adoption process desire international acceptance, thus a country may adopt policies to avoid falling behind other nations, which already adopted the policy (Newmark, 2002). In other words, under voluntary, but perceived by necessity, countries respond to external pressures without being forced to do so (Holzinger & Knill, 2005, p. 779).

On the coercive end, national governments can be forced to adopt policies or are obligated to accept them as part of the conditions for being part of an international regime or structure (Dolowitz & Marsh, 2000, pp. 14-15; Holzinger & Knill, 2005). Dolowitz and Marsh (2000) however, question whether the act of the international structure can be considered as coercive in cases where individual nations voluntarily join or become members of a global structure. Simultaneously, each country has power over the acceptance of policies thus; nations, as well as other actors, actively and voluntarily shape and adopt policies of the international structure. For this reason, Dolowitz and Marsh (2000, p. 15) state that this type of transfer can be viewed as obliged and negotiated transfer, such as conditionalities (Dolowitz & Marsh, 2000; Evans, 2006).

## **Shortfalls of Policy Transfer**

There are some shortfalls to the policy transfer and adoption framework. First, some scholars often criticise the framework because it is multidimensional. One can also argue, however, that its strength lies in its multidisciplinary and multidimensionality as it accounts for various actors, acknowledges social and political phenomena transferred, discusses from where policy is transferred (international, national and local) and identifies different degrees of transfer and adoption. As just discussed, the framework also accounts for direct coercive, indirect coercive and voluntary transfer (Dolowitz & Marsh, 1996; Evans & Davies, 1999). Despite this, McCann and Ward (2012, p. 326) critiqued that the framework focuses too much on a plethora of actors who transfer policies. Particularly that the focus is too much on the agents and comes at the expense of attention to the agency.

Second, the framework is broad but it is not able to provide explanations for policy processes and institutional changes according to James and Lodge (2003) and Stone (2012, p. 490). This framework is somewhat redundant considering that the framework is rooted in organisational analysis. Third, certain scholars critique its lack of appropriate theoretical perspective and methodology for studying policy processes. Consequently, it does not guide the framing of research questions nor elaborates how researchers can pursue these questions empirically according to Page (2000). Fourth, Dolowitz and Marsh (2000, p. 357) also highlighted a further shortfall of the framework when they explained that, the framework inadequately conceptualised the role of subjective perceptions within the process. What they meant was that the policy transfer and adoption framework failed to account for how 'problems are socially constructed and how this inter-subjectivity might determine where (and what type of) potential solutions are sourced' elaborated Benson and Jordan (2011, p. 374).

Various scholars consolidated the framework over the past few years, thereby answering the unanswered questions. In particular, through the development and strengthening of the framework, particularly the various degrees, mechanisms and factors impeding and expediting adoption allows this and other research to conceptualise the adoption process adequately as well as bring the agency of the agents to the forefront. For example, to address the inability to explain policy processes and institutional changes, James and Lodge (2003) propose analysing policy transfer from a new institutionalist perspective, but more on this shortly. Stone (2012, p. 490) agrees and states that scholars can combine the concept with other approaches and perspectives to provide empirically grounded accounts of policy change. Benson and Jordan then claimed that the constructivist approach offers potential, but has rarely been applied. Of the available research on this topic, Jordan and Liefferink (2004) applied an institutional sociological perspective to explain the convergence in EU environmental norms. To contribute to this gap, a social constructivist perspective informs

this study, this perspective is discussed next.

### **2.1.1. Social Constructivism**

Over the years, various scholars using different perspectives analysed the framework. To name just a few, the perspectives and scholars include multi-level (Evans and Davies, 1999), globalisation (Evans, 2009; Stone, 2004; 2010) and new institutionalist (Radaelli, 2000). Many applied the framework on studies privileging the entrepreneur, with a few exceptions that take agency of the policy recipient into account. For instance, Evans and Davies (1999) adopted a political perspective and identified five approaches, 'international structure and agency, epistemic communities, domestic structure and agency, and policy transfer entrepreneurs' to analyse the multiplicity of factors that influence the process of policy transfer at the macro-level and the inter-organisational level (p. 363). Here, they proposed a multi-level perspective in analysing policy transfer.

Furthermore, using multivariate regression analysis and comparative analysis, Mugenzi (2012) applied the policy transfer and adoption framework to analyse the transfer of EU good governance to ACP countries. Notably, I looked into the connection between leverage and transnational networks in influencing policies in Kenya, Uganda and Tanzania between 1975 and 2009. Mugenzi (2012) concluded that the EU was able to transfer its values and change good governance policies in ACP countries through leverages and transnational networks. Additionally, the degree of influence was predicated on the complementary role of the modes of influence, which accounted for the variance. There are similarities between Mugenzi (2012) and what this study sets out to achieve.

This study deviates from that of Mugenzi by using qualitative methods and focusing on the adoption and implementation of policies by focusing on two cases at the domestic level. Put differently, approaching the research from the policy recipients' perspective and exploring the implementation of policy at the domestic level, instead of stopping at acceptance is what this study sets out to do. Nonetheless, employing this multilevel perspective for this study is unnecessary as policy transfer scholars developed the framework. It is multidimensional and multidisciplinary; it is a broad framework involving various actors at various levels (global, international, national and local), a plethora of transferable policies, knowledge, institutions as well as degrees of transfer and adoption as Newmark (2002) mentioned. This multi-level perspective is therefore already incorporated into the policy transfer and adoption framework.

As highlighted, the new institutionalist perspective is predominantly used to analyse policy transfer. Scholars often use new institutionalism due to a critic that policy transfer is not able to adequately provide explanations for policy processes and institutional changes (James &

Lodge, 2003; Stone, 2012). Overall, new institutionalist perspective sees human-made rules and procedures as the basic building blocks of institutions and could thus complement policy transfer and adoption framework as an analytical element for explaining processes, dynamics, occurrence and outcomes of policy transfer in institutions (James & Lodge, 2003; Radaelli, 2000, p. 26-27). Furthermore, this approach offers insights into who possess power within coercive processes, why some institutions are recipients while others do the coercing as well as contains theories focusing on the power of ideas and policy-making (DiMaggio & Powell, 1983, 1991). Consequently, James and Lodge (2003) champion the different schools of institutionalism. In their study, they highlight institutional analysis and how it offers insights into who possess power in the coercive processes and why some individuals/institutions are recipients while others do the coercing. The second type contains theories focusing on the power of ideas and policy-making.

Following this, scholars combined the policy transfer and adoption framework with New Institutional perspective. For instance, Bulmer and Padgett (2005) found that hierarchical, negotiation and facilitated unilateralism explain the processes through which transfer occurs and the relationship between institutional arrangements and transfer outcomes using the case of the Open Method of Co-ordination.<sup>6</sup> The premise was, transfer processes and outcomes are shaped by the institutional settings in which they take place (Bulmer & Padgett, 2005). On this basis, transfer of policy from EU to developing countries could reflect the EU's internal modes of governance: hierarchy, negotiation and facilitated unilateralism. These mechanisms are comparable to those by Dolowitz and Marsh (1996; 2000), as the inherent nature of hierarchy resembles the characteristics of coercive transfer while negotiation and facilitated unilateralism resemble voluntary mechanisms.

Similarly, Radaelli (2000) also used policy transfer with an Institutional perspective. Radaelli mainly relied on institutional isomorphism. DiMaggio and Powell (1983) defined isomorphism as 'a constraining process that forces one unit in a population to resemble other units that face the same set of environmental conditions' (p. 149). Under isomorphism, DiMaggio and Powell (1983; 1991) identified three sources of isomorphic institutional change: coercive, mimetic/imitation, and normative. Once again, these mechanisms are similar to the policy transfer mechanisms (voluntary and coercive mechanisms); however, the outcome of these mechanisms is 'mimicking'/assimilation. In policy transfer, the outcome can either be copying, emulation, inspiration, harmonisation, combination or non-transfer

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<sup>6</sup> 'The open method of coordination in the European Union may be described as a form of 'soft' law. It is a form of intergovernmental policy-making that does not result in binding EU legislative measures, and it does not require EU countries to introduce or amend their law' (Eur-lex, 2017).

(Dolowitz & Marsh, 2000). Besides this, isomorphism is a result of force whereby policy transfer is due to learning or persuasion.

Radaelli (2000) applied the framework to understand policy transfer in EU in three policy areas: a single currency, direct tax policy, and media ownership. I concluded that mimetic isomorphism was most instrumental in stimulating policy transfer and ultimately producing the legitimacy of the policy areas. Coercive and normative isomorphism also played a role in the transfer of a single market system, taxation and media ownership policies within the EU member countries (Radaelli, 2000). Based on what this section already presented on the policy transfer and adoption framework, there are similarities with isomorphism, which is discussed further in section 2.2.2.1 of this chapter. These similarities are well justified by the roots of the policy transfer and adoption framework in comparative politics and organisational theory as stated. Thus, to an extent, it can explain the power of ideas, policy-making, processes and outcomes of institutions, as well as accounts for who possesses power within coercive processes and why some institutions are recipients while others, do the coercing.

Apart from new institutionalism, James and Lodge (2003) also suggested the use of theories such as globalisation and Europeanisation. James and Lodges base this argument on the premise that these theories encompass both ideas and institution-based accounts for how policymakers are influenced (James & Lodge, 2003). The literature on globalisation and internationalisation processes established the economic, political and social circumstances that change state powers and the context in which the state operates (Mann, 1997; Rosenau, 1990). Europeanisation is discussed later under EU external governance. However, James and Lodge (2003), contradict themselves by stating that these Globalisation and Europeanisation theories are not 'necessarily inconsistent with all aspects of the policy transfer explanatory framework' (p. 205). These alternatives show that the locus of policy transfer activity shifted away from its original government-centric emphasis to encompass multiple sites and actors (Benson & Jordan, 2011) and their agency. Additionally, more studies employ the concept in the analysis of broader phenomena like policy innovation and Europeanisation alongside globalisation and internationalisation (Benson & Jordan, 2011).

In comparison to the other perspectives briefly discussed thus far, the social constructivist view underlines the fit between norms and identity of actors (Börzel et al. 2011, p. 16; Pevehouse, 2005).<sup>7</sup> In IR literature, norms are understood as 'international standards defining the behaviour expected of international actors including states' (Coleman, 2013).

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<sup>7</sup> Identity in this study is the self-perception and behaviour that is 'always within a specific, socially constructed world' (Berger, 1966, p. 11). 'Actors acquire identities-relatively stable, role-specific understanding and expectations about self-by participating' collective meanings (Wendt, 1992, p. 397).

Björkdahl (2002) complemented this definition with the notion that norms 'prescribe what appropriate behaviour ought to be by expressing values and defining rights and obligations' (p. 34). For this reason, these norms are inter-subjective understandings that constitute the actors' interests, identity and create expectations (Björkdahl & Elgström, 2015, p. 135). Thus, norms regulate and shape actions and interactions of actors and institutions in the international arena and lead actors with shared perceived appropriate norms and values to adopt the same practices. In other words, norms are regarded as standards of appropriate behaviour of countries and international actors (Coleman, 2013; Finnemore & Sikkink, 1998).<sup>8</sup> Consequently, actors might respect certain norms because they follow the 'logic of appropriateness' and not the 'logic of consequences' according to March and Olsen (1998).

As mentioned, a policy is a broader statement of intention denoting the direction of domestic policymakers, (Dolowitz & Marsh, 2000, p. 12). I use policy through out this study because I assume that policies are developed and based on norms and identities. Policies promote a standard of appropriate behaviour by actors involved, which they implement into projects and programmes like the cases discussed in this study. This study analyses the transfer of the EU's governance approach through which the EU promoted and prescribed governance reforms to Zambia. These governance reforms resemble the EU's *acquis communautaire*. The EU promoted and prescribed its normative framework in its policies towards developing countries (Schimmelfennig & Lavenex, 2009; Schimmelfennig & Sedelmeier, 2004).

The policies of interest for this study as already mentioned are electoral process and judicial and law enforcement reforms which fall under the EU's concept and approach on governance promoted and prescribed to ACP countries. But, how do the Zambian Government and the EU understand electoral process and judicial and law reforms? And how are these concepts operationalised in this study? The next section discusses this. To understand electoral processes and, judicial and law enforcement reform, it is important to revise the governance concept considering that the EU promotes electoral and judicial reforms in the context of achieving efficient and effective governance.

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<sup>8</sup> Finnemore and Sikkink (1998) explain that norms constitute a life cycle that comprises three stages: norm emergence, norm cascade and internalisation. In the first stage, norms emerge from a policy entrepreneur usually a dominant actor (Finnemore & Sikkink, 1998, p. 902). The second stage involves these norms being promoted at international level where other actors adopt them (Finnemore & Sikkink, 1998). Here, the entrepreneur rewards conformity and punishes noncompliance (Gilardi, 2012, p. 23). In the final stage, the adopted norm is institutionalised as a standard (Finnemore & Sikkink, 1998). This life cycle was criticised because it does not account for norms that can also emerge from the non-dominant actors and finally, that norms are not always adopted, recipients can reject or resist them (Krampf, 2013).

### **2.1.2. Operationalizing Governance, Electoral Process and Judicial Reform**

As stated, the EU required the Zambian Government, along with various ACP countries, to reform governance in return for additional financial development assistance. What exactly did the EU require in the governance reforms? To understand this, I revise the EU's governance concept to understand its expectation of the Zambian Government. I proceed from the premise that 'good' governance is a neoliberal capitalist ideology and seeing that it is the dominant ideology shaping the world currently, improving governance is a significant development and foreign policy goal of international organisations and individual countries (Börzel, Pamuk, & Stahn, 2008). Keefer (2009, p. 439) explained that there is no agreed on definition of good governance.

I do not attempt in this study to formulate definitions of governance, good governance, or democratic governance. Instead, I analyse the ontology of the concepts used by the Zambian Government and the EU, to understand the origins of these concepts, how the Zambian Government and EU use them and what it is the EU aims to achieve by emphasising 'governance' reforms in particular, electoral process and judicial and law enforcement. These are also compared to Zambia's understanding and use of the concepts to identify the similarities and differences. Failing to distinguish between the terms creates a situation in which an issue can be misunderstood for another (Slocum-Bradley & Bradley, 2010, p. 12).

#### **2.1.2.1. EU Governance, Good Governance and Democratic Governance**

##### **Governance**

The World Bank strongly influenced the understanding of governance in EU development policy. Governance within the EU's development cooperation can be traced back to the 1991 Council resolution of the European Communities (Council of the European Communities, 1991; Hout, 2007, pp. 24-25; Leftwich, 1994). This was just after the World Bank referred to the concept in its policies in 1989 (World Bank, 1989). In the years to come, governance became pronounced in EU development cooperation, in particular, in the 'Governance in the European consensus on development' (European Commission, 2006b) and the *Consensus on Development* (European Commission, 2003). By 2003, the EU asserted,

Governance concerns the state's ability to serve the citizens. It refers to rules, processes, and behaviour by which interests are articulated, resources are managed and power is exercised in society. [...] As concepts of human rights, democratisation and democracy, rule of law, civil society, decentralised power sharing and sound public financial management gain importance and relevance, a society develops into a more sophisticated political system and governance evolves into good governance (European Commission, 2003, pp. 3-4).

Based on this, the EU considers governance as a process and the outcome is democratic and 'good' governance.

This study links this understanding of governance to the EC's White Paper on Governance. In 2000, the EU focused on reforming internal governance to address growing demand for transparency, democracy and subsidiarity (Curtin & Dekker, 2005; Joerges, 2002, p. 20). This resulted in the 2001 White Paper on Governance, which proposed reforms in the EU and called for the five principles of good governance (openness, participation, accountability, effectiveness and coherence). According to the paper, 'each principle is important for establishing more democratic governance. They underpin democracy and the rule of law in the Member States, but they apply to all levels of government global, European, national, regional and local' (European Commission, 2001, p. 8). The same areas of governance reform proposed for the EU were proposed to development cooperation recipients by the EU (European Commission, 2003, pp. 3-4; 2006b).

### **Good Governance**

Good governance came to the fore because, during the predominance of structural adjustment policy prescriptions, the state was seen as an entity that would obstruct development (Börzel et al. 2008). Failure of these policies meant a reintroduction of increasing importance of political institutions and re-conceptualisation of the state with good governance at the centre. Calls for increases in the capability of countries correlate with increased debates on aid effectiveness from both donors and recipients. Connections were being made between aid and good governance, hinting at the growth of enhanced conditionality based on the good governance criteria as well as good governance taking the form of technical assistance, idea dissemination and training rather than merely money which fitted with the World Bank's repositioning as a knowledge provider (Kaufmann & Kraay, 2008; World Bank, 1994). As a result, 'good governance' became an objective and additionally one of the main criteria that donors use to define their policies and take decisions regarding allocation of official development assistance (Slocum-Bradley & Bradley, 2010, p. 9). It therefore, plays a role at two levels within the international development cooperation process, the first being an area of cooperation between relevant international development institutions and beneficiary states, while the second level can be part of criteria used for allocating resources to the respective partner state and institution (Concord, 2011).

The 2006 European Consensus on Development policy strengthened the role of good governance as an objective of EU development policy by presenting it as a pre-condition for sustainable and equitable development as well as for providing effective development assistance (European Commission, 2006b). It also distinguished the EU from other actors in development cooperation, in particular, the World Bank and the United States of America, based on its shared vision on international development between EU members and the EC. According to EU documents, five principles underpinned good governance: openness,

participation, accountability, effectiveness and coherence (Carbone, 2010; European Commission, 2001; European Commission, 2003, 2006b, 2006c, 2009).

Since the Lisbon Treaty in 2007, good governance became a constitutive normative principle of the EU. According to this treaty, 'the Union shall define and pursue common policies and actions and shall work for a high degree of cooperation in all fields of international relations, in order to...promote an international system based on stronger multilateral cooperation and good global governance' (Treaty of Lisbon, 2007, Article 10a-2h). The Treaty further suggests that the EU can achieve the promotion of good governance through at least three different practices involving participatory democracy, openness and transparency, multilateralism and good global governance (Treaty of Lisbon, 2007, Article 10, 21, 8b).

### **Democratic Governance**

Democracy is the promotion of a particular form, organisation and philosophy of political life (Manners, 2006c, p. 71). The EU inexplicitly promoted democracy in member countries or accessioned countries. But during the 1990s, the EU became more explicit in the promotion and requirements of democracy for membership (Copenhagen Criteria, 1993) as well as in development aid and generally, in its foreign-policy provisions. The EU first referred to democratic governance in development cooperation in 2006, while acknowledging the interdependence of input and output dimensions of good governance (European Commission, 2012). This understanding of good governance was an evolution from seeing it as a technocratic issue, focused on the fight against corruption, but to a holistic view.

The EU considered democratic governance, with a stronger normative dimension, as affirming 'the rights of all citizens on the road to sustainable development' (Hackenesch & European Parliament, 2016, p. 19). According to the EU, democratic governance was a means towards eradicating poverty, its central development policy objective and includes: respect for human rights and fundamental freedoms (including freedom of expression, information and association), support for democratisation processes and involvement of citizens in choosing and overseeing those who govern them, respect for the rule of law and access for all to an independent justice system, access to information, a government that regulates transparent and accountable to the relevant institutions and to the electorate, human security, management of migration flows, effective institutions, access to essential social services, sustainable management of natural and energy resources and of the environment, and promotion of sustainable economic growth and social cohesion in a climate

conducive to private investment (European Commission, 2006b, p. 5).<sup>9</sup>

Based on this review of EU concepts, the EU's definitions are broad when used interchangeably (Slocum-Bradley & Bradley, 2010, p. 12). Good governance is a result of 'good' or effective governance and a component of democratic governance.<sup>10</sup> For example, a government that governs transparently and accountable to the relevant institutions etc. (European Commission, 2006b, 5). Concurrently, governance and good governance are part of democratic governance. However, one can argue that accessing essential social services (in democratic governance) has nothing to do with democratic governance, but a lot to do with effective governance and good governance principles (Slocum-Bradley & Bradley, 2010, p. 17). Thus, good governance is not synonymous with democratic governance.

### **2.1.2.2. Zambia's Governance Concepts**

At first glance, there is a normative fit amongst the governance definitions of EU, the Zambian Government and ACP. For example, as stipulated in the Cotonou Agreement,

good governance is the transparent and accountable management of human, natural, economic and financial resources for equitable and sustainable development. It entails clear decision-making procedures at the level of public authorities, transparent and accountable institutions, the primacy of law in the management and distribution of resources and capacity building for elaborating and implementing measures aimed at preventing and combating corruption (2014, Article 8, p. 23-24).

Good governance is a fundamental element and focuses on 'effective' governance, while human rights, democratic principles and the rule of law are considered as essential elements (Cotonou Agreement, Article 9, p. 23). Good governance is a 'fundamental element' meaning that serious cases of mismanagement and corruption could result in suspension of development cooperation. It is not included as an 'essential element' because initially, ACP partners found the concept to be vague and could open doors to interference in ACP countries domestic affairs elucidated Carbone (2010, p. 21). Nonetheless, these definitions reflect the EU's understanding of good governance and democratic governance.

According to the Government of Zambia's (2006b) Fifth National Development Plan (FNDP), it is '...essential that the Government provides good systems of governance which will create the factors for markets to function, facilitate the efficient and effective delivery of basic services, ensure civil society participates in decision-making processes, and, ultimately,

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<sup>9</sup> Human rights are substantive/material norms that impose requirements for content, they are codified in international law, in particular, in 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights (Börzel et al. 2011).

<sup>10</sup> The word 'good' was employed as an adverb to evaluate the process of governance or as an adjective to evaluate the outcome of the process (Singh, 2003).

maximise the welfare of Zambian communities and individuals...’ (p. 34). Under governance, the Zambian Government identified constitutionalism, human rights, transparency and accountability, administration of justice and democratisation as areas of improvement. These are priorities for the Zambian government under governance considering the on-going democratisation process (Government of Zambia, 2006b, p. 277-282).

In addition, the Zambian Government asserted ‘principles of: (i) gender-responsive sustainable development; (ii) democracy; (iii) respect for human rights; (iv) good traditional and family values; (v) positive attitude towards work; (vi) peaceful coexistence and; (vii) private-public partnerships’ in Vision 2030. Thus, Zambia’s understanding of governance includes ‘good’ and ‘democratic’ governance. Based on this, the Zambian Government and EU understand governance to encompass different areas/aspects of governance (democratic governance) and involve a managing/coordinating function (effective governance).

An in-depth look indicates some normative inconsistencies. For instance, a critique that might result in implications is that the governance definition, including that of the ACP, are neoliberal accounts of governance mainly related to increased efficiency in the public sector. There are also inconsistencies on democracy, the rule of law and human rights. The definitions of the EU to some extent neglect culture and agency (Bevir, 2009) where as the Zambian Government explicitly includes the importance of ‘good traditional and family values’ in its understanding of governance. From a social constructivist perspective, these could lead to failure in their implementation because these governance reforms embody beliefs and meanings. In other words, each actor emphasises a different aspect of the concept; thus each might pursue goals that do not belong to the other’s agenda. For example gender equality, human rights and good traditional and family values. Due to differences in culture, religion, ideology and beliefs etc., there are differences in the meanings of these concepts by the partners.<sup>11</sup>

### **2.1.2.3. *Understanding Electoral Process and Judicial Reforms***

Based on the previous discussion on governance, it is a broad definition. However, the aspect of governance relevant for this study, in other words, the areas of governance that the EU expected Zambia to reform are the electoral process and, judicial reform and law enforcement and human rights. The EU categorised these governance areas under democratic governance and political governance/the rule of law by the EU (European Commission, 2006d, p. 12-17, 2008, p. XXX-XLIII).

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<sup>11</sup> The study understands ideology and belief as ‘systematic sets of doctrines that reflect the social needs and aspirations of a group, class or culture’ (Tannenwald, 2005, p. 15). These are part of the actor’s identity, which are within a specific socially constructed world.

In this study, the understandings of electoral process and judicial reform are based on the ECs definition. For the European Commission (2006d), support to the electoral process implied 'strengthening national processes to ensure free, fair and transparent elections in order to (i) contribute to the strengthening of democratic institutions, (ii) provide added credibility to the elections if conducted sufficiently in line with international standards for democratic elections and (iii) provide recommendations to improve future elections. This support consists mainly of electoral assistance programmes, supporting Election Management Bodies (EMBs) and CSOs, and the deployment of EU Electoral Observation missions, with their fair assessment of the process/elections' (p. 3). As for judicial system reform, the objective of supporting this area of governance by the European Commission (2006d) 'is to promote the separation of powers, equal access to justice, the independence and external auditing of the judicial system, the effective access to legal redress and the submission of the state authorities to the law and a closer cooperation between the judiciary, including the prosecutor general, and the police as actors in the chain of justice' (p. 5).<sup>12</sup>

Based on this, the EU aimed to improve the governance of electoral process and judicial and law enforcement in order to ensure good governance principles and thus resulting in democratic electoral and judicial process in Zambia. Chapter four through to chapter six discuss these reform areas for Zambia and the two programmes in detail and explain whether these reforms were internalised or not and to what extent.

### **2.1.3. Emergence of Policies at the Domestic level**

The question that arises is how these norms in policies are created and emerge? The creation and emergence of a policy are associated with the policy entrepreneurs (Björkdahl, 2012, p. 82). A policy entrepreneur is considered as an actor strongly committed to particular norms and the will to advocate these norms (Björkdahl, 2012, p. 82). Once again a good example is the EU, which is committed to promoting governance reforms in its development cooperation and consequently advocates it in the EU governance approach and instruments targeted towards developing countries. As mentioned, I conceptualise the EU as an international actor, a policy entrepreneur to be exact advocating governance reforms rooted in its *acquis communautaire* thereby answering the question on the creation and emergence of the policies prescribed. In general, academics have devoted considerable efforts in conceptualising the EU as an international actor.

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<sup>12</sup> Access to justice is a fundamental right, it is a component of the rule of law and implies more than having a case heard in a court of law. Without access to justice, individuals are unable to exercise their fundamental rights, address discrimination, have their voices heard or hold decision-makers accountable (United Nations, 2018).

Despite being contested concepts and bearing inconsistent definitions across academia, various scholars characterise the role of the EU as a 'Civilian' (Duchêne, 1973), Military (Huntington, 1993; Smith, 2005) or 'Normative' (Manners, 2002, 2008; Sjursen, 2006) Power.<sup>13</sup> Sakwa (2008) affirmed, 'the EU was created as a peace-enhancing institution, but today it is becoming transformed from a normative power (based on values) into a soft power' (p. 285). Due to this statement and certain actions of the EU, Meunier and Nicolaïdis (2006) and Nye (2008) characterise the EU as a Soft Power. This can, however, be likened to the Civilian Power model, as it too stresses the 'soft' power that is exercised by the EU, which consists of the external projection of its inherent virtues through politico-economic (Rosecrance, 1997) and normative means (Manners, 2002).

To illustrate, Lavenex (2004) considers the EU as a civilian power because, when applied to third countries that lack the prospect of membership, the attempt to extend the EU's legal boundary is not only a humanitarian projection of acquired civilian virtues, but also a more strategic effort to gain control over policy developments through external governance. Manners (2002) however, argued that the EU is a normative power thus representing a new and different kind of actor in the international system. The *acquis communautaire* enshrines the EU as a normative power and underlines the standard sets of values as per the *acquis* (Manners, 2002). These constitutive and normative values include peace, liberty, democracy, the rule of law, human rights, social solidarity, anti-discrimination, sustainable development, and good governance (Manners, 2002, 2008).

In this study, the policy transfer and adoption framework is used to explicate the adoption process, actors, mechanisms and degrees of adoption while the social constructivism is relied on to explain the behaviour of Zambia and the EU in this adoption process. Thus, illustrating EU policy transfer and implementation of EU policy by Zambian national institutions from the perspectives of Zambia would not be possible from the usual EU-centric power approaches such as Normative Power, Civilian Power, Soft Power etc. These approaches explain the behaviour of the EU; however, the interest of this study is the conditions that determine Zambian national institutions adopting and implementing EU governance areas and the mechanisms used. In other words, the importance is the behaviour and functions of the Zambian Government and the respective Zambian national

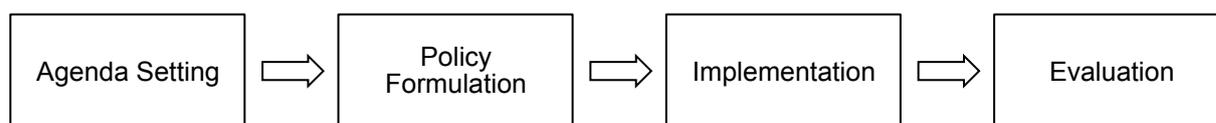
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<sup>13</sup> Briefly, on the one hand, Duchêne (1973) referred to the European Community as a 'civilian group of countries long on economic power and relatively short on armed force'. On the other hand, Smith (2005) defined a 'Civilian Power' as, 'non-military, and includes economic, diplomatic and cultural policy instruments'. There is a strong normative element to this model as it concentrates on the proliferation of 'social values of equality, justice and tolerance' according (Duchêne, 1973, p. 20). In addition, this mode favours multilateral cooperation, democratic control and soft power over coercion and hard power.

institutions in the policy adoption and implementation process and how they perceive the EU and its behaviour. Thus, the EU centric approaches could not explain the puzzle of this study. Policy adoption and social constructivist perspective make it possible to offer plausible explanations from the perspective of the Zambian Government and national institutions.

Nonetheless, through the interactions between the policy entrepreneur and policy recipient, the policy entrepreneur's policies are transferred, constructed and strengthened. However, constructivists claim that, for policies to be accepted, policy entrepreneurs cannot force or reward policy recipients (Björkdahl, 2012, p. 84), this is hard to detangle. To go around this, this study analyses policy adoption and implementation within the policy-making process.<sup>14</sup> The policy-making process consists of some stages: agenda setting, policy formulation, implementation and evaluation (Fraser & Whitfield, 2008; Gilardi & Wasserfallen, 2017; Hill, 2009) as seen in the figure below.<sup>15</sup>

**Figure 2: Hill's Policy Making Process Model**



Note: The figure depicts the policy making process. Adapted from Hill (2009, pp. 147-148)

The agenda-setting stage involves identifying problems and deciding on the direction of policy (Hill, 2009, p. 127). The second stage formulates the solutions. This includes designing and choosing appropriate instruments to achieve desired policy goals (Fraser & Whitfield, 2008; Hill, 2009), while in the third stage, policy instruments are executed or operationalised (Greenhill, Mosley, & Prakash, 2009). It is at this stage where policies are negotiated with recipients and implemented at the domestic level. Finally, in stage four, the policy-making process is evaluated including the policy instruments, its effects and feedback are received (Greenhill et al. 2009).

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<sup>14</sup> An important aspect when studying norm and transfer is where the norm transfer occurs, in other words, the venue or setting in which the actors interact (Coleman, 2013). The interest of this study is the implementation of the governance norms and standards within the policymaking process after the official negotiation process has concluded. Another institutional setting considered was the political dialogue or negotiation processes (Fraser & Whitfield, 2009; Björkdahl & Elgström, 2015).

<sup>15</sup> There is no fixed number of policy-making stages. Some include a legitimisation stage, which refers to ensuring that the policy instruments are supported and approved either by the legislature or certain actors (Anderson, 2014; Cairney, 2015). Another stage also included at times is the policy maintenance, succession or termination, which considers whether the policy should be continued, modified or discontinued (Anderson, 2014).

In this study, policy transfer is mainly discussed at the implementation stage, as existing literature knows little about this stage of the policy-making process according to Gilardi (2016). Shipan and Volden (2012) also pointed this out by stating the need to advance the policy diffusion and transfer research into a new direction as ‘...almost all policy diffusion work to date focuses on the adoption stage of the public policy process’, however, the transfer process does not end at adoption, instead, ‘policies evolve through their implementation’ (p. 793). As a result, Gilardi (2016) and Shipan and Volden (2012), call for studies on other stages of the policy-making process, in particular, implementation or enforcement of policies.

By studying policy adoption at the first two stages in the policy-making process, studies establish how the EU influences national policies, but just because recipients adopt during these two stages does not necessarily imply that they are implemented, studying the implementation stage may present some significant opportunities for learning and imitation over time and across governments and thus extends the transfer and adoption literature. Therefore, before introducing the policies to a particular country, they are negotiated with the recipient, and this occurs within this policy-making process. Through this, conditionalities and incentives are introduced, negotiated and adopted (Elgström, 2000).

Considering this, policy recipients are considered active agents in the transfer process (Acharya, 2004; Dolowitz & Marsh, 2000; Björkdahl et al. 2015). In other words, developing countries are active recipients of policies, this is required to adopt and implement governance reforms. Active implies that policy recipients select and construct a normative fit between the transferred policies and those of the domestic context. They are therefore autonomous, influential and responsible, thereby determining the direction of domestic policies or either rejects some transferred policies. Furthermore, the adoption and implementation process is a conscious process even though being coercive at times. In other words, the actors are action-oriented and intentionally take part in the process (Evans & Davies, 1999, p. 382; Hay, 2002), and the identity of the developing country influences this. Consequently, those policies that are shared or fit to the normative framework/identity of the developing country are most likely accepted and implemented (Finnemore & Sikkink, 1998).

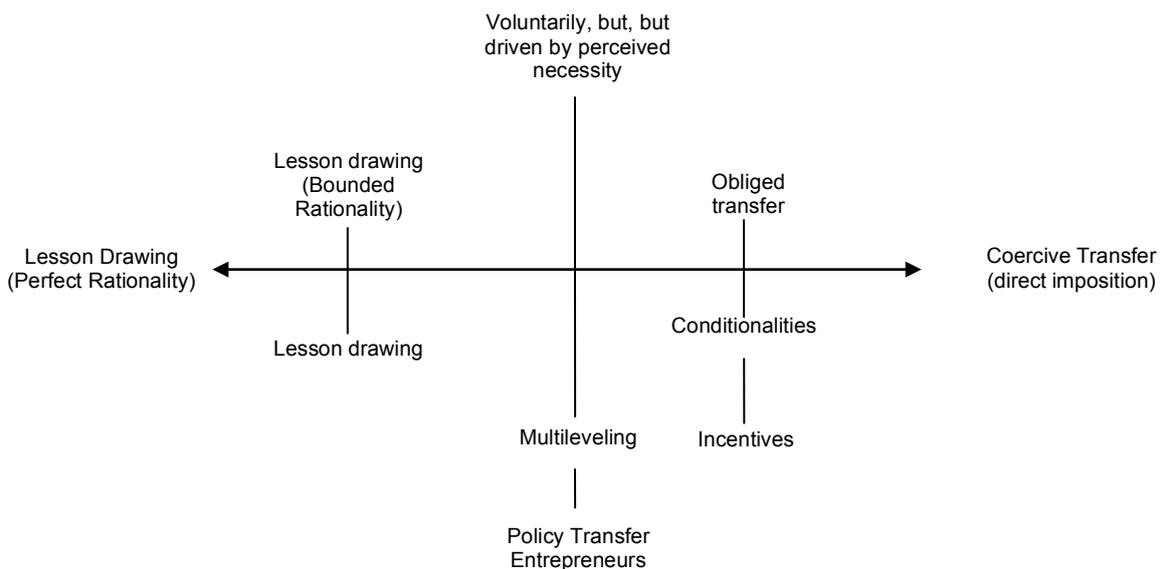
Based on these theoretical reflections and seeing that policy transfer and the partnership between Zambia and the EU occur within the policy-making process, I consider the policy-making process as a ‘multiple scaled, relational and emergent social process’. Hence, McCann and Ward (2012) argue that policy transfer can be understood as a ‘complex and power-laden process, rather than a straightforward A to B movement’ (p. 328). Therefore, policy transfer and adoption is considered to be a multiply scaled, power-laden, relational

and emergent social process (McCann and Ward, 2012, p. 328). This said the framework used in this study identifies various mechanisms, factors and degrees of internalisation and non-transfer to explain how and why the promoted and prescribed EU electoral and judicial reforms are adopted and implemented (or not) in Zambia.

#### 2.1.4. Adoption Mechanisms

As indicated, the policy transfer and adoption framework involves lesson drawing, voluntary and coercive mechanisms. This study draws up five mechanisms within these three and forms assumptions of EU governance reform internalisation by Zambian national institutions. For practical reasons, I analyse five mechanisms, namely, conditionalities, incentives, and policy transfer entrepreneurs, multileveling and lesson drawing. See Figure 3: Adapted Continuum, From Lesson Drawing to Coercive Transfer below. These mechanisms are derived from this interactive policy transfer and adoption framework and EU development cooperation delivery and implementation methods and the main local and international actors used to promote and prescribe governance reforms in Zambia. The goal was not to create an exhaustive list but to describe the main mechanisms necessary to analyse and explain the adoption and implementation of EU electoral and judicial and law enforcement reforms by the Zambian Government and the respective national institutions.

**Figure 3: Adapted Continuum, From Lesson Drawing to Coercive Transfer**



Note. This figure plots the mechanisms identified in this study between lesson drawing and coercive transfer mechanisms on the Dolowitz and Marsh continuum. Adapted from Dolowitz (2003, p. 103) and, Dolowitz and Marsh (2000, p. 13).

The goal of identifying mechanisms is not to establish a causal link per se. Instead, it is to identify and describe factors within these mechanisms that led Zambian national institutions to accept and implement electoral and judicial and law enforcement reforms from the

perspective of the Zambian Government. Despite this, the dependent variable is the change that occurs in the programme practices, policies and arrangements (and perhaps institution) as a result of accepting the EU's prescribed electoral and judicial and law enforcement reforms. This subchapter discusses these mechanisms along with the assumptions.

#### **2.1.4.1. Conditionalities**

Various literatures characterises conditionalities by an asymmetric relation between partners, whereby inclusion in the decision-making and implementation of programmes rests in the policy entrepreneur. As shown, social constructivist is reluctant about policy recipients being forced to adopt policies. However, the EU and policy recipients negotiate these policies during the policy-making process. In other words, conditionalities are considered as a form of 'negotiated policy transfer' (Dolowitz & Marsh, 2000; Evans, 2009, p. 245). DiMaggio and Powel (1991) concur and further elaborate that conditionalities are a form of leverage. For example, governments are obligated to accept them as part of their conditions for being part of an international regime or structure (Dolowitz & Marsh, 2000, pp. 14-15).

The standard form of leverage between EU and ACP countries is conditionality bargains on EDF funding and trade leverage (Mugenyzi, 2012, p. 70). Leveraging on EDF funding is rooted in the practice of political dialogue because the two partners can discuss what to expect from the respective government concerning governance reforms and results, how to assess these and the disbursement consequences borne by (non-) compliance (Molenaers & Nijs, 2011). This is no surprise because the EU supports good governance mainly through aid and political dialogue (European Commission, 2006b, p. 3). This was the case with the EU governance approach and ECGIT intended to implement a governance approach.

There are various conditions attached to development cooperation (Hurt, 2003, p. 163). The conditions vary, these usually include the *acquis communautaire* and broader political and institutional goals, such as the respect of general democratic principles and respect for human rights (Schimmelfennig & Sedelmeier, 2004, p. 662). Youngs (2001, p. 192) finds that good governance is one of many conditionalities used by the EU while Manners (2006a, p. 187) stated that human rights are the most visible principle and clause used to bind recipients to practice ethical human rights as stipulated in the European Convention on Human Rights, these are also included in trade agreements. As explained, the EU and ACP negotiated the reforms in their agreements. The EU attached the governance reforms as conditionalities in the partnership with Zambia.

Thus, the premise here is that governance areas in the form of conditionalities are negotiated into agreements thereby facilitating their adoption and implementation. The Zambian

Government and respective Zambian national institutions are not passive policy recipients; they can accept or reject the policies. This study will analyse whether conditionalities played a role in the decision by the Zambian Government and national institutions to take and implement (or not) EU governance reforms.

#### **2.1.4.2. Incentives**

Incentives imply rewards received by individuals for their actions or those of others (Gibson, Andersson & Ostrom, 2005). The rewards to wards non-EU countries come in various forms. For instance, Schimmelfennig and Sedelmeier (2004) proposed an incentives model of governance to study EU governance modes of transfer to outside EU states, particularly CEECs. In their study, they analysed the institutionalisation of EU policies at the domestic level. These included incorporation/replacement of EU legislation in domestic policies, restructuring domestic institutions as per EU rules or changes in domestic political practices (Schimmelfennig & Sedelmeier, 2004). For CEECs to comply, Schimmelfennig and Sedelmeier (2004, p. 671) found that material incentives such as accession to the EU and assistance in trade play a role.

A study on the transfer of policies in three Latin American countries also indicated that the prospect of reaching an association agreement with the EU was an incentive for the Mexican government to accept the democracy clause (Domínguez, 2010, p. 14). In addition, EU funding to Non-Governmental Organisations (NGOs) to monitor elections and more recently EU monitoring missions themselves were incentives to accept democracy clauses (Domínguez, 2010). All in all, Domínguez (2010) found that association status, trade benefits, technical assistance, increased aid, economic and political sanctions, over-controlling and reducing aid were critical positive and negative conditionalities in transferring and accepting policies for Honduras and Mexico (Domínguez, 2010).

For a developing country such as Zambia, accession to the EU is not an option. Instead, incentives offered by the EU to a democratising country like Zambia include trade benefits, technical assistance, capacity building and increased development aid as an additional reward in the case of satisfactory performance of the recipient (Schimmelfennig & Scholtz, 2008, p. 190; McDonagh, 2008, p. 144). Notably, the EU financially incentivised ACP countries for committing to governance measures and reforms under the EU's governance approach. Based on this, the EU and partner countries negotiated these governance conditionalities and incentives in the agreements.

This study, therefore, assumes that the Zambian Government and respective national institutions voluntarily accept and implement EU proposed and prescribed electoral process

and judicial and law enforcement reforms as a result of financial and trade incentives emanating from the finances and therefore adopt the reforms. This study analyses the extent to which such incentives led to policy implementation by the Zambian national institutions. Without incentives, the EU's influence over domestic political developments is likely minimal. However, Schimmelfennig and Scholtz (2007) found that the effect of incentives on democratisation is dependent on its size and credibility, 'high incentives are necessary, but not sufficient condition of EU impact unless these incentives are credible. Equally, highly credible and substantively small rewards will not be effective levers for reforms' (p. 17).

#### **2.1.4.3. Policy Transfer Entrepreneurs**

In this study policy transfer entrepreneurs is an umbrella concept for knowledge actors, academics, think tanks, NSAs, national and international pressure groups, civil society, private voluntary and non-governmental organisations (Dolowitz & Marsh, 1996, p. 345; Stone, 2004, p. 556). I group these actors because of their shared role and characteristics<sup>16</sup>. This network of public and private actors, in other words, groups of individuals share an interest in a particular area, interact and are connected through formal and informal relations (Evans & Davies, 1999; Peterson, 2003; Stone 2012). Also, they share similar normative values, principles and policy enterprise (Haas, 1992, p. 6). Besides this, they are bound by an interest, in particular, policy instruments or solutions and engage in different activities aimed at building, expanding and spreading knowledge about the instruments and solutions. Furthermore, these actors seek to initiate dynamic policy change (Mintrom, 1997, p. 739). Thus, they are vital players in the spread of ideas and policies between political systems.

Policy transfer entrepreneurs play a role in the spread of ideas and information as they interact with officials outside the state, as well as between the state and international organisations. These policy transfer entrepreneurs build up a nationwide and international network of contacts that are a source of ideas for new programmes. They are also very vocal about governance inefficiencies and advocate or search for lessons to address these inefficiencies. Thus, the policy transfer entrepreneurs play many roles which include advocating policy ideas and raising awareness on governance issues; spreading ideas and

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<sup>16</sup> Knowledge actors are individuals in groups with interest in a particular area of policy, willing to invest resources, time and energy (Dolowitz, 2000, p. 129). Apart from knowledge actors, domestic and international pressure groups also influence the policy-making process through their interactions with groups in other political systems by exchanging ideas and drawing lessons from each other. The exchanged ideas and lessons learned are in turn transferred into the policy-making process through governmental contacts and public pressure (Dolowitz, 2000, p. 19). Think tanks spread their influence while developing programmes and policies (Dolowitz, 2000, p. 19). Due to lobbying particular policy or interests to governments, national and international cooperation are also vital to the process of policy transfer. According to Dolowitz (2000, p. 19), numerous political systems adopt similar policies based on the advice and information provided by these actors.

information through their networks (political parties, bureaucracy, media, civil society, and international NGOs) as well as evaluate, synthesise and weed out information from research and analysis (Dolowitz & Marsh, 1996; Stone, 2004). Due to their role and the networks, policy transfer entrepreneurs legitimise EU policies.

Based on their roles and characteristics, policy transfer entrepreneurs can influence various stages of the policy-making process, depending on where they are most active. However, these actors are dependent on a country and voluntarily act and promote common interests together (Cotonou Agreement, 2014). Nonetheless, these NSAs are also dependent on other actors such as the EU, and cannot be viewed wholly as independent agents of transfer according to Stone (2001). They could be dependent on, for example, the EU, a Zambian political party, or other donors. However, in this study it is assumed that they are mainly reliant on the EU, a significant donor to NSAs in Zambia due to a lack of resources, the EU provides technical and financial assistance to these actors. At the same time, the Zambian Government can influence the work of the policy transfer entrepreneurs, as they still need to operate within the laws of the Zambian Government.

Consequently, the provision of assistance and capacity building to either national institutions or the policy transfer entrepreneurs directly supports the transfer of policies as well as legitimises the governance reforms. The proposition is; therefore, policy transfer entrepreneurs are reinforced by the EU to directly/indirectly assist in legitimising EU reforms and thus resulting in the Zambian Government and national institutions to adopt and implementing governance reforms. Thus, policy transfer entrepreneurs are seen as essential drivers in emulation as they advocate specific solutions to existing problems for the EU and Zambian Government. However, this does not mean a government's final decision on the solution is functionally driven. Instead, it is a question of which choice can increase a state's legitimacy (Gilardi, 2016, p. 10). Thus, this study aims to examine whether policy transfer entrepreneurs as a mechanism can explain the adoption and implementation of EU governance reforms in the two case studies.

#### **2.1.4.4. Multileveling**

To ensure efficiency and effectiveness of its development cooperation, the EU mobilised relevant international organisations and development agencies<sup>17</sup>. International organisations are critical in the adoption and implementation process as the EU does not act in isolation, but it interacts with relevant international organisations that provide alternative policy

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<sup>17</sup> Development agencies include multilateral organisations that operate within and between governments as well as private voluntary or non-governmental organisations.

templates to third countries or participate in pertinent policy transfer entrepreneurs and activities (Barbé, Costa, Surrallés, & Natorski, 2009; Lavenex, 2015; Lavenex & Wichmann, 2009). In addition, development or aid agencies are a crucial actor (Gibson et al. 2005) in development cooperation and policy adoption and implementation process.

Thus, the interactive theoretical framework used in this study proposes examining the dynamic role behind this 'multileveling' in adopting and implementing EU governance reforms. International organisations and development agencies play many roles, they either provide humanitarian, or development aid or they implement development projects thereby being able to influence recipients. These actors exert influence through their ability to spread ideas and information (Dolowitz, 2000, p. 20) because they act as agents of both voluntary and coercive transfer as both can be used by other actors to help in their efforts to transfer or force others to transfer policies.

How can this interplay between development agencies and the EU be described? Research on the role of these actors is fairly new as noted by Lavenex (2016). Nonetheless, Lavenex (2016) identifies international organisations, including development agencies, supporting the EU in influencing and transferring policies to third countries as key in the transfer process. The interplay between international organisations is conceived as outflows of resource interdependence concerning tangible (money, personnel, etc.) and intangible goods (expertise, legitimacy, contacts, etc.). Some literature on EU external governance (Lavenex, 2004; Lavenex & Schimmelfennig, 2009); policy diffusion (Dobbin, Simmons, & Garrett, 2007; Scott, 2012; Stone, 2004) and institutional interplay in international politics (Biermann, Pattberg, Van Asselt, & Zelli, 2009; Oberthür & Gehring, 2006; Oberthür & Stokke, 2011; Youngs, 2010) offer a typology to conceptualise this institutional interplay.

For instance, Lavenex (2015, p. 350) combined these and offered three patterns: (i) uploading which refers to the EU exporting its internal rule to an overarching international organisation thus extending rule's prescriptive scope to that international organisation's wider membership; (ii) subsumption implies EU rule under a pre-existing international one, while promoting it towards third countries, thus enhancing its legitimacy; (iii) outsourcing means that international organisations or development agencies are mobilised in the policy transfer activities, for instance by financing international organisation-led projects geared at the implementation of EU policies.

Lavenex (2015) concluded that 'multileveling of external governance, while gradually co-opting overarching international organisations, allows nesting of EU policies into wider structures of global governance, thus enhancing EU's administrative capacity to implement

its global approach and the latter's normative legitimacy' (p. 363). Stavridis (2001) however explained that the interplay between international organisations could be considered as counterweights because international organisations seek to complement and correct EU policies where they perceive deficiencies. Stone (2004, p. 561) solely saw the organisations as subcontractors to which EU outsources implementation of pertinent projects, so these international organisations act as transmitters or 'transfer agents' thereby contributing to the transfer of EU rules.

Based on the above and similar to policy transfer entrepreneurs, the EU can use these actors in their (EU) efforts to ensure that recipients adopt and implement policies. Thus, the theoretical contention related to development agencies in the proposed framework is, these agents facilitate and legitimise the adoption and implementation of EU governance reforms at the domestic level. Thus, I investigate the role that these agents play in facilitating (or not) policy adopt and implementing governance reforms in Zambian national institutions.

As seen, this framework is mainly used to analyse the transfer and adoption of policy from the policy entrepreneur's perspective. There are many similarities between this framework and others privileging the entrepreneur. Because it is also used to interpret the adoption of the policy, it has similarities to frameworks privileging the policy recipient such as lesson drawing, which is also part of the policy transfer and adoption framework but is also a framework on its own. The next section discusses lesson drawing.

#### **2.1.4.5. Lesson Drawing**

Instead of accepting EU governance reforms in succession for rewards as a consequence of imposition or transferred and implemented through policy transfer entrepreneurs and multileveling, some domestic political structures and agents, condition normative change or habituate the acceptance of new global norms such as good governance, human rights, rule of law (Acharya, 2004; Rose, 1993). These arguments are predicated on the concepts of lesson drawing and localisation (Acharya, 2004; Haas, 1992; Gilovich, Griffin, & Kahneman, 2002; March & Simon, 1993; Rose, 1991). As pointed out, the policy transfer and adoption framework incorporates this mechanism. Policy recipients do control whether to adopt or deepen European policies of governance as the targeted country or policy recipient is not a passive actor (Dolowitz & Marsh, 1996). In other words, developing countries voluntarily and knowingly accept and implement reforms without incentives or persuasion when interacting and entering into agreements with the EU, development agencies, and policy transfer entrepreneurs among other key actors.

The argument that developing countries voluntarily and knowingly accept and implement governance reforms without EU incentives or persuasion is based on the basic premise that domestic policymakers draw the lessons due to the dissatisfaction with the status quo. Choosing to draw lessons is thus a rational response (Rose, 1993, pp. 21–23). The local policymaker reviews policies/rules that are in operation in another setting and evaluate whether they are transferable to determine if the policies could operate effectively in their domestic context (Rose, 1991, p. 23–24). Thus, according to lesson drawing, a nation would adopt EU policy, if it expects these policies to solve domestic policy problems effectively or is an inexpensive means of solving a problem (Dolowitz, 2000; Dolowitz & Marsh, 2000). However, the adopted policies need to be per the normative framework of the developing countries (Björkdahl, 2012).

Given the voluntary basis and the deliberative nature of the process, lesson drawing is likely to enhance validity of EU governance and thus conducive to the expansion of the policies to developing countries. For example, Grootings (2007) used learning to analyse the spread of National Qualifications Frameworks (NQFs) to CEECs. NQFs are vigorously promoted by EU institutions and agencies despite the absence of convincing empirical evidence of their success (Kleibrink, 2011) on labour markets. Grootings (2007, p. 7) found that pre-accession countries sought to initiate comprehensive NQFs to show their political commitment to European integration. However, because of an oversight on the financial and administrative costs of such reforms, emulation was the primary mechanism effective in the learning of the NQS. Consequently, some governments in the neighbouring countries (the Mediterranean and post-socialist developing and transition) with no EU accession aspirations chose to learn when initiating smaller scale NQFs that fitted their domestic particularities (Kleibrink, 2011).

To summarise, this section described the five mechanisms and how Zambia adopts governance reforms through these mechanisms. The propositions and mechanisms are summarised in the table below:

**Table 1: Adoption Mechanisms and Assumptions**

<b>Mechanism</b>	<b>Assumption</b>
Conditionalities	Governance areas in the form of conditionalities are negotiated into agreements thereby facilitating their adoption and implementation.
Incentives	Zambian Government and respective national institutions voluntarily accept and implement EU proposed and prescribed electoral process and judicial and law enforcement reforms as a consequence of financial and trade incentives emanating from the finances and therefore adopt the reforms.
Policy Transfer Entrepreneurs	Policy transfer entrepreneurs are reinforced by the EU to directly/indirectly assist in legitimising EU reforms and thus resulting in the Zambian Government and national institutions to adopt and implement governance reforms.
Multileveling	Development agencies facilitate and legitimise the adoption and implementation of EU governance reforms at the domestic level.

Lesson Drawing Developing countries voluntarily accept and implement reforms without incentives or persuasion when interacting and entering into agreements with the EU, development agencies, and policy transfer entrepreneurs among other key actors.

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Note: The table condenses the assumptions of the mechanisms used in this theoretical framework.  
Source: Own Compilation.

### **2.1.5. Factors and Degrees of Adoption and Non-Transfer**

As specified, part of the argument of this study is that domestic factors such as social, economic, political, institutional, ideology and beliefs are crucial factors for the successful implementation of policies. A social constructivist perspective inspires this argument. This worldview demonstrates how inter-subjective definitions/understandings and domestic factors affect adoption and implementation (Acharya, 2004). Specifically, this perspective explicitly includes a cultural and social element to the policy transfer models and ‘the degree of cultural match between global norms and domestic practice’, which are vital in determining factors, patterns and, provides explanations to the extent of adoption and non-transfer (Checkel, 1999, p. 86; Strang & Meyer, 1993, p. 503). In other words, shared beliefs and values do shape the channels through which ideas move; thus, actors sharing similar cultural ideologies tend to adopt similar practices (Rogers, 1995, p. 274; Simmons & Elkins, 2004, p. 175). Gilardi (2016, p. 10) was in agreement and found that governments mimic foreign norms and change their policies accordingly because they perceive them as socially appropriate, rather than being functionally superior and more effective solutions. Thus, this worldview is employed by this study to clarify the factors in the above-mentioned mechanisms, leading the Zambian Government and national institutions to adopt and implement EU governance reforms.

#### **2.1.5.1. Factors of Adoption and Implementation**

The theoretical framework assumes that there are limits to how far domestic policy-makers can make changes practically, that is, certain factors are to be met if domestic policymakers were to accept and implement EU governance areas through the various mechanisms. The factors facilitating and hindering adoption and implementation were discussed inexplicitly throughout this chapter, this section explicitly summarises these and categories those relevant for this study.

Due to free will, choice and necessitated by the country context, the Zambian Government and national institutions are active recipients, they can pick, accept and implement the transferred governance reforms or they can reject them. Thus, to claim that policy was transferred and implemented, there are many pre-requisites to be determined. Scholars such as Benson and Jordan (2011, p. 372) and Dolowitz and Marsh (1996; 2000) pointed out some factors that enable and constrain the policy adoption and implementation process. The factors include resistance towards coerced policies, failure in an existing policy or global

economic crisis (Stone, 1999) as well as the relationship between the two political systems, that is, the policy entrepreneur and policy recipient (Dolowitz, 2000, p. 27). Thus, mutual understanding between entrepreneur and recipient of policy experiences seem to be a necessary prerequisite for successful transfer (Dolowitz, 2000; Dolowitz & Marsh, 1996, 2000). These were the main factors on the part of the policy recipient.

Furthermore, Rose (1993, p. 118) found that the inherent 'uniqueness' of policies and their social, economic and policy context are essential factors facilitating and hindering the internalisation of policies (see also Dolowitz, 2000, p. 26; Acharya, 2004). Similarly, Carroll and Common (2013, p. 14) concurred and argued that content of the policy and programmes learnt can also result in non-transfer. Other factors reducing transferability include path dependency, political context, policy layering, historical background, ideological or cultural incompatibilities, institutional structures, skills, technological and fiscal restraints (Benson & Jordan, 2011; Checkel, 1999; De Jong, 2009; Dolowitz, 2000, p. 27), which are mainly considered as contextual factors.

Moreover, lesson drawing is also a factor. For instance, Savi and Randma-Liiv (2013) convincingly demonstrate factors that influence the process of policy transfer by illustrating how Estonia and Latvia voluntarily drew lessons. In the hope of catching up (Rose, 1993), the role of the decision-makers of Latvia and Estonia in international networks, increased comparative knowledge and foreign contacts paved the way for policy transfer in both countries. Thus, they were able to select policies and combine different elements of policies and practices rather than passively accepting policies developed by the EU and elsewhere (Savi & Randma-Liiv, 2013). According to Savi and Randma-Liiv (2013), various factors drive recipients to adopt; this includes seeking to replace old discredited policies; this is likely for post-conflict or democratising countries.

Finally, scholars identified factors like transaction costs of institutional adjustment, 'scales of domestic change required and if policies themselves must undergo modification to ensure successful transfer' (Benson & Jordan, 2011). For example, Mugenzi (2012) found that linkages influenced ACP countries adopting good governance policies and suggested that these policies characterised the interstate system of the EU, in simple terms, 'the EU creates rules and policies and their implementation in the domestic political system of ACP countries' (p. 69). Tambulasi (2013) studied the factors that inhibit the transfer of a decentralised model of health service administration in Malawi. This was originally a World Bank policy, but EU was critical in its transfer to Malawi (Tambulasi, 2013, p. 85). The factors identified included bureaucratic interests, general institutional and cultural environment. Additionally, implementation of policies were best achieved under learning approaches (Tambulasi, 2013).

The factors are manifold; this study focuses on the scope of factors likely to affect domestic change within the five mechanisms identified in response to the rooted and prescribed EU governance reforms. Seeing that I am interested in the policy recipient and the implementation of the reforms, contextual and implementation factors are vital to this study. Contextual factors include path dependence, resistance towards coerced policies, political context, historical background, ideological and cultural incompatibilities (normative fit), the relationship between the recipient and the entrepreneur during adoption and implementation (De Jong, 2009, p. 147; Minkman, van Buuren & Bekkers, 2018, pp. 229-235).

In other words, reforms that are considered socially appropriate or placed into the social, economic, political, policy and institutional context (Gilardi, 2016), the nature of the relationship and whether the reforms are coerced or not during the adoption processes enables and hinders the process. Placing the reforms into the context is crucial because, reforms that are excellent in one social and political system will not necessarily work in another social and political setting, while those reforms that are forced or transferred under a strained partnership will be resisted.

Because the focus is also on the implementation stage of reforms, I consider implementation factors. These include transaction costs of adjusting reforms, ownership, modification of the reforms, and the scales of domestic change required (Gibson et al. 2005; Benson & Jordan, 2011, p. 372 - 373; Marsh & Sharman, 2009, p. 279; Page, 2000, p. 2). In addition to these, the wider social and policy context (Dolowitz, 2003) as well as ownership in the development and implementation of the reforms are crucial. These factors are important for the recipients and should be considered during the adoption and implementation process otherwise they will fail. The table below summarises these factors.

**Table 2: Contextual and Implementation Factors**

<b>Contextual</b>	<b>Implementation</b>
1. Path dependence	1. Transaction Costs of adjusting reforms
2. Political Context	2. Ownership
3. Historical Background	3. Modification of the reforms
4. Ideological and cultural incompatibilities (normative fit)	4. Scales of domestic change required
5. Relationship between the recipient and the entrepreneur	5. Social and policy context
6. Coerced Reforms	

Note: Overview of contextual and implementation factors used in the theoretical framework. Source; Own compilation

### **2.1.5.2. Degrees of Adoption and Non-Transfer**

The transfer, adoption and implementation process can be a success or a failure implying that reforms can be transferred, adopted, implemented or not transferred at all. So, how can this outcome be described? The section presents a typology to describe the degrees of

adoption and non-transfer. Table one and two below summarises these. It is imperative to mention that the typologies have no explanatory power nor do they include theory status. Instead, the typology is exploratory serving cognitive purposes allowing for systematic analysis of policy implementation and adoption (or not) by Zambian national institutions. These are based on Dolowitz and Marsh (1996, 2000) degrees of transfer that explain the degrees of adoption and non-transfer in this study, seeing that adoption and implementation is of interest. In this process, I slightly altered the degrees. As seen in Table 3, the gradations of adoption and implementation include copying, emulation, combinations, inspiration and harmonisation. Alternatively, there could be no adoption at all (Table 4). The explanations of adoption and non-transfer bring the agency of policy recipients further to the fore.

**Table 3: A Typology of the Degrees of Adoption**

<b>Adoption</b>	<b>Description</b>
Copying	Accepting and internalising intact EU electoral and judicial and law enforcement reforms into domestic practices, policies and institutions
Emulation	Adapting and adjusting policies for contextual differences
Inspiration	Using EU policies as intellectual stimulus to develop novel programmes/structures
Harmonisation	Convergence in policies between policy recipients and policy entrepreneurs
Combination	Mixture of different policies from one or more actors

Note. Table 3 summarises the typology on the degrees of policy adoption and implementation described above. Own compilation.

Copying involves direct and complete adoption and implementation (Dolowitz & Marsh, 2000, p. 13; Rose, 1993, p. 30) of EU policies into domestic practices, policies and institutions, while emulation involves the transfer of ideas behind the policy or programme (Dolowitz & Marsh, 2000, p. 13; Rose, 1993). Emulation means adjusting policies for contextual differences. However, the ideas behind the policy or programme are still transferred (Dolowitz & Marsh, 2000, p. 13; Rose, 1993). Inspiration occurs when policy in another jurisdiction is used to inspire a policy change (Dolowitz & Marsh, 2000, p. 13; Rose, 1993). Harmonisation is an outcome resulting in convergence as a consequence of the political recognition of interdependence and awareness of the costs of divergence. Harmonisation does not prominently feature in this framework. Thus, it is strengthened to consider situations that result from synthesising. Apart from these gradations, policy transfer can be a result of a combination of policies. This is a mixture of several different policies. Due to these outcomes, there is an influence on the programmes and possibly institutions, that is, changes in the policies, practices and arrangements of the programmes and institutions governance areas.

Because EU transfers policies, it does not imply that recipients adopt and implement /internalise policies (Björkdahl, 2012, p. 85). Policies do not work in a vacuum; they can be reinterpreted, weakened or strengthened by contestation (Badescu & Weiss, 2010; Deitelhoff

& Zimmermann, 2013; Krook & True, 2012; Wiener, 2008). Policy transfer can also fail; thus not all policy transfer results in one of the above outcomes. That is, governance reforms are not adopted and implemented; thus, domestic practices stay the same or diverge from EU governance reforms. Existing literature sometimes overlooks this aspect of policy transfer (Commons, 2013) and lacks an elaborate typology, which is further developed next.

Payne, (2001) explained that transfer failed when policies are ‘not internalised or institutionalised to normative structures that shape the norm recipients behaviour’ (p. 41). In other words, policy recipients do not adopt or implement them. According to Dolowitz & Marsh (2000, p. 17), non-transfer or policy transfer failure is categorised as an uninformed transfer, incomplete transfer and inappropriate transfer. However, Dolowitz and Marsh (2000) consider these factors. This study assumes that non-transfer is a result of uninformed, incomplete, inappropriate transfer and reluctance as consolidated by Table 4 below.

**Table 4: A Typology of Non-Transfer**

<b>Non-Transfer</b>	<b>Description</b>
Uninformed	Insufficient information about the policy and how it operates
Incomplete	Vital elements of policy are not transferred
Inappropriate	Policies are contested and resisted because of social, economic, political and ideological differences
Reluctance	Hesitation and recalcitrance to adopt or emulate

Note. Table 4 summarises the typology of non-transfer as just described above. Own compilation.

Dolowitz and Marsh (2000) found that uninformed transfer occurs in instances where developing countries receiving policies have insufficient information about policy/institution as well as how it operates in the setting where it is being or was transferred. As a result, the policy recipient does not adopt the policy. In contrast, an incomplete transfer occurs when vital elements of what made the policy or institutional structure a success in the originating country are not transferred, therefore leading to non-adoption (Dolowitz & Marsh, 2000). In the case of inappropriate transfer, the transfer fails because of social, economic, political and ideological differences between the policy entrepreneur and policy recipient were not adequately considered (Checkel, 1999; Dolowitz & Marsh, 1996, p. 17).

This study contends that there is more to inappropriate transfer because the differences are also due to policies being contested or resisted. Thus to further explain policy failure, I included contestation and resistance to the typology. Resistance occurs when no new tasks and instruments are created, and the targeted policy, as well as an institutional model, remain mostly intact (Acharya, 2004, p. 254). Wiener (2014, 2017) defined contestation as a ‘social practice [that] entails objection to specific issues that matter to people’, in ‘international relations, contestation...involves the range of social practices which

discursively express disapproval of policies'. In addition to these, this study explores policy failure further and claims that policy failure can also be a result of reluctance. Reluctance can be identified through a lack of initiative, delaying and flip-flopping (hesitation) as well as a lack of responsiveness towards the demands made by others (recalcitrance) (Destradi, 2015); as a result, the transfer does not take place. In this case, the policies are not contested, rejected or a result of incomplete information. The non-transfer typology, therefore, includes reluctance.

To conclude, this subchapter indicates a clear preference for policy transfer as the appropriate framework to guide this research on the adoption and implementation of the EU's governance reforms in Zambia. As demonstrated in the literature review and claimed by Benson and Jordan (2011), the policy transfer and adoption framework, a more interactive framework, is rarely applied from a social constructivist perspective. Hence, promoting the use of this worldview for this study, amongst other reasons. In the following subchapter, I discuss other frameworks that have been used to explain the transfer and adoption process.

## **2.2. State of the Art**

There are other frameworks and perspectives proposing various mechanisms and factors to analyse the spread and implementation of policies. In the following, I focus on developing countries adopting policies transferred by the EU, with a few exceptions. The frameworks are categorised and discussed according to approaches on policy recipient adopting policies and frameworks exploring the policy entrepreneur's (EU) perspective in transferring policies. The ensuing literature cannot encompass all contributions. Instead, the review of the literature is to elaborate particularly on the scant work thus far on developing countries internalising EU policies, as an essential piece in the broader theoretical puzzle in international relations. Furthermore, the purpose of this subchapter is to also highlight why I chose the policy transfer framework with a social constructivist perspective instead of other approaches.

### **2.2.1. Recipients Adopting Transferred Policies**

The first category of frameworks looks at the policy recipient and stresses their agency in adopting the transferred policies. To reiterate, this study adopts Hay's (2002, p. 94) understanding of agency that is, indicating a sense of free will, choice and autonomy in addition to political action or conduct. How the policy transfer framework accounts for the agency of the policy recipient will be discussed shortly. The review starts with the policy transfer framework. Other frameworks that consider agency, as well as cultural, domestic and institutional factors in the adoption process, include lesson drawing, learning, localisation and socialisation, which this subchapter also discusses.

### **2.2.1.1. Lesson Drawing**

Lesson drawing assumes that actors adopt policies without incentives or persuasion. The lesson drawing argument is based on the basic proposition that lessons are drawn when domestic policy recipients dissatisfaction with the status quo and decides that a programme elsewhere may be useful in their environment (Rose, 1993, pp. 21–23). The lesson drawing framework focuses mainly on programmes that public officials develop to deal with immediate substantive problems (Rose, 1993, p. 23). Lesson drawing occurs across time and space, is positive and includes several processes such as copying, adaptation, hybridisation, synthesis and inspiration. Lesson drawing is a big part of policy transfer as illustrated earlier; frameworks such as policy diffusion, EU external governance and institutional isomorphism also consider it.

There are other approaches very similar to lesson drawing. For instance, there is policy learning, which scholars define as adjusting understandings and beliefs related to public policy (Dunlop & Radaelli, 2013; Freeman, 2006). According to Moyson, Scholten, and Weible (2017, p. 162), Deutsch (1963) was arguably the first to emphasise learning in the study of politics and policy in a relative rationalist theory of government. Learning occurs because governments regularly operate through processes of feedback and steering that depends on and enhances governmental learning capacity (Deutsch, 1963). Because policy learning occurs in a process, it is, therefore, complex to study (Moyson et al. 2017).

Learning is also akin to lesson drawing and policy learning. Hall (1993) explained that learning occurs when policy-makers alter their policies in the light of knowledge gained from past policy experience. An understanding of policy failure providing impetus to place new ideas on the policy and political agendas informs the learning concept. With increasing policy failures greater interest is shown in alternative ideas and ‘politicians will have particularly strong incentives to seek out and embrace ideas that challenge the policies of their opponents’ according to Hall (1990, p. 73). A very similar concept is social learning. Despite sharing similar characteristics with policy transfer, lesson drawing and policy learning, social learning emphasises the cognition and redefinition of interests by the new knowledge which affects the fundamental beliefs and ideas behind policy approaches (Hall, 1993). Lesson drawing and the close concepts (social learning, learning and policy learning) are already included in the policy transfer and adoption framework as pointed out.

There are limits to how far policymakers can carry out lesson drawing in practice. If domestic policy recipients were to adopt lessons from the EU, certain conditions would have to be met; these conditions, in turn, depend on some factors (Schimmelfennig & Sedelmeier, 2004, p. 676). Also, Rose’s (1993) analysis does not seem to extend much beyond this well-known

framework, apart from suggesting that there are limits to how far decision-makers in the policy recipients country can carry out this activity in practice. The lack of a clear distinction makes finding evidence of 'lesson drawing', as opposed to rational policy-making in general, a difficult task. Furthermore, it is hard to think of any form of rational policy-making that does not involve using knowledge about policies in another time or place to draw positive or negative lessons (Hall, 1993). Nevertheless, Hall (1993), as well as James and Lodge (2003), claimed, 'even rational policy-makers preference for the status quo in their jurisdiction could be seen as implicitly involving negative lessons about alternatives in other countries or in other times' (p. 181).

### **2.2.1.2. Localisation**

Acharya (2004) has gone beyond strictly assessing outcomes of adoption or rejection of norms and institutions by proposing a framework for investigating policy diffusion that stresses the agency role of policy-recipients through a dynamic congruence-building process called localisation. Acharya (2004) defined localisation as 'active construction (through discourse, framing, grafting, and cultural selection) of foreign ideas by local actors, which results in the latter developing significant congruence with local beliefs and practices' (p. 245). Following Acharya (2004, p. 241), localisation, which is rooted in a constructivist worldview, describes a process and outcome through which policy recipients build similarity between norms and local beliefs and practices. Thus, local actors incorporate foreign norms into local ones. With localisation, local actors actively adapt foreign ideas, through cultural selection, discourse, grafting and framing.<sup>18</sup>

Acharya (2004) applies this localisation framework to analyse how transnational norms shaped regional institutions in Southeast Asia and the role of Asian regional institutions in this process. The author concludes that local actors do not remain passive targets and learners; instead, they promote norm transfer by borrowing and modifying transnational norms. In this process, they perform acts of selection, borrowing, and modification following a pre-existing normative framework to build congruence between that and emerging global norms. Finally, factors such as the positive impact of the norm on the legitimacy and authority of crucial norm-takers, credibility and prestige of local agents and scope for grafting and pruning presented by foreign norms play an essential role in the legitimisation and localisation of a policy (Acharya, 2004, pp. 269-270).

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<sup>18</sup> Acharya (2004) explained that, 'through framing, norm advocates highlight and "create" issues 'by using language that names, interprets, and dramatizes them' while grafting refers to 'a tactic norm entrepreneur employ to institutionalise a new norm by associating it with a pre-existing norm in the same issue area, which makes a similar prohibition or injunction' (p. 243-244).

Localisation is similar to socialisation (Risse & Sikkink, 1999). Socialisation is the 'process by which international norms are internalised and implemented domestically' (Risse & Sikkink, 1999, p. 5). It distinguishes between three types of causal mechanisms necessary for the enduring internalisation of norms namely, 'processes of instrumental adaptation and strategic bargaining; processes of moral consciousness-raising, argumentation, dialogue, persuasion and processes of institutionalisation and habitualisation' as outlined by Risse and Sikkink (1999, p. 5). Risse and Sikkink (1999) applied this framework and concluded that due to social and material factors, a democratising country would adopt norms in the long run.

Furthermore, Checkel (1999) and, Cortel and Davies (2000), while using the socialisation framework found that domestic veto players and a lack of cultural match could result in resistance to the transferred and adopted norms.<sup>19</sup> Nonetheless, socialisation is not considered as a possible framework because it 'depicts international actors linking up with domestic actors' (Acharya, 2004, p. 247 - 248; Zimmermann, 2016, p. 104). In other words, it privileges the policy entrepreneur thus distinguishing it from the localisation framework, which focuses on local actors. The interest of this study is the Zambian (domestic) actors accepting and implementing transferred EU (international) reforms.

With that said, this study aims to analyse the adoption mechanisms to identify factors within these mechanisms that hinder or facilitate the implementation of policies at the domestic level by national institutions. Here, there are similarities with what Acharya's (2004) study on norm localisation aims to achieve. Localisation emphasises agency; it analyses how norms are localised, in other words, become part of the local practices. Additionally, it is also broad, explains Zimmermann (2016, p. 105), and like the policy transfer and adoption framework, the localisation framework is generic to all actors whether weak or influential (Acharya, 2004). However, localisation 'almost entirely focuses on the role of local actors' (Zimmermann 2017, p. 774).

Despite the strengths of localisation, there are some shortfalls to the framework. Based on Acharya's (2004) explanations, localisation considers all foreign norms as good and desirable, but not entirely consistent with their existing cognitive prior. Additionally, Zimmermann (2016) critiques the framework for identifying 'every reaction between rejection and adoption as localisation' and that Acharya offers limited conditions that make localisation probable (p. 105). Specifically, Acharya (2004) discussed three factors: 'if the norm takers

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<sup>19</sup> According to Checkel (1998), cultural match is another notion that describes 'a situation where the prescriptions embodied in an international norm are convergent with domestic norms, as reflected in discourse, the legal system (constitutions, judicial codes, laws), and bureaucratic agencies (organisational ethos and administrative agencies)'(p. 4).

come to believe that the new external norms could enhance legitimacy and authority of the local actors', 'strength of the prior local norms; 'availability of credible local actors with sufficient influence to match' the norm exporter (p. 248). Furthermore, Zimmermann (2016) argued that localisation 'has become a new catch-all concept' as various scholars analysing policy adoption and internalisation refer to this framework (p. 99).

This study agrees with Zimmermann (2016) on these points and assumes that there is a distinction between transferred and implemented policies and, transferred, but rejected policies. This results in non-transfer and non-implementation as shown in the theoretical framework, which accounts for various degrees of adoption. However, conditions vary depending on the context, some conditions are more dominant than others, in the case of Acharya's work, these were the three main factors favouring localisation. Based on these shortfalls, Zimmermann (2016, 2017) developed the interactive norm translation as a competing and alternative framework to localisation, bargained decoupling and norm socialisation. By translation, Zimmermann (2017) refers to the legal translation, that is, 'processes involving the reception and transformation of norms in a new context...how a norm is received in domestic discourse - its discursive translation - and, how it is written into domestic law. Actors make sense of norms in discourses by linking them, consciously or subconsciously, to existing frames' (p. 776). Interactive norm translation 'includes a role for interactive patterns between external rule-of-law promotion activities and domestic norm translation...' (Zimmermann, 2017, p. 775). It is therefore a new three-step model of translation into discourse, law, and implementation Zimmermann (2016, 2017).

### **2.2.2. EU Transferring Policy to Recipients**

The second category of frameworks emphasises the policy entrepreneur and the mechanisms through which the policy entrepreneur transfers and ensures that the developing countries adopt the policies. The popular frameworks discussed here include policy diffusion, isomorphism, policy convergence and EU external governance. These are compared and contrasted to the policy transfer and adoption framework to distinguish it further from other frameworks and highlight its uniqueness. This review starts with isomorphism and policy convergence.

#### **2.2.2.1. *Isomorphism and Policy Convergence***

The section on policy transfer briefly discussed institutional isomorphism. While deciding on an appropriate framework, I considered institutional isomorphism. Isomorphism sheds light on understanding processes and changes; hence why it has been used in combination with the policy transfer and adoption framework as well. Although promising, this framework is rooted in the new institutionalist perspective, which is structure based. This study intends

on bringing agency of policy recipients to the fore. Also, the institutional isomorphism is based on coercive sources (Bevir, 2009). As pointed out, the policy transfer and adoption framework accounts for coercive, voluntary and lesson-drawing mechanisms, it therefore considers power relations and interactivity amongst all actors; hence this aspect is incorporated into the framework.

A similar concept to isomorphism is policy convergence (Knill, 2005, p. 768). Policy convergence is a pattern of increasing similarity in policies and ideas in the economic, social and political organisation (Bennett, 1991; Holzinger & Knill, 2005; Stone, 2001). In other words, convergence occurs across a given set of political jurisdictions (supranational institutions, states, regions, local authorities) over a given period. It is a counterfactual proposition allowing for the possibility of similar developments taking place in different countries with or without any direct link between them. In particular, countries that share economic, social, political and cultural similarities develop comparable policy arrangements. As a consequence, when social structures and patterns of economic organisation and constellations of political interest change in a country, policies also change (Holzinger & Knill, 2005). This framework further assumes that convergence can result from many factors useful in drawing out different political modalities of transfer. These include emulation; harmonisation; elite networking and policy communities and penetration (Bennett, 1991).<sup>20</sup>

Knill (2005) applies this framework to discuss how the EU successfully diffused norms. Knill (2005) found that independent problem solving; imposition, international harmonisation, regulatory competition and transnational communication were fundamental causal mechanisms leading to convergence. Policy transfer accounts for harmonisation and copying which are very similar to the concepts such convergence, mimicking and assimilation. However, the main reason for excluding this framework is that it suggests that the transfer process is less the consequence of agency and more the outcome of structural forces (Stone, 2012, p. 487). To reemphasise, this study focuses on the agency of the actors in adopting and implementing EU policies. In addition to this, the mechanisms identified under the previous two frameworks can be categorised under the three policy transfer mechanisms.

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<sup>20</sup> Emulation involves borrowing ideas and adapting policy approaches, tools or structures to local conditions. Harmonisation promotes convergence as a consequence of the political recognition of interdependence and awareness of the costs of divergence. Elite networking and policy communities are experts and professionals that share their expertise and information and form common patterns of understanding regarding policy through regular interactions (Bennett, 1991, p. 224-225; Stone, 2004, p. 21-22). Penetration involves the apparent use of power, coercive entails a compulsion to conform.

### **2.2.2.2. Policy Diffusion**

A further and popular framework used to explain the spread of norms and policies is policy diffusion. Although slightly distinct, policy diffusion is comparable to policy transfer. Policy diffusion is a consequence of interdependence and is not defined exclusively by the fact that something has spread (Gilardi, 2016, p. 9). According to Gilardi (2016), this understanding of policy diffusion is based on the definition put forward by Simmons, Dobbin, and Garrett (2006) and Strang (1991). Simmons et al. (2006, p. 787) explained that policy diffusion occurs when government policy decisions in a given country are conditioned by prior policy choices made in another country. Strang (1991) elucidated that policy diffusion is any process where the previous adoption of a trait or practice in a population changes the probability of adoption for the remaining non-adopters. Simmons et al. (2006, p. 787) used policy diffusion and identified mechanisms such as coercion, learning, emulation and competition in the study on transnational diffusion. Noticeably, these mechanisms are in line with mechanisms in the approaches the previous subchapter discussed.<sup>21</sup>

Policy transfer and policy diffusion overlap each other considerably. For example, the empirical findings are complementary explained Marsh and Sharman (2009) as well as Obinger et al. (2013). Besides this, both frameworks share a further common critique: what policy entrepreneurs transfer or diffuse is sometimes lost in the concern for 'how' the diffusion or transfer occurs (Howlett & Rayner, 2008, p. 386; Stone, 2012, p. 487). Despite this, there are slight distinctions. Policy transfer focuses more on learning or lesson drawing, it employs a more agency-centred approach, and methodologically, scholars mainly use case studies on policy transfer research. In other words, the strength of policy transfer literature lies in its focus on decision-making dynamics and its emphasis on the role of agency in the transfer process (Stone, 2004, p. 4). In policy diffusion, structural based processes are of interest, and it is used more in the quantitative literature (Obinger et al. 2013, p. 113).

Some scholars contend that policy transfer is a type of diffusion, while others argue that diffusion is a type of policy transfer. Newmark (2002) explained that policy transfer is a specific description of the spread of policy and it is a type of diffusion, which is considered as

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<sup>21</sup> Policy diffusion conceptualises coercion, learning, emulation and competition as follows. Coercion occurs when international organisations and powerful countries pressure others to adopt specific policies (Simmons et al., 2006, p. 794). Learning is when governments tend to look towards new policies that seemed to be initially successful (Gilovich, Griffin, & Kahneman, 2002; March & Simon, 1993; Weyland, 2007). It is a process where policies in one unit are influenced by the consequences of similar policies in other units (Haas, 1992). Emulation is voluntary inspired by sociological institutionalism; thus, its conceptualisation implies that units have to conform to their normative environment (Gilardi, 2016, p. 9). According to Gilardi (2016, p. 10), influence of institutions like the EU can condition a government to adopt efficient and transparent learning policies to increase a country's competitiveness and attract foreign direct investment from EU-based companies.

'the broadest term for describing the spread of policy'. Evans (2009, p. 254) however recognises policy transfer as a comprehensive framework with heterogeneous concepts that includes policy diffusion, convergence, learning, and lesson drawing, under the umbrella heading of policy transfer. Stone (2001), in contrast, considers both as types of lesson drawing. Nevertheless, both terms identify similar mechanisms: coercion, learning (lesson drawing), competition, emulation, and mimicry (Obinger, Schmitt & Starke, 2013, p. 114). To some extent, policy transfer does not detail competition. This study argues that policy transfer is broader seeing that it accounts for how, what, why, who and from where policy is transferred and adopted. I am therefore in agreement with Evans (2009) and sees policy diffusion as a type of policy transfer.

### **2.2.2.3. EU External Governance**

Europeanisation and institutionalism scholars have extensively used the policy diffusion framework as a foundation to study the externalisation of EU governance reforms. For instance, Lavenex (2004) and Lavenex and Schimmelfennig (2009) developed the EU external governance framework to conceptualise the externalisation of EU governance to third countries, particularly CEECs. The framework varies across countries, regions, and policy fields, as it is sometimes part of the overarching foreign policy initiative. By this reasoning, Lavenex and Schimmelfennig (2009, p. 792) argued that EU external governance can emerge or is based on four factors: foreign policy initiative (e.g. European Economic Area and European Neighbourhood Policy), bilateral co-operation agreements (e.g. bi-lateral cooperation with Switzerland), co-operation frameworks (cooperation with ACP, North America), or it may exist without overarching contractual relations at all as a function of the prescriptive qualities of the EU *acquis*. Here, external governance then spontaneously emerges when mutual interdependence is high, and adaptation to EU templates meets the interest of third countries, or international organisations identify hierarchical, network and market modes as distinctive institutional forms of EU external governance, according to the authors. Thus, if the EU bases its internal governance on these modes, the EU's external governance will also be based on similar elements. These findings are analogous to those of Bulmer and Padgett (2005) who used policy transfer and an Institutionalist approach.

In addition to the above literature, Europeanisation research has identified causal mechanisms such as 'legal imposition, positive and negative incentives, and socialisation by persuasion and learning, through which Europe hits home' explained Börzel and Risse (2012, p. 1). These mechanisms were applied to the EU diffusing regional integration to Asia, Africa and Latin America. To illustrate, Jetschke and Murray (2012) applied these mechanisms and analysed the transfer of regional integration to Association of Southeast Asian Nations (ASEAN). In their study, Jetschke and Murray (2012) argued that ASEAN

member countries appeared to be looking 'at the EU as a putative paradigm for regional integration' (p. 176). Jetschke and Murray (2012) found that ASEAN members copied EU-style institutions, mainly through a combination of two mechanisms: lesson-drawing and normative emulation, however, there was selectivity as not all rules were adopted. Similarly, Lenz (2012) also applied the framework developed by Börzel and Risse (2012) to analyse the diffusion of EU institutional models to Mercosur and SADC while focusing on market-building objectives and regional courts. Lenz (2012) concluded that the EU's influence was mainly through spurred emulation.

This study considered EU External Governance as an alternative framework for this study. I however excluded it for various reasons. First, EU external governance, as well as Europeanisation approaches, has a top-down perspective favouring policy entrepreneurs (the EU), while policy recipients are often ignored (Björkdahl & Elgström, 2015; Börzel & Risse, 2012). By privileging policy entrepreneurs and exporters, policy recipient's reflection of 'the self' and 'the other' (Diez, 2005) remains vague and policy recipient's capability to define, launch and consolidate normative frameworks on their own is not considered (Björkdahl, 2012; Björkdahl & Elgström, 2015; Nicolaïdis & Whitman, 2013). In this study the policy transfer and adoption framework situates the EU as an actor within its wider international context, thereby, leaving this 'EU-isation' concentration behind. Second, although accounting for varying phenomena, EU external governance may not adequately explain non-transfer. In particular, resistance, contestation, cultural beliefs and practices present in the policy transfer and adoption process are not sufficiently accounted for hence why this study ultimately excluded the framework. To conclude this section, this study aims to address the lacunae highlighted and more.

### **2.3. Knowledge Gap**

The research gaps in the theory and existing literature are summarised as follows. First, the related literature and respective approaches, with a few exceptions have top-down perspective-favouring policy entrepreneurs interested in changing policies. By favouring the entrepreneur, the local actors or policy recipients and their role in adopting and implementing policies is ignored. As a result, the literature privileging the policy entrepreneur assume that transfer and diffusion processes are smooth, uncontested and recipients automatically implement the adopted policies (Björkdahl & Elgström, 2015, p. 134). Second, with some exceptions, the literature falls short of explicitly discussing the practical implications of transfer as the work to date focuses on the adoption of policy as explained by Shipan and Volden (2012, p. 793) and it does not go into the implementation process of the promoted and prescribed policies at the domestic level (Gilardi, 2016).

Third, this limited existing literature paid little attention to developing countries (Marsh & Sharman, 2009), which Checkel (1999, p. 100) refer to as the 'dog that did not bark'. To repeat, this chapter relied on EU policy transfer to developing countries, which, as shown is limited. In the available studies on developing countries, there is the proposition that developing countries have no choice but to accept and implement policies because of their dependence on aid and fear of consequences of refusal (Dolowitz & Marsh, 1996; Risse et al. 1999). Most studies examine CEECs (see Lavenex, 2004; Lavenex & Schimmelfennig, 2009; Schimmelfennig & Sedelmeier, 2004).

This is not to imply that there is no literature on developing countries other than CEECS to internalise EU policies, there is research on the adoption and implementation of agrarian structures and productivity, technology, public management and regulatory governance, decentralisation policies, human rights amongst other, to developing countries in ACP, Latin American, Arabic and Asian regions by various policy entrepreneurs (see for example, Chiumbu, 2011; Hoekman, Maskus & Saggi, 2005; Minogue, 2004; Rondinelli, McCullough & Johnson, 1989; Wei, 1995). Some study governance transfer through regional integration in Asia, Africa and Latin America (Börzel, van Hüllen, Breschke, Lohaus & Striebinger, 2011; Börzel & Risse, 2012; Jetschke & Murray, 2012; Lenz, 2012; Hartmann, 2013).

Nevertheless, the literature on EU governance transfer to developing countries considering the big role it plays in EU development cooperation, except for the usual recipients (CEECs), is limited.<sup>22</sup> Besides this, some CEECs are now EU members, while others are in the process of being accessioned. The factors under which these countries agree to EU policies are therefore different. The same holds for studies on the transfer of regional integration to Asia, Africa and Latin America. The mechanisms and factors under which regional organisations adopt EU institutions and policies differ to those by national institutions. The Europeanisation literature argues that changes at the domestic level are attributed to European pressure, other possible sources are not always considered (Börzel & Risse, 2012, p. 2).

Nonetheless, the literature does provide lessons, but conclusions cannot be generalised nor directly applied to Latin American, Arabic, Asian and countries because they face different conditions and situation in their partnerships with the EU. Thus, a study on transfer and adoption by countries located far from the European periphery and not in the same situation of asymmetrical interdependence as the case of CEEC and regional organisations may offer

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<sup>22</sup>Gilardi (2012); Jetschke & Murray (2012); Lavenex (2004); Lavenex, Lehmkuhl, & Wichmann (2009); Lavenex & Schimmelfennig (2009, 2011); Lavenex & Wichmann (2009); Schimmelfennig & Sedelmeier (2004); Schimmelfennig & Scholtz (2007, 2008); Spendzharova (2003) studied CEECs to various degrees.

academics and policy analysts a different view on the EU's influence during the implementation of policies.

Section 2.1.1 highlighted the research by Mugenzi (2012). Mugenzi also acknowledges this limitation of the available literature and used the concept of policy transfer to study the spread of good governance to ACP countries (Kenya, Uganda and Tanzania) from the EU. To reiterate, there are similarities between Mugenzi (2012) and what this study sets out to achieve, however, it deviates from that of Mugenzi by focusing on the implementation of policies from the perspective of Zambia, Mugenzi's research employed a Eurocentric approach and stopped at the acceptance of the policies.

On the contrary, this study argues that the transfer and adoption process is not self-perpetuating because the policy recipients are not passive actors. Even though the EU transfers policies, the policy recipient can decide to accept and enforce policies or oppose them based on social, economic, political and cultural factors present in the adoption mechanisms. The implementation of reforms is not necessarily dependent on the mode of transfer and adoption such as coercive, voluntary and lesson drawing. Therefore, financial incentives may ensure that countries adopt and commit, but financial incentives alone and fear of consequences due to refusing positive and negative conditionalities do not guarantee that recipients like Zambia reforms the prescribed governance areas it committed itself. As a result, I go beyond merely claiming that transfer has occurred and that the Zambian Government accepted the policies, it looks into the implementation process of policies.

Fourth, scholars such as Acharya (2004), Björkdahl et al. (2015), Checkel (1999), Dolowitz and Marsh (1996), Rose (1991) and Zimmermann (2016) laid some groundwork to analyse policy recipients adopting transferred policies. For example, Björkdahl et al. (2015) recently published a book with empirical cases on numerous local actors, not only EU members but also non-EU members (Russia, African countries (EPA Negotiations), China, Australia, New Zealand, Czech Republic). Critical questions addressed include how do norm-takers perceive the EU and its norms? How do EU norms impact recipients' interests and institutional arrangements? In the study, Björkdahl et al. (2015) used a conceptual framework that brings together constructivist and rationalist accounts of how EU policies are adopted, adapted, resisted, or rejected. This study fills a major gap in the understanding of the EU's normative power with a focus on agency and perceptions of third-country recipients of EU norms and policies. These and other literature form a good basis for this study, which explores the adoption and implementation of EU electoral and judicial and law enforcement reform from a policy recipient's perspective. Despite advancing the debate, there are some shortfalls to some of this literature, hence the need for further research.

Fifth, there is little research on the EU's governance approach to developing countries in both the literature privileging the recipient and entrepreneur. Bulmer and Padgett (2005) also found that the application of the policy transfer and adoption framework 'to the EU remains underdeveloped' (p. 103). Simultaneously, I aim to provide a better understanding of the EU's instruments, which the EU continued in its programming but with changes. In particular, I analyse the ECGIT due to a lack of structured and empirical data. Few of the existing studies focus on the ECGIT setup with a few exceptions. For instance, Molenaers and Nijs (2009, 2011) focus on the set-up and design of the ECGIT and argue that despite being a 'new aid approach', the ECGIT fails to take some of the essential principles of aid effectiveness into account. Molenaers and Nijs (2009, 2011) analysed the design of the ECGIT and later identified its weaknesses and offered some explanations on why it does not represent the aid effectiveness principles.

Moreover, the European Centre for Development Policy Management (ECDPM) and the Africa Governance Institute (AGI) were commissioned by the EU to conduct a study on the ECGIT process and to provide recommendations to improve the approach to support governance in ACP countries (IAG & ECDPM, 2011). To some extent, this report contributed to the EU changing its approach to a performance/results-based approach. Also, Hout (2013) briefly discussed the ECGIT, while addressing the 'governance turn' in the EU's development policies as a consequence of the 'European Consensus on Development' (European Commission, 2006). In a footnote, Hout also referred to Molenaers and Nijs (2009, 2011) on their critical analysis of the implementation of the ECGIT.

While discussing the influence that China's engagement has on the effectiveness of the EU's policies to promote good governance, Hackenesch (2011) went a step further and discussed the implementation of the ECGIT and its challenges in Angola and Ethiopia, thus providing an exciting and brief account of the implementation of the ECGIT process in the two countries. Del Biondo and Orbie (2014) focused on the role of the EU in the ECGIT on where it lies on the democracy promoter and developmental donor continuum. They analysed EU budget support and the ECGIT in Ethiopia to better understand the complex relationship between democracy and development and how this translates into donor practices. These studies are critical as they provided the fundamental basis for this study.

To forge the debate ahead and address the identified gaps, this study formulates and answers the following research question: how and why does the Zambian government implement EU electoral process and judicial reform measures in a selective manner? I use the policy transfer and adoption framework underpinned by social constructivism to study the mechanisms and factors necessary for adopting and implementing EU electoral and judicial

and law enforcement reforms in Zambia and the degrees of this outcome. This study applies the policy transfer for various reasons highlighted throughout this chapter. To mention a few, the framework is interactive with an ability to analyse transfer and adoption from both perspectives, being rooted in organisational analysis and it is multidimensional. Applying a social constructivist approach, which is rare, may provide an alternative multidisciplinary framework for studying the transfer and adoption of policies.

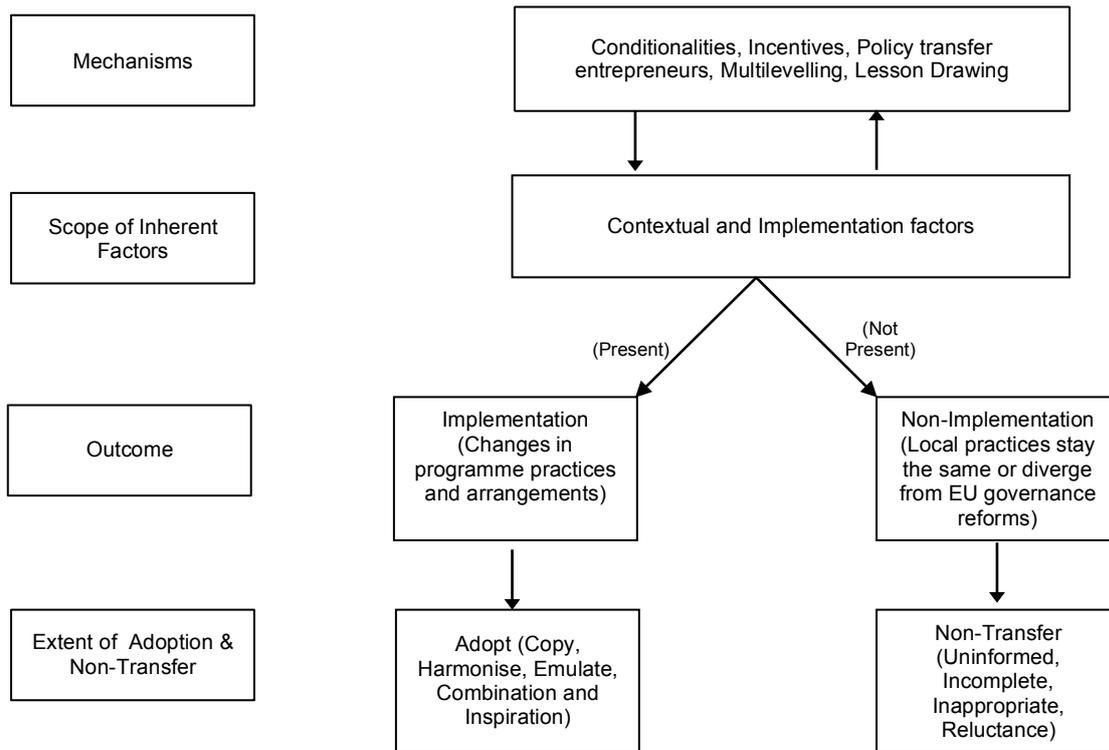
By answering this main question, I am able to contribute to the literature in various with this study. As mentioned in chapter one, the contributions include using an existing and less used, but resourceful framework for examining the policy adoption process. Also, the policy transfer and adoption framework stresses the agency role of the policy recipient and is multidimensional accounting for various actors at different levels and outcomes. Furthermore, the social constructivist perspective offers explanations for the different ways that the national institutions constructed and reconstructed governance policies and the dynamic ways in which agendas are set in and delineated in Zambia.

Moreover, by adopting the Zambian actors perspective in the analysis, I am able to explicitly discuss the practical implications of governance reform adoption in two cases funded by the EU. Through these cases, I can indicate how the adoption and implementation process was (or not) completely smooth, uncontested and automatic. Despite the dependence on aid and fear of consequences of refusal (Dolowitz & Marsh, 1996; Risse et al. 1999), developing countries can still reject policies that are not socially appropriate.

#### **2.4. Summary**

This chapter set out to outline the theoretical framework and review relevant literature on the research topic. Amongst other reasons, I considered the policy transfer and adoption framework as an appropriate framework for this study because of it is agent oriented, it can be analysed from the bottom up or top-down perspective as it encompasses coercive, voluntary and lesson drawing mechanisms and its interactive approach amongst local and international actors. Despite existing empirical and theoretical work, there is still a research gap. Specifically, methodological and empirical gaps were identified and explained in this chapter. To address these and other deficiencies, I propose answering the research questions from the social constructivist perspective while being guided by the policy transfer and adoption framework. Figure 4 below summarises the framework.

**Figure 4: Overview of the Theoretical Framework**



Note. Overview of theoretical framework used in this study to analyse and explain the mechanisms, factors, degrees of adoption and non-transfer as well as the outcomes to the research. Source: Adapted from Dolowitz & Marsh (2000).

The above framework outlines how to theoretically analyse and explain the internalisation of electoral and judicial and law enforcement reforms prescribed by the EU in Zambia. Through this framework, I pinpoint five mechanisms through which governance reforms are accepted and implemented. Finally, in the framework, I highlight theorised factors that led policies to be accepted and implemented (or not). These factors are present within the mechanisms. The outcome of the presence or absence of the factors is categorised under implementation and non-implementation. If the factors are present, the extent of the adoption is copying, harmonisation, emulation inspiration or a combination. In the absence of these factors, the policies are not transferred. This non-transfer is a result of incomplete, uninformed, inappropriate transfer or due to reluctance by the policy recipients. Here, non-transfer was expanded to include reluctance as well as resistance and contestation.

The next chapter presents the research method used based on the theoretical perspective discussed in this chapter. Notably, the chapter outlines the plan used to collect, analyse and interpret data to provide answers to the research questions.

### **3. Research Design and Method**

The theoretical discussions in the previous chapter indicated a clear preference for the policy transfer and adoption framework. This interactive heuristic technique is used in this study to clarify the plurality of policies adopted and implemented, a multiplicity of actors, their interactions and the degrees of policy adoption and implementation (or not) in the Zambia-EU context. In this chapter, I outline the research strategy and data collection technique used to answer the research question, which are informed by the research perspective.

The chapter is organised as follows: in the first subchapter, I revisit the research questions and detail the research paradigm assumptions that underpin the framework used to answer these questions. In the second subchapter, I elaborate on the case study method used, which is informed by the theoretical assumptions. Furthermore, I introduce the two cases and the selection criteria before offering reasons as to why I analyse the two cases in Zambia. In the third subchapter, I discuss the research technique used to collect data, while in the last three subchapters, I elaborate on the data analysis technique, how validity and reliability in this qualitative study are ensured and finally the limitations of this study.

#### **3.1. Research Question and Theoretical Assumptions**

In this study, I expect to explore and analyse the mechanisms of adoption to identify factors that facilitate or hinder the adoption process in developing countries as well as explain the extent of this adoption. To operationalise this purpose, the following main question serves as the source and point of reference: *how and why does the Zambian government implement EU electoral process and judicial reform measures in a selective manner?* This research question is considered feasible because it allows me to explore the interactions between the EU and Zambian national institutions during the policy implementation process from the policy recipients' perspective and thereby provide an insight and address the knowledge gap highlighted in chapter two.

To reiterate, adoption denotes the process through which the Zambian Government and national institutions internalise the EU governance reforms into the development and implementation of programmes, national institutions or policies by copying, harmonising, contextualising, using in combination or used as inspiration (Dolowitz, 2003; Dolowitz & Marsh, 2000). Implementation refers to applying in practice the electoral and judicial and law enforcement reforms in the context of the policy-making process and thus leading to influence in the programmes and Zambian national institutions. Influence is therefore the outcome and implies changes (or lack of) in policies, practices and arrangements of the respective programmes and Zambian national institutions' governance areas.

To answer the research questions, I employ a research paradigm, social constructivism, which is based on particular individual philosophies or assumptions about the world and the nature of knowledge to conduct this qualitative empirical study (Collis & Hussey, 2009). This study discusses these assumptions at different levels, namely, ontological, epistemological, methodological and technical level. First, this study assumes that there is no one single truth, the reality is subjective because the social context constructs it; thus multiple realities exist in a situation (Creswell & Plano, 2007). The social context within which this study conducts its analysis is the partnership between Zambia and the EU. This Zambia-EU context contains a framework that includes agreements, multiple stakeholders, procedures, regulations and regulators, thus multiple realities exist in this situation. As a result, it is impossible to separate people from social contexts in which they exist (Collis & Hussey, 2009; Morgan & Smircich, 1980). Therefore, the ontological premise of this study falls closer to the interpretive/constructive paradigm on the epistemological continuum. As discussed in the previous chapter, this dissertation adopts a constructivist worldview to study policy adoption.

Second, Creswell (2013) explained that in social constructivism, 'individuals seek understanding of the world in which they live and work. They develop subjective meanings of their experiences – meanings directed toward certain objects or things...the goal of the research is to rely as much as possible on the participants' views of the situation' (p. 24-25).<sup>23</sup> In other words, knowledge is developed about how subjects understand their actions and circumstances and how power and social relations conditions this understanding (Mosley, 2013). Epistemologically, I, therefore, anchor this study in an interpretive approach. Explanations from interviewees on why Zambia adopts or rejects EU reforms were at the core of the field research and answering the research questions. Through this, I also touch on an important debate in IR centres on the role of agency and structure in influencing change (Wendt, 2009).

This study is under the assumption that norms (which are the basis of policies) of actors influence change, thereby shaping identities. This assumption does not imply that norms are more important than power and interests; instead, power and interests have the effect they have as a result of the ideas they are made of (Jackson & Sørensen, 2006, p. 165; Wendt, 1999, p. 135-136). Tannenwald (2005) expressed that constructivists define ideas as 'mental constructs held by individuals, sets of distinctive beliefs, principles and attitudes that provide broad orientations for behaviour and policy' (p. 15).<sup>24</sup> These are synonymous to norms.

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<sup>23</sup>According to Björkdahl (2012), 'social constructivism remains contested, and one cannot assume the existence of one social constructivist perspective' (p. 79).

<sup>24</sup>Tannenwald (2005, p. 15) identifies four types of ideas: ideologies/shared belief systems, normative beliefs, cause-effect beliefs and policy prescriptions.

According to Jackson and Sørensen (2006), the 'core ideational element upon which constructivists focus is inter-subjective beliefs (ideas, conceptions and assumptions) that are widely shared among people' (p. 165). Thus, an agency-centred approach is adopted. Nonetheless, this study assumes that research cannot exclude the agency or structure entirely, but one is more influential. In this study, agency is more prominent.

Third, at methodological and technical levels, the assumptions emphasise how research should be undertaken (Saunders, Lewis, & Thornhill, 2007). Braun and Clarke (2013) explain that a methodology is the 'theory of how research proceeds, including considerations of such things as methods, participation and the role of I, ethics and so on' (p. 333). Also, it aims to evaluate, describe and justify the use of specific research methods. This qualitative study uses an interpretive approach; it confers how meaning is discussed. There are various techniques to conduct a qualitative study with interpretive approach. The appropriate technique employed for this study, which is informed by the social constructivist perspective, is a case study design. In particular, I use two within-country cases in Zambia, and research data was collected using documents and interviews. The next subchapter describes the case study method used to scrutinise this research topic.

### **3.2. Case Study Research Design**

A research design sheds light on how the study will collect data and analyse it (Bryman, 2008, p. 31, 2012). This study describes itself as real-world research (Robson, 2002). That is, research conducted in real life situations aimed at making sense of a complicated situation. I therefore use a qualitative case study to answer the outlined research questions. Gerring (2004, pp. 341-342) and Yin (2009) describe a case study as an empirical inquiry investigating contemporary phenomena within its real-life context, especially when the boundaries between phenomenon and context are not evident. The historical and political relationship between Zambia and the EU is precisely that, complex, as the partnership dates back to 1975. Furthermore, there are various agreements, multiple actors, ample financial resources attached with positive and negative conditionalities, making the context more complex. Additionally, this case fulfils the criteria of unclear boundaries between phenomenon and context as to why Zambia selectively implements the transferred governance reforms into programmes and national institutions. It is not merely given or evident considering the various governance areas the government dedicated itself to reform.

While in agreement with Gerring (2004) and Yin (2009), Robson (2002) also adds that a case study design seeks to explain a situation or a problem mostly, but not necessarily in the form of a causal relationship. Following the same line of argument, Blatter and Haverland (2012, pp. 5-6) explain that case studies are useful to researchers interested in explaining specific

processes and results of political decision-making and help researchers in understanding perceptions and motivations of essential actors and to trace processes by which these cognitive factors form and change. Based on this and that the study does not aim to establish causal links, a case study approach is therefore appropriate in exploring and explaining the adoption mechanisms, the inherent factors in the mechanisms that may lead to an influence or non-transfer as well as explain the extent of this outcome. To be precise, this study thus employs a small-N case study to explore cases using multiple sources and to conduct in-depth analysis (Creswell, 2013, p.97). As a result, the focus is narrow, thereby providing precise and specific explanations (George & Bennett, 2005, pp. 19-22). In this study, I do not produce a universal generalisation of the findings. By using a small-N case study, I seek to provide a deeper and more thorough understanding of the phenomenon of the adoption process of policies from the recipients' perspective that is developing countries.

In addition to the arguments for the case study design, there are other further reasons supporting its use, these are explained. First, case studies have a considerable ability in assisting to generate answers to 'why' 'what' and 'how' questions (Saunders et al. 2007, p. 139; Yin, 1994). Apart from these, I selected a case study because it is a suitable research method that allows exploration, explanation and interpretation of solutions for complex issues and gives the possibility to apply new knowledge and skills (McNabb, 2010). Given that I aim to explore and explain how and why the Zambian government selectively implements EU electoral process and judicial reform measures, the use of a case study seemed appropriate. Second, 'case studies are uniquely predisposed to taking into account a broad and diverse set of explanatory factors' (Blatter & Haverland, 2012, p. 5; Hall, 2003, p. 382). This ability of case studies is an ontological argument for advocating for this study method. As seen in chapter two, the theoretical framework presented five mechanisms, factors aiding or hindering adoption and the extent of this adoption. Case studies are thus able to build bridges across cleavages that have emerged between different paradigmatic camps within social sciences (Blatter & Haverland, 2012, p. 12).

Based on these arguments, I chose two case studies for the analysis: the Support to the Electoral Cycle Management project and Access to Justice Programme. Which criteria did I use to select these cases? Hakim (2000) argues that case studies require well-designed criteria for case selection, as their value is highly dependent on how well the study concentrates its research objective. The two cases are briefly introduced and the criteria used are discussed in the next section.

### **3.2.1. Case Studies**

In this section, I briefly describe the Election Cycle Management project and the Access to Justice programme as well as the criteria used to select these two programmes. The findings of these cases are discussed in detail in chapters five and six. Before introducing the two cases, I will first explain why I explore programmes implemented in Zambia and not in another ACP developing country. Initially, I proposed analyzing and comparing programmes implemented in two countries, Nigeria and Zambia. Furthermore, I also considered countries like South Africa or Ghana however; South Africa has a special agreement under the ACP, the findings could therefore not be generalised or applied to other ACP countries.

Ghana, Nigeria and South Africa were of interest for this study considering their political and economic strength in Africa. It would therefore be interesting to analyse their leverage within the ACP EU partnership and whether the EU is still able to influence the economic and political powers of Africa. Analysing and comparing programmes in Ghana or South Africa or Nigeria was however unfeasible with the available resources (finances and time) considering that I expected to conduct interviews. Zambia was finally selected as an example of a developing country with economic, political and institutional challenges that can provide sets of case studies.

#### **3.2.1.1. Why these Two Cases in Zambia?**

To provide some context and basis for the arguments why I use two programmes implemented in Zambia and not another ACP developing country, the socio-political situation in Zambia is briefly presented to provide some context to the reason for selecting Zambia.

#### **Political and Economic Analysis**

Zambia was under three regimes: colonial, unitary state and multiparty democratic system. Zambia was a British colony between 1888 and 1964; in 1964, Zambia gained independence with Dr. Kenneth Kaunda as president. In 1973, Dr. Kenneth Kaunda abolished the multi-party system and opted for a one-party system. Mitigating factors according to Dr. Kenneth Kaunda was the need to promote national unity; ensure security due to regional challenges; fight religious differences; and fight tribalism and factionalism (Gewald, Hinfelaar, & Macola, 2008). UNIP became the sole political party and all other parties voluntarily liquidated themselves.<sup>25</sup>

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<sup>25</sup> Looking at the political situation in other countries at the time, Dr. Kenneth Kaunda drew inspiration from Julius Nyerere who adopted a one-party state in Tanzania using similar arguments. UNIP created the unicameral National Assembly of Zambia and a centralised presidential system (Kabemba, Eiseman, Karume & O'Donovan, 2004, p. 1). Dr. Kenneth Kaunda was re-elected unopposed in 1973, 1978, 1983 and 1988 (Kabemba et al. 2004). With a unitary system, the president had the majority of the powers in comparison to the parliament.

There were various economic and political challenges during this unitary system. To start with, the unitary system intensified internal conflict leading to a failed coup attempt in 1980 (Erdmann & Simutanyi, 2003, p. 10; Gewalt et al. 2008, p. 7). Accompanying internal political conflicts was accelerated by the decline in the Zambian economy starting in the 1970s. External factors and government policy between 1970 and 1985 contributed significantly to Zambia's poor economic situation. The oil crisis of 1973, copper prices declining in 1974 and reduction of copper production from 1978 affected Zambia's revenue adversely; thus Zambia applied for financial assistance under SYSMIN. In 1984, Zambia was the most indebted country in the world relative to its GDP (Sasaa, 1996, p. 9). Structural Adjustment Programmes introduced by the Bretton Woods Institutions were fruitless based on the current state of the economy. These challenges made fertile ground for further political and economic changes.

Between the late 1980s and early 1990s, significant economic and political changes, globally, regionally and nationally compelled Zambians to demand a return to multi-party politics (Phiri, 2007, p. 206). For instance, during this time, the World Bank and other international organisations intensified their discussions on the role of governance and democracy in fostering the relationship between economic growth and democracy and ensuring the effectiveness of development cooperation. It was in 1989 that the World Bank first linked aid flows to governance (World Bank, 1989). Various national and regional events also promoted the shift back to a multiparty system (Erdman & Simutanyi, 2003, p. 10; Phiri, 2007; Rakner, 2001, p. 533). Regionally, Angola and Mozambique were independent, but undergoing civil wars, while Zimbabwe and Namibia were independent. Additionally, the situation in South Africa was changing, and gained independence in 1994. Besides deteriorating economic conditions and political dissatisfaction, there was little justification left for UNIP to perpetuate a one-party regime under the banner of national and regional security concerns. Multi-party democracy was re-introduced in 1991 after Dr. Kenneth Kaunda conceded to calls for political change; the Movement for Multiparty Democracy (MMD), led by Dr. Frederick Chiluba won elections (Bjornlund, Bratton, & Gibson, 1992). The transition from unitary to multiparty democracy was considered peaceful (Phiri, 2007); this is noteworthy because this took place two years before the end of UNIPs legal term of office.

Even though multi-party politics became the new order, the formal institutional set up was a continuation of the second regime, that is Dr. Kenneth Kaunda's unitary system, 'with its in-built elements and tendency towards authoritarianism' (Erdmann & Simutanyi, 2003, p. 71). Consequently, this hampered Zambia's democratisation process. To illustrate, the Zambian Government amended the Constitution in 1996, but the power of the president and the parliament did not change. In 2001, Levy Mwanawasa came to power through MMD, thus,

the relationship between the parliament and the presidency changed but mainly because parliamentarians were more active. In 2011, Michael Sata came to power, but because the Zambian Constitution was still in the review process, not much changed under Sata regarding the role and power of the president, Cabinet and parliament.

This continuation of the second regime is also observable in Zambia's party politics and elections. There are more than 30 political parties in Zambia, although only two seem influential, that is, the Patriotic Front that is currently in power and the United Party for National Development (UPND). Political opposition in Zambia has remained fragmented, small, weak and divided (Erdmann & Simutanyi, 2003). Since 1991, Zambia went through five general elections with the last taking place in August 2016. In recent years, general elections were considered free and fair in Zambia by national and international observers; however, international observer groups raised concern about the fairness of the 1996 and 2001 elections (Phiri, 2007, pp. 206-207). This raised concerns about the country's electoral system and the need for a good constitution (Burnell, 2001). To address these and emerging challenges, Zambia continued the Constitution review process and introduced development policies along with respective national institutions. Furthermore, the concepts of 'good' and democratic governance appear more and more in Zambian policy documents (See Appendix D for a list of international and national documents that shaped Zambia's governance sector).

### **Zambia, the testing Ground**

After this abbreviated account of the political and economic situation in Zambia, the reasons for selecting the two cases in Zambia can be explained. As highlighted, I use a purposeful sampling strategy to identify the cases; the goal of the strategy is to focus on specific characteristics that are of interest. The research gaps inform the selection of cases. As mentioned, I intend on analysing developing countries and the mechanisms and factors that lead them to adopt the transferred reforms. Zambia is developing country and can be used for this study due to its economic, political and institutional challenges that can provide sets of case studies. This study can explore the adoption and implementation of reforms by a developing country, which does not 'begin somewhere other than with great powers' (Brown & Harman, 2013, p. 3).

In addition to this, Zambia is a good testing ground because of the political and democratic governance theme. That is, Zambia faces governance challenges that the EU aims to address in its governance approach.<sup>1</sup> To illustrate, discussions on democracy and governance in Zambia heavily revolves around the electoral process and the free and fairness of it; constitutional review process; decentralisation; reducing corruption, promotion and protection of human rights. Specifically, governance issues in Zambia include

'constitutional reform, the overall role of government itself (structure, size and resources), the relationship between key national institutions of the administration, legislature, judiciary and executive; and the manner in which the political players operate' (Bratton, Alderfer, & Simutanyi, 1997).<sup>26</sup> Nonetheless, there are other governance problems like 'different sectors of the nation at regional and unit level: government departments, education, health institutions, cooperatives and organisations active in civil society (media, think tanks, and NGOs) affairs, and informal institutions of governance that the large informal sector across Zambia, especially traditional leadership at various levels' (Bratton et al. 1997; Cheeseman & Hinfelaar, 2010; Rakner, 2012). The point is Zambia lacks the proper systems and structures of a strong functioning democratic state. With its role in the political and democratic governance in Zambia through development cooperation, it is interesting to analyse whether the EU is able to have an influence while promoting and prescribing its model of governance.

All in all, from a methodological perspective, Zambia constitutes an exciting testing ground in the sense that it is 'pivotal to any understanding offered by the research' (Ritchie, Lewis, & Elam, 2003, p. 80). In this case, the influence of the EC's governance approach in practice and why some reforms were accepted and others rejected.

#### **3.2.1.2. Selection Criteria**

This section explains why I selected the two cases. Choosing cases is crucial in a small-N analysis to improve the robustness of the study and to not predefine the results that one might want to see (Geddes, 1990; George & Bennett, 2005). For this study, a purposeful sampling strategy was used to identify the cases (Creswell, 2013, p. 100).<sup>27</sup> The goal of this strategy is to focus on specific characteristics, which are of interest and allow the research to answer its questions and achieve the research purpose. Thus, the research gaps detailed in chapter two inform the selection of cases in this study. The table below summarises the criteria used to select the two case studies.

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<sup>26</sup> Zambia has experienced constitutional instability since independence. The four Constitutions reflect the instability this country had in the previous 44 years. These are the 1964 Independence Constitution, One-Party Constitution of 1973; Reintroduction of Multiparty System Constitution of 1991; 1996 Constitution and the 2006 Mung'omba Commission Constitution. After a long constitutional review process, the Zambian citizens agreed on the Amended Constitution of 2016.

<sup>27</sup> Various qualitative research designs employ the most-similar-systems or most-different-systems, which are based on the method of agreement or difference (Mill 1843; Przeworski & Tuene, 1970). These are intriguing case selection methods allowing for a certain level of external validity/intervening factors. Nonetheless, selecting cases based on such methods is difficult in the 'real world' (Levy, 2008, p. 10).

**Table 5: Case Study Selection Criteria**

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**Criteria**

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1. Political and Democratic Governance Theme
  2. Commitment to Reform by the Zambian Government
  3. Interaction amongst local and international actors
  4. EU Variance
  5. Accessibility
  6. Consistency
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Note: The table lists the criteria that marked the boundaries of Zambia as a testing ground. Source: Own Compilation.

Six main criteria were used. First, the interest of this study is political and democratic governance, thus only those cases focusing on these areas were selected. Within Zambia, there were few cases to select from, in particular, only three programmes are implemented with EU funding under political and democratic governance (Government of Zambia & European Commission, 2008). Nevertheless, the purpose of the Access to Justice programme was to enhance access to justice for all and help improve the performance of institutions such as Police, Director of Public Prosecutions, Legal Aid Board, Judiciary, and Prisons that are key justice sector actors.

The electoral cycle project aimed to increase the capacity of national institutions (ECZ, the DNRPC, civil society, media and political parties) in addressing emerging national electoral challenges and increases the integrity of electoral processes and improves public confidence in the Zambian electoral system. Under the governance profile, the Access to Justice programme and the Electoral Cycle Management fell under democratic governance (human rights, fundamental rights, electoral process and principles of constitutional democracy); political governance/rule of law: judicial and law enforcement system; and government effectiveness (institutional capacities and public financial management) (Government of Zambia & European Commission, 2008, p. XXX-L). Based on this, both programmes fitted to the political and democratic theme of this study.

Second, the programmes are two of three, which the Zambian Government committed to reforming. In addition, implementation of the reforms commenced in the programmes. Both programmes and the respective institutions were identified as weaknesses in the governance areas by the EU in the Zambia governance profile and outlined as commitments in the governance action plan by the Zambian Government (Government of Zambia & European Commission, 2008). Since making the commitments, the programmes and electoral and judicial reforms were consistently implemented. As a result, this study is able to compare the weaknesses and commitments to the actual reforms implemented to determine the effective mechanisms, the factors leading the programme implementers to selectively adopt and implement governance reforms and, establish whether there are any changes made to the

practices and arrangements of the programmes and national institutions.

Third, seeing that the framework is interactive, I was interested in programmes involving domestic and international actors. For instance, both cases have legally established national institutions (ECZ and GS) ensuring implementation of the programmes and others in this partnership with the EU. Furthermore, GIZ and UNDP assisted in implementing both projects in separate frameworks. ECZ and UNDP implemented the Electoral Cycle Management within the framework of the EC-UNDP partnership and the National Execution (NEX) Modality (see Ssekandi & Johnson, 2000). The Access to Justice programme, on the other hand, was implemented with the contractual assistance of GIZ. Moreover, there are various policy transfer entrepreneurs working in these areas in Zambia. Considering these policy transfer entrepreneurs, the two international development agencies and their approaches, is the EU still able to have an influence? And what factors contribute to the adoption and implementation or non-transfer of the reforms?

Fourth, Haverland (2005) argued that researchers should question whether countries would not have adopted the proposed regime (in this case, governance reforms) without the EU's requirements. This is a relevant point. In the case of Zambia and the two programmes, it is possible to indicate that over time and with resources, Zambia would have adopted and implemented some of the policies without the EU. As will be indicated in chapter four through the EDFs, the EU's role in governance became prominent around 2006; the EU for reform long before the Zambian Government identified the governance weaknesses proposes this. In addition, both programmes, Access to Justice programme and the Electoral Cycle Management were in progress before the EU came in (Government of Zambia, 2006b; Ministry of Foreign Affairs of Denmark, 2012) or discussions on their implementation were taking place.

A fifth criterion is accessibility. I selected these two cases in Zambia considering the research and personal familiarity with the country and region, which was an advantage in accessing data and conducting field research. Consistency in this data was important in the selection of cases, thus making it a third criterion. Cases in Zambia stand out because of Zambia's relatively 'untroubled' social and political history. In the past decades, there were violent political struggles in neighbouring countries. In comparison to these, Zambia achieved independence peacefully, and there were none or very few incidents of political and social violence erupting into large-scale social unrest (Larmer, 2013). This is not to say that Zambia's political history was un-contentious, the country had its share of economic and political challenges. However, Zambia's stability since gaining independence in 1964 implies that important continuities/consistencies in its political system thus allowing for meaningful

analyses and comparisons between the past and present (Larmer & Fraser, 2007), even though the interest of this study is the period 2006 to 2016.

Initially I had three cases, the Access to Justice Programme, Electoral Cycle Management project and the Parliamentary Reform Programme. The Parliamentary Reform Programme was excluded due to inconsistencies in the programme. The programme was implemented over twenty years however, there were various changes made to the programme and various individuals worked on the programme so it was difficult to gather records and find interviewees. Furthermore, over the twenty years, there were too many international actors involved in the programme. I would have therefore studied the influence of various actors and not just the EU.

### **3.2.1.3. Supporting the Electoral Cycle Management Project**

The overall objective of the project is to 'support capacity development of the ECZ and The Department for National Registration, Passport and Citizenship (DNRPC), related national institutions and the electoral process' (Government of Zambia & UNDP, 2009, p. 15).<sup>28</sup> Such a project is relevant to Zambia because multi-party democracy was re-introduced in 1991, since then, Zambia faces various challenges in the electoral structures and systems. These range from limitations in the aspects of capacities of institutions involved in or contributing to the management of the electoral process to the inadequate participation of some social groups, such as women, in the political process (APRM, 2013; Bratton, 1999; Erdmann & Simutanyi, 2003; Government of Zambia, 2006a, 2011, 2017; Saasa & Carlsson, 2002). The project thus addresses 'existing and emerging electoral challenges, including increased integrity and public confidence in the electoral system in Zambia' (Chandiwira, 2015, p. 17).

One of the major challenges in addressing these weaknesses is a lack of financial resources (Government of Zambia, 2006a, 2011). A Trust Fund was therefore set up by UNDP for the 2006 elections (Chandiwira, 2015, p. 8), thereby marking the beginning of harmonised electoral assistance to Zambia by cooperating partners. The EU mainly financed the project; UNDP also had co-financing obligations thus contributing to the project budget. Other donors that contributed to the project were the Canadian International Development Agency (CIDA), Department for International Development (DFID), Finland, Netherlands and United States Agency for International Development (USAID). The DNRPC was a beneficiary but also contributed financially.

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<sup>28</sup> The specific objective as elaborated by Chandiwira (2015) was to 'address existing and emerging electoral challenges, including the increased integrity of and public confidence in the electoral system in Zambia' (p. 17).

An evaluation of the project indicated that through this fund, cooperating partners pooled funding (totalling USD7.3 million) to support the electoral process; establish a continuous voter registration process; implement civic/voter education programmes with civil society organisations; engage media in disseminating electoral information; document lessons learned; and develop support systems for the coordination of international observers and training of local election monitors (Chandiwira, 2015, p. 8). The Zambian Government and donors acclaimed this trust fund as a successful and practical demonstration of development cooperation harmonisation. It was followed by the 2008 Preparatory Assistance that was funded by UNDP and EU (Chandiwira, 2015, p. 8). This assistance sought to address capacity development needs in the ECZ and to conduct a comprehensive capacity needs assessment in the DNRPC. Further, in the same year, cooperating partners supported the presidential elections as a consequence of the passing on of President Levy Mwanawasa. Donors also offered support to the 2011 and 2015 elections and the recent 2016 elections.

As will be indicated in chapter five, the Zambian government committed to reforming electoral processes. Particularly, the Zambian Government agreed to 'strengthen national processes to ensure free, fair and transparent elections in order to (i) contribute to the strengthening of democratic institutions, (ii) provide added credibility to the elections if conducted sufficiently in line with international standards for democratic elections and (iii) provide recommendations to improve future elections' (European Commission, 2006d, p. 3). These reforms were addressed in this programme. This study will analyse which of these were internalised, how they were adopted and provide reasons for adopting and implementing these proposed reforms.

#### **3.2.1.4. Access to Justice Programme<sup>29</sup>**

There are structural bottlenecks within the justice administration system preventing many, mainly those in rural areas from accessing justice (Bowd, 2009; Ministry of Foreign Affairs of Denmark, 2012). These include lack of magistrates to dispose of cases expeditiously; local courts lack capacity and face shortage of personnel; high rates of poverty and legal illiteracy have impacted the ability of the majority to enforce their rights in the courts of law; and legal representation is costly, there are few law firms or none at all in some areas of Zambia (APRM, 2013, p. 102).

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<sup>29</sup> Access to justice is a fundamental right; it is a component of the rule of law and implies more than having a case heard in a court of law. Without access to justice, individuals are unable to exercise their fundamental rights, address discrimination, have their voices heard or hold decision-makers accountable (United Nations, 2018). The concept can therefore be defined as the 'right to obtain quick, effective and fair response to protect their individual rights, prevent or solve disputes and control the abuse of power, through a transparent and efficient process, in which mechanisms are available, affordable and accountable' (Ministry of Foreign Affairs of Denmark, 2012, p. 17).

The aim of the Access to Justice programme in Zambia is therefore to improve access to justice through a series of interventions, strengthen coordination and cooperation between justice sector institutions and deliver improved justice for all, in particular women and children in rural areas. The programme dates back to 2000 when the Danish International Development Agency (Danida) supported pilot projects and studies in the legal sector in Zambia (Ministry of Foreign Affairs of Denmark, 2012, p. 13). In 2012, Danida ended its support to the programme due to phasing out of Danish bilateral support to Zambia in 2013 (Ministry of Foreign Affairs of Denmark, 2012). GIZ and EC, who financed the programme since 2011 continued the support due to a Memorandum of Understanding, signed in 2010 by the government and cooperating partners (Cooperating Partners, 2011, p. 34).<sup>30</sup> This transition from Danida to ECZ will be reflected on in chapter six. According to the 11<sup>th</sup> EDF, the EU will continue its support towards the programme and fund it until 2020 (Government of Zambia & European Commission, 2014), depending on the progress of the programme.<sup>31</sup>

The planned activities under this programme included: sensitisation campaigns targeting vulnerable groups in partnership with NGOs and other relevant institutions; construct Justice Houses and piloting of initiatives focusing on increased Communication, Coordination and Cooperation to support a process of more decentralised service delivery; supporting the Legal Aid Board and Victim Support Unit; strengthening CSOs; improving accountability and transparency; and enhancing Local Courts and crime prevention initiatives (Ministry of Foreign Affairs of Denmark, 2012). According to the 2013-2016 Strategic Plan, the programme also aimed to promote and strengthen cooperation, effectiveness and efficiency within the justice system on a user-friendlier legal framework (Government of Zambia & European Commission, 2014).

Now, with the EU coming in as a donor, the GS had to implement a number of judicial and law enforcement reforms, which the Zambian Government committed to at the international level. By judicial and law enforcement, the EU expected recipient countries to 'encourage the separation of powers, equal access to justice, the independence and external auditing of the judicial system, the effective access to legal redress and the submission of the state authorities to the law and a closer cooperation between the judiciary, including the

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<sup>30</sup> The German Government allocated EUR 1.5 million (2011-13), and EU awarded EUR 5.4 million (2011-13) to the Programme. This MoU was unfortunately not accessible. The project managers that worked on the programme at the time are no longer there. The study gathered some information on this EU-GIZ partnership from an evaluation conducted by Danida. On the EU GIZ partnership, the evaluation stated, 'on the one hand, the joining of GIZ and EU as contributing cooperating partners to the Access to Justice programme was a major achievement regarding joint programming. However, on the other hand, transaction costs incurred concerning time and resources spent to formulate and implement the MoU became high' (Danida Ministry of Foreign Affairs of Denmark, 2012, p. 62).

<sup>31</sup> Other partners include Germany, Norway and Sweden who will support CSOs in awareness raising.

prosecutor general, and the police as actors in the chain of justice' (European Commission, 2006d, p. 5). Similar to the Support to the Electoral Cycle Management project, this study will also analyse which of these reforms were internalised, how they were adopted and provide reasons for selectively adopting and implementing these proposed reforms. The findings of this case are discussed in chapter six.

### **3.3. Data Collection Techniques**

For methodological triangulation, I use two modes of data collection: document analysis and qualitative interviews. Triangulation is a process where two or more methods of data collection are used to examine the same phenomena (Braun & Clarke, 2013, p. 285). Triangulation helped decrease bias, increase validity and enhance the interpretative potential of the study. In the next section, I discuss these sources of data collection in detail.

#### **3.3.1. Document Review**

An invaluable source of information is document review, which is the analysis of internal and external documents and is conducted to supplement case study information from interviews (McNabb, 2010, pp. 107-120). Materials were collected and reviewed to understand the EU's governance approach in development cooperation and the implementation of the governance approach in Zambia. Secondary literature on EU policy transfer and adoption, EU and good/democratic governance concepts, theoretical perspectives conceptualising this transfer process, as well as on Zambia and its partnership with the EU was analysed. I sought out primary sources such as agreements between the EU and Zambia, national policies on the focal sector, project evaluations and reports amongst others. Accessing certain project documents was a challenge despite assuming that accessibility and availability of the documents would be likely considering the continuities in the programmes. For instance, project reports were gathered, but they were incomplete, while certain project documents were considered confidential and therefore inaccessible. For each programme, I accessed evaluation reports and also relied on the FNDP and CSP and National Indicative Programme (NIP) for the period 2008 to 2013 for background information to the programmes.

Agreements and other related documents (e.g. evaluations and reports of programmes and projects) are relevant for analysing the relations between ideas, goals, instruments and results that EU uses to advance its objectives and shape, or not, programmes and policies in the governance sector. These documents are also relevant as they were analysed to review what was agreed on (programmes/focus areas), what was achieved and not. Furthermore, the documents framing aid effectiveness architecture such as the Paris Declaration, Accra Agenda for Action, Busan 4th High-Level Forum on Aid Effectiveness, and JASZ amongst others, were also reviewed. A number of these documents are listed in Appendix D:

Documents shaping EU Governance Initiative and Zambian Governance Sector.

Apart from these, I further relied on Zambian media sources, even though media is at times biased (Bwalya & Maharaj, 2017). Media is shaped by political, economic, social and educational conditions. Concurrently, media equally shapes politics, especially when partnering with certain political actors. Currently, there are three main print newspapers in Zambia (Zambia Daily Mail and Times of Zambia which are state-owned, and The Post, which is independent). Other independent online news includes Zambian Watchdog and Lusaka Times. Some newspapers were critical of political parties and presidents (Bwalya & Maharaj, 2017) leading to the closure and arrest of editors and journalists, like the 'The Post' in 2016, amongst other cases of intimidation of journalists (MISA Zambia, 2016; Reuters, 2016). I heavily relied on interviews to mitigate shortfalls from document review.

### **3.3.2. Qualitative Interviews**

Interviews are a form of field research method that elicits data by directly asking relevant members' questions. The main advantage of using interviews is that they allow I to collect detailed data, are useful when participants cannot be observed directly, participants can provide historical information, will enable I to control over the line of questioning and fewer participants are needed to gather excellent and detailed information (Creswell, 2003, pp. 186-188). In addition to this, interviewees were relevant because they allowed me to better comprehend the programmes implementation process and to get a full picture considering that not all project documents were accessible. Besides this, interviews provided in-depth information on the interactions amongst partners during programme implementation.

There are different types of qualitative interviews: informal, semi-structured, structured and focus group interviews (Braun & Clarks, 2013; Lynch, 2013). With informal interviews, I poses questions and the interviewee expresses their opinion freely. Rich data can be gathered through unstructured interviews because the level of questioning can vary to suit the context and specific issues can be discussed in detail when they arise. Because the interviewee and interviewer determine the interview direction, it is difficult to standardise the interview across different interviewees as each interview takes on its format. With semi-structured interviews, I has a set of pre-planned interview questions to guide the interview, and consequently, there is consistency in the interviews of all participants. During interviews, the interviewers had an opportunity to elaborate.

In structured interviews, the interviewer uses pre-determined closed questions that are short and worded to guide the interview; such interviews are common in quantitative research (Braun & Clark, 2013, p. 78) and the questions thus require precise answers. Finally, focus

group interviews involve groups of individuals with a common characteristic and are brought together by the interviewer to gain information (Lynch, 2013). Focus groups provide valuable data collection, but it is difficult to bring a group together and bring structure, to the group.

This study used semi-structured interviews, which are very common in qualitative research. Semi-structured interviews as asserted by Kvale (2007) aim to obtain descriptions of the 'life world of the interviewee with respect to interpreting the meaning of the described phenomena' (p. 8). With such interviews, 'there is scope for the interviewee to raise issues that the interviewer has not anticipated' according to Braun and Clark (2013, p. 78). As a result, semi-structured interviews were used in this study to collect data on the experiences of the interviewees on the EU governance approach, the implementation of the governance reforms in the ECZ and the GS programmes. In particular, the study used these as additional evidence on why Zambian actors would adopt and implement EU governance areas or not as well as the EU's influence (or not) in the two case studies.

### **3.3.3. Interviewees**

There are two ways through which researchers can select their interviewees: random and non-random sampling. According to Lynch (2013), I should take note that the sampling design should support the analytical goals of the study. In random sampling, I selects sampling units from the population with known probabilities. The element for study from the population of interest is a good standard for making generalisations or inferences from the sample to the population (Lynch, 2013, p. 39). Random sampling is used to ensure responses from individuals who are likely to know particular aspects of a story or who represent different parts of larger aggregates that are randomly sampled elements.

However, it is difficult when the sampling frame is unclear or when access to interviewees is limited as in this case. In development work, development workers do not always remain in positions over a long period, or in the city or country. It can thus be a challenge to trace people that worked on projects, programmes and policies. Random sampling is furthermore hindered by budget constraints, lack of time or the difficulty of accessing randomly selected interviewees (Lynch, 2013, p. 39). As a consequence, non-random sampling was used in this study to select the interviewees. According to Ritchie, Lewis, Nicholls and Ormston (2013), in non-random sampling, the 'units are deliberately selected to reflect particular features of or groups within the sampled population. The sample is not intended to be statistically representative: the chances of selection for each element are unknown but, instead, the characteristics of the population are used as the basis of selection' (p. 78).

This study employed three methods of selecting interviewees in non-random sampling. First, purposive sampling, which involves selecting elements of a population according to specific characteristics deemed relevant to the analysis (Creswell, 2013a, 2013b; Lynch, 2013, p. 40). The main characteristic of this study included individuals working on the right governance issues in Zambia and secondly those who work(ed) with the EU in implementing governance programmes. Second, convenience sampling involves identifying and making contact with individuals attached to elements in the sampling frame. This is useful during preliminary research and necessary when gaining access to interviewees is extremely difficult. However, it would ideally be reserved for situations when one doesn't need or want to draw inferences to a larger population (Creswell, 2013a, 2013b; Lynch, 2013, p. 41; Ritchie et al. 2013). Finally, snowball sampling was the most effective and is a method for gradually accumulating interviewees in a sample based on recommendations from earlier interviewees (Braun & Clark, 2013; Creswell, 2013a, 2013b; Lynch, 2013, p. 41).

In this study, I aim to explore and understand how and why the Zambian government implement EU electoral process and judicial reform measures in a selective manner. The main character that led the study to select the population is the individual involved in the implementation of governance programmes in the Zambia-EU partnership. Therefore, I made contact with individuals attached to this element. The study selected academic experts and practitioners, civil servants, bureaucrats, consultants, analysts, EU officials working in the field of governance in ACP, Zambia, and Europe for interviews. Civil servants, bureaucrats and administrators in ministries are as crucial as politicians and elected officials. As Stone (2001) mentioned, unlike elected officials and politicians, these actors are essential in the development stage and the implementation stages of policies, they convey information to domestic and foreign policy entrepreneurs in their political systems as well as other systems, hence their inclusion in the interviews. Thus, I identified the correct administrators and civil servants. Additionally, they must be willing and able to discuss the details of policies and programmes with domestic and foreign policy entrepreneurs (Dolowitz, 2000, p. 17).

Furthermore, consultants (individuals and firms) assist in the development and implementation of new programmes, policies and institutional structures (Stone, 2001). Policy consultants offer advice based on what they regard as the best model or practice. Consultants are not just involved in the harmonisation of political systems, their role in policy transfer is complex (Dolowitz & Marsh, 2000; Stone, 2001). For example, national and international organisations or institutions, which exert pressure onto national governments, also hire these consultants. Sometimes these policy consultants are part of donor programmes over which they have no control (Stone, 2001).

I conducted interviews in Brussels and Lusaka. The head office of the ACP Secretariat and the EU Directorate General International Cooperation and Development department is based in Brussels. The Directorate General of International Cooperation and Development department works on policy formulation at a global and sectoral level, while the ACP Secretariat is responsible for the administrative management of the ACP Group (ACP Secretariat, 2011, 2017). It assists the group's decision-making and advisory organs in carrying out their work (ACP Secretariat, 2011, 2017).

In Zambia, interviews were conducted with those closely working on the programmes as well as governance in Zambia and Zambia-EU relations. Thus, I approached various actors working in the field of good governance or implementing EU funded good governance projects for interviews. To give an idea, I contacted EU Delegation to Zambia and Common Market for Eastern and Southern Africa (COMESA) officials, officials from Zambian Government line ministries and institutions (ECZ and GS), experts/analysts and practitioners working in civil society, think tanks, international organisations, embassies, as well as academics/researchers. I conducted further interviews after referral from other interviewees (snowball non-sampling method). I also aimed to interview journalists. This was difficult as many journalists in Zambia work anonymously due to the lack of freedom of speech, which has led to the closure of newspapers, as well as the arrests of editors and journalists, in the past few years (MISA Zambia, 2016; Reuters, 2016).

#### **3.3.4. Interview Guide**

I compiled interview questionnaire guides for the field research. Although similar, two separate guides were developed for the Zambian Government, ECZ, GS, EU Delegation Office, Development Agencies, ACP Secretariat and European Commission in Brussels and the other for the policy transfer entrepreneurs in Lusaka. These are attached in Appendix B and Appendix C. Two were developed because the Zambian Government, ECZ, GS, EU Delegation Office, development agencies, ACP Secretariat and European Commission in Brussels have a different perspective on the adoption and implementation of the governance reforms considering their roles, which are further discussed in the following chapters. Policy transfer entrepreneurs have an outsiders view on these interactions and possible explanations for how and why the Zambian Government would adopt policies and why the EU is able to have any influence in the Zambian Governance sector

Nevertheless, the underlying purpose of the guides was to ensure that similar general areas of information were collected from each interview and assisted in providing more focus, but simultaneously allowed a degree of freedom and adaptability in collecting the information from the interviewee (McNamara, 2009). To achieve this, I took in various considerations

when formulating the guide. First, interview questions were expressed in a way that helped elicit more accurate answers (Lewis-Beck, Bryman, & Liao, 2004). Second, questions were designed not to be too narrow to prevent limiting follow-up questions or clarifications of the main issue during interviews. Third, questions were ordered to ensure a reasonable flow so that the research issue could be adequately discussed (Lewis-Beck et al. 2004). As there is no standardised interview guide, questions were reviewed by the supervisors and discussed with peers. The reviews helped to identify issues not previously considered and ensure validity and reliability of interview data (Lichtman, 2012). After the review process, proposed amendments were taken into account, and eventually the final design used in Brussels was developed. After the interviews in Brussels, it was apparent that the interview guide was long and detailed. Thus, I further refined the interview guide for the field research in Lusaka.

### **3.3.5. Fieldwork in Brussels and Lusaka**

After the review of documents, selecting cases, selecting the interviewees, drafting and refining the interview guide, preliminary research was conducted with experts from the ACP Secretariat and EU in Brussels in November 2014. Preliminary research occurs before collection of the data on which the central descriptive or causal hypothesis of a study is tested. Preliminary research is necessary before drawing a sample, mainly if the aim is eventually to make inferences beyond elements in the sample (Lynch, 2013, pp. 24-30). It is a method for generating and testing roughly and readily or some alternative hypothesis about a particular case study/case studies (Lynch, 2013, p. 24). Preliminary research is also useful in a case study based research at the pre-thesis or scoping out a new project stage as I can identify fruitful avenues of research.

For this study, the preliminary research in Brussels was useful for identifying fruitful avenues of research. Furthermore, the pre-interviews were useful as it complemented the document analysis, established practical relevance of this study and allowed I to test the interview guide before being used in Zambia. Additionally, these pre-interviews were useful in acquiring a better insight into the current state of the Zambia-EU and ACP-EU partnership. Despite these positive outcomes, two main challenges were experienced with the preliminary research. First, there was a lack of response from the identified interviewees and second, some interviewees cancelled a few days and hours before the meetings, thus making it challenges to get new appointments. Because of limited time in Brussels, phone or Skype interviews were conducted at a later date.

Field research in Lusaka took place between April and May 2015. Because of the experience in Brussels, interviewees were contacted well in advance before travelling to Zambia, first via e-mail and later by telephone to inform them of Is' arrival/presence in Lusaka. All in all,

interviewees in Zambia were slightly more open to interviews and sharing information in comparison to the interviewees in Brussels. Approximately 58 interviews were conducted with Zambian practitioners, civil servants, bureaucrats, academics, EU officials and other relevant stakeholders inconsistently between November 2014 and August 2017. I recorded most interviews, for the unrecorded interviews, I took notes during the interview. After individual interviews, time was taken to go through notes and add further information. In most of these cases, I typed the interview immediately after. I conducted follow-up interviews and member checking with some of these individuals after the fieldwork via telephone or email. Also, interviews with researchers and consultants were conducted in Germany to confirm the findings further and refine this study.

### **3.4. Data Analysis and Interpretation**

I used a qualitative content analysis approach in the analysis and interpretation. Data analysis involved a tedious process. First, the process involved simultaneous activities, as seen above, starting with collecting relevant data from primary and secondary sources. I recorded the interviews and compiled notes of the unrecorded interviews. I transcribed and analysed approximately 35 interviews personally with the assistance of MAXQDA. See Appendix A for the list of the 35 interviewees. MAXQDA is software that facilitates qualitative empirical research, it is not a method per se, and instead, MAXQDA is compatible with different procedures such as grounded theory, hermeneutic reconstruction and qualitative content analysis. For the transcription, a transcription software was initially used but it later proved to be inefficient because of accents etc. The software was not able to take accents into account, the transcriptions were therefore not always accurate. I personally transcribed the first using MS Word soon after MAXQDA to transcribe the interviews due to its transcription mode.

Only 35 of the 58 interviews were transcribed and analysed in this study because some interviewees provided background to the Zambia-EU partnership or provided contextual understanding, which was necessary for the research, but there was insufficient data for the analysis. Initially, I used transcription software. However, due to accents, the transcripts were not always accurate, and thus no transcription software was used. Medium to strict rules of transcription was employed. Case in point, acoustical impressions (clearing throat, laughing, coughing) long pauses or interruptions were not marked or transcribed.

Second, this raw data was organised, exported to MAXQDA and then reduced into themes and codes before finally being analysed using MAXQDA. A list of keywords (codes and themes), based on the research questions, was simultaneously developed while transcribing the interviews. The list of keywords/codes was generated from the interview material after reading through the interviews and questioning the themes and concepts that emerged and how they were related. A list of conceptual categories to guide this process was thereafter compiled, see table below.

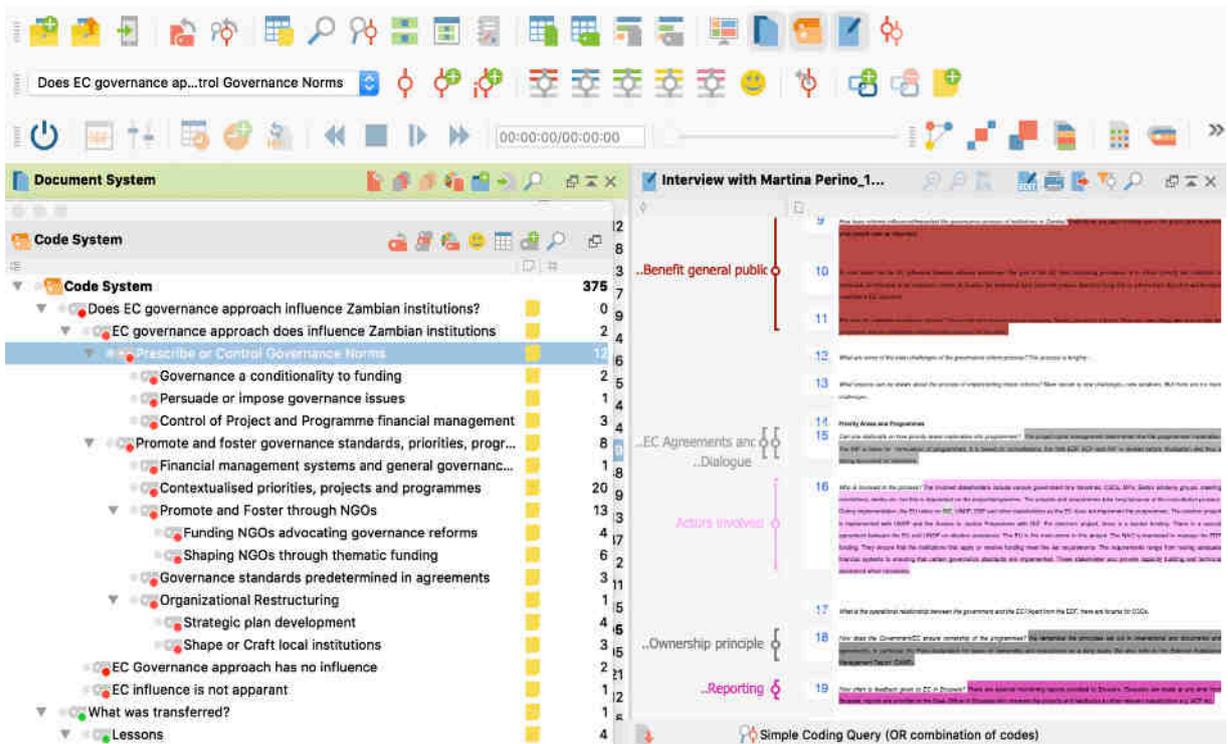
**Table 6: Themes and Codes**

Theme	Code	
Influence or no influence	1. Influence	5. Shape
	2. Impact	6. Transfer
	3. Impose	7. Extent
	4. Pressure	8. Degree
What was transferred? Governance...	1. Standards	4. Norms
	2. Ideas	5. Programmes or Projects
	3. Processes	6. Lessons (Negative or Positive)
Mode or Mechanism of Transfer	1. Conditionality	4. Leverage
	2. Reward	5. Linkage
	3. Incentive	6. Lesson drawing
Degree/extent of transfer/influence	1. Copying	5. Degree
	2. Emulation	6. Transfer
	3. Promotion	7. Influence
	4. Extent	

Note: The table outlines the themes and codes used in the analysis of the interview transcriptions.  
Source: Own Compilation.

This list was circulated to supervisors and peers for feedback before starting to code the interviews in MAXQDA. Each theme and code was assigned a different colour. Any general observations and ideas were documented and classified in the MAXQDA memos to add transparency to the research process. The interview transcripts were re-read and sections related to the conceptual categories/codes/keywords were identified. The unit of analysis was sentences related to the themes and codes. I analysed the interviews using MAXQDA sequentially. In the first round of analysis, I coded interviews according to the themes. The second round of analysis approached the texts with a structured approach; in other words, I scrutinised texts to identify any recurring patterns in which the storyline is staged. There were more themes and patterns emerging during this process, further categories/codes were therefore added. See **Figure 5** below for a snapshot of part of the code system in MAXQDA.

Figure 5: Snapshot of MAXQDA



Note. Snapshot of Code System used to code interviews. Source: Own Compilation.

Third, I put sections relating to the same conceptual categories together so that they were all together. This was done with the assistance of MAXQDA. I then read these sections to find patterns, themes and commonalities from the quotes in each conceptual category. A simple storyline was built by searching for recurring patterns of interpretation. Articulations and interpretations from one thematic dimension were copied or extracted from MAXQDA into an MS Word document. Each thematic dimension was reviewed and ordered according to the similar statements to why Zambian national institutions implement EU promoted and prescribed governance reforms, the types of policies implemented, the mechanisms used to adopt and implement the policies amongst other.

Fourth, the final step was the write-up and analysis. In this step, MAXQDA was used to create and manage excerpts from transcripts that were related to the theoretical framework and relevant literature to develop inferences. The transcripts were furthermore studied to confirm and include any other relevant excerpts. There are various approaches used to measure the influence that the EU had on its recipient countries. One approach is to look at governance indexes of the recipient country and analyse whether there is an improvement or not in the areas that the EU is emphasising and supporting. This could be challenging, as it is even more difficult to control for other factors that may have led to the influence. Influence can also be measured through NGOs condemning the government.

For instance, are there any NGOs that condemn the government or advocate reforms? This would have been a challenge considering that the Zambian Government at times limits the role of the NGOs, this is discussed in detail in chapter four. This study employed an alternative approach. Priorities, goals and objectives and actual outcomes were analysed. Influence can thus be measured through agreements, reports and evaluations between the two partners. Here, various policies promoted and prescribed could be outlined and then compared to the actual outcomes of the projects and programmes. Project reports and evaluations conducted and submitted indicate progress made in the projects and thus play a crucial role in identifying the actual achievements of the projects that can be compared to what the project aimed to achieve. To explain the patterns, I created a hypothesis/saw if it fitted/answered my research question and used the theoretical framework and existing literature to explain the quotes/findings, to produce generalizable results and to contribute to larger bodies of academic research.

To further elaborate on the comparison, I used a structured focused comparison (George & Bennett, 2005), considering that the research uses a small N. The comparison is structured by the sub questions as well as the theoretical framework applied in the study. In addition, the comparison focuses on the following: (i) governance weaknesses, commitments and outcome; (ii) different types of reforms and the actors involved in the process and (iii) differences in the implementation approaches of the development agencies (UNDP and GIZ approach). These comparisons are discussed within the adoption mechanisms and the factors facilitating and hindering the adoption and implementation process.

The empirical work is presented in chapters four, five and six. While chapters one to three provides background to the research topic as well as outlines the methodology used, the presentation of this empirical analysis starts in chapter four which introduces the larger storyline, that is, governance reform adoption at the Zambia-EU level. This serves the basic frame and provides orientation for subsequent chapter (five and six) presentations and discussions. Furthermore, some events occurred at this Zambia-EU level that impacted the implementation of reforms at the domestic level, this chapter highlights these to provide a better understanding on why the reforms were internalised or rejected in the two cases. Chapter seven summarises the research findings and discussion as well as outlines the future research outlook.

### **3.5. Validity, Reliability and Ethical Considerations**

Before presenting and discussing the findings, this chapter still summarises the validity, ethics and limitations of the study. In the following section describes how I incorporated validity and ethics in the research process.

#### **3.5.1. Validity and Reliability**

Instead of relying on or starting from versions of quantitative criteria, researchers developed criteria and technics specific to and suitable for qualitative research to ensure validity (Braun & Clarke, 2013, p. 282). First, this study relied on a combination of methods and sources to strengthen validity and increase reliability of results (Creswell, 2007; Creswell & Plano, 2007; Lincoln & Guba, 1985, p. 306). I relied on triangulation, once again, triangulation refers to a process where two or more methods of data collection are used to examine the same phenomena (Braun & Clarke, 2013, p. 285). In particular, I relied on qualitative interviews and primary and secondary sources to get different perspectives on the phenomenon.

Second, in addition to triangulation, I used member checking. Member checking is a type of credibility check and thus regarded as a qualitative version of validity and reliability. Member checking refers to checking the analysis with participants (Braun & Clarke, 2013, p. 282). It involves providing a draft written report of the study or analysis to some or all participants with the purpose of receiving comments on the trustworthiness or authenticity of what was produced (Braun & Clarke, 2013). Preliminary findings were on a few occasions presented or discussed with some interview partners. Their feedback was incorporated to refine the study. In addition to this, I checked and presented the results with experts working on the topic as well as at PhD workshops and research meetings. This process avoided misrepresenting the views of the participants and gives a voice to the participant's experiences.

#### **3.5.2. Ethical Consideration**

I considers ethical and moral values throughout the process of the study (Collis & Hussey, 2009; Saunders et al., 2007). Interviewees, as discussed, were composed of civil servants, bureaucrats, EU officials, practitioners and academics working on governance issues, the ACP-EU partnership and or Zambian-EU partnership. I informed the interviewees of the purpose of the interview in writing before the meeting. I provided the interview guide to the interviewees before the meetings with a few exceptions where the interview was spontaneous or they did not review the guide beforehand. All interviewees participated voluntarily and at the start of the meeting, I obtained consent for their participation and to record the interviews. The topic is generally not sensitive, interviewees were, therefore, open to providing their observations. However, some interviewees were not open to discussing some human rights components, the analyses chapters discuss this in detail. Consequently, I

reassured the interviewees on the preservation of their anonymity, furthermore, the topic was changed in these situations.

### **3.6. Limitations**

In the following, limitations faced during the research process are described. First, collecting and mapping documents like project reports, strategic plans or MoUs at the domestic level was challenging. Some were not accessible because they are not public or because individuals who worked on these are no longer there. In some cases, interviewees were unaware of their existence, even though these were referenced in the media and other sources. To mitigate this, I relied on evaluation reports on each programme for background information. Furthermore, FNDP and, CSP and NIP (2008-2013) were useful in gathering information on the governance profile, commitments and programmes to implement reforms. Moreover, interviewees confirmed the background information and provided additional data.

Second, as mentioned, access to stakeholders in Brussels was a challenge mainly due to their busy schedule. Consequently, I conducted four interviews while in Brussels; nonetheless, I conducted telephone interviews at a later date. Third, some relevant individuals that worked on the project and programme were no longer available as they moved on to other countries or institutions. Efforts were made to reach these individuals. Nevertheless, I conducted multiple interviews and analysed all documents related to the project and programme as a way of addressing this issue.

Fourth, being enrolled at a German university played an advantage during the field research in Lusaka. Interviewees were very open to participating in the study upon hearing that I am registered at a German university as German universities have a credible reputation. Sixth, despite this being an advantage, having studied in Germany for so many years was at times a disadvantage, as some interviewees did not consider me a Zambian anymore. Some interviewees were not as open after sharing this information. In future meetings, I disclosed less information. Furthermore, the Zambian society is patriarchal; factors such as being a young female were at times a disadvantage.

Finally, the implementation of the Support to the Electoral Cycle Management project with DNRPC was challenging at times, thereby straining the relationship amongst the actors involved. As a consequence, access to interviewees at DNRPC was hindered. Besides this, the timing of the field research was when the ECZ was concluding the 2015 presidential elections held in January 2015 and preparing for the 2016 presidential elections. At the same time, the review of the Constitution was a subject undergoing intense scrutiny. There was a fear that the interviewees from the relevant institutions would not be available. Once in the

field, this was not the case. Interviewees dedicated time to the interviews and in some cases; I conducted two to three interviews with one individual over some weeks or months. On the other hand, journalists in Zambia were reluctant to participate in interviews for the reasons mentioned earlier. Nevertheless, the conclusion and preparation for the elections and the review of the constitution did not have significant adverse effects on the study. However, due to the 2016 elections, it was not possible to follow-up with interviewees from the ECZ, as the main interviewee had resigned most likely due to intimidation by politicians and political parties based on the news reports.

### **3.7. Summary**

In summary, this chapter aimed to outline an appropriate plan for collecting and analysing data. The theoretical framework described in subchapter 2.1 and the primary research question addressed informed the research design. This research is a qualitative study of the mechanisms and factors through which Zambian national institutions implement EU electoral and judicial and law enforcement reforms in two EU funded programmes. While falling closer to an interpretive paradigm, the research method employed is a case study design. In particular, a within-in country case study research of two EU funded programmes.

The two EU programmes implemented by the ECZ and GS, were briefly described. Both programmes aimed at addressing electoral and judicial challenges nationally. It is through these programmes that the EU electoral reforms and judicial reforms were implemented in. Both programmes provide valuable experiences and thus able to provide interesting findings to the research question. Besides availability and consistence, other criteria used to select the cases were political and democratic governance theme, commitment to reform by the Zambian government, interaction amongst local and international actors and EU variance. To collect the data, the chapter highlighted and explained the document review and interviews as primary tools of data collection. Finally, the chapter described the data analysis process before concluding with a section on validity, reliability, ethics and limitations of the research.

The next chapter discusses the research findings gathered using the methods presented in this chapter and analysed using the theoretical framework offered in chapter two.

#### **4. Adopting and Contesting Governance Reforms at the Zambia-EU Level**

In this study, I am interested in exploring and explaining the following research question: *how and why does the Zambian government implement EU electoral process and judicial reform measures in a selective manner?* This chapter and the following two present and analyse the findings to this question in a step-by-step manner. As I described in the previous chapter, I examined relevant literature and documents on the EU development cooperation and Zambia and conducted interviews with Zambian civil servants, bureaucrats, academics, practitioners, policy analysts, ACP and EU officials. In these next three analysis chapters, I identify patterns and explanations to the research question and relate the findings from the document and interview analysis back to the theoretical framework presented and outlined in subchapter 2.1. The added value of the three chapters is the description of intricate and tangled processes through which transferred policies at the international level (Chapter four) are internalised into programmes (or not) at the domestic level (Chapters five and six). Furthermore, each chapter indicates how the adoption and implementation process can either be voluntary, smooth and uncontested or can be optional, but unsmooth and contested at the international and domestic levels.

I do not aim to present universal generalisations in this and the succeeding two chapters. Instead, this study is narrow thereby providing precise and specific explanations (George & Bennett, 2005, pp. 19-22). In these three analysis chapters, I therefore highlight effective mechanisms, factors in these mechanisms facilitating and hindering adoption, the degrees of adoption and clarifies non-transfer in the Zambia-EU partnership at the international and domestic level. Chapter four introduces the larger storyline, the adoption of the governance reforms at the Zambia-EU level. At this level, these interactions and events impacted the implementation of reforms at the domestic level. Hence, this chapter is relevant as it serves as the basic frame and provides further orientation and understanding for the analysis in chapters five and six.

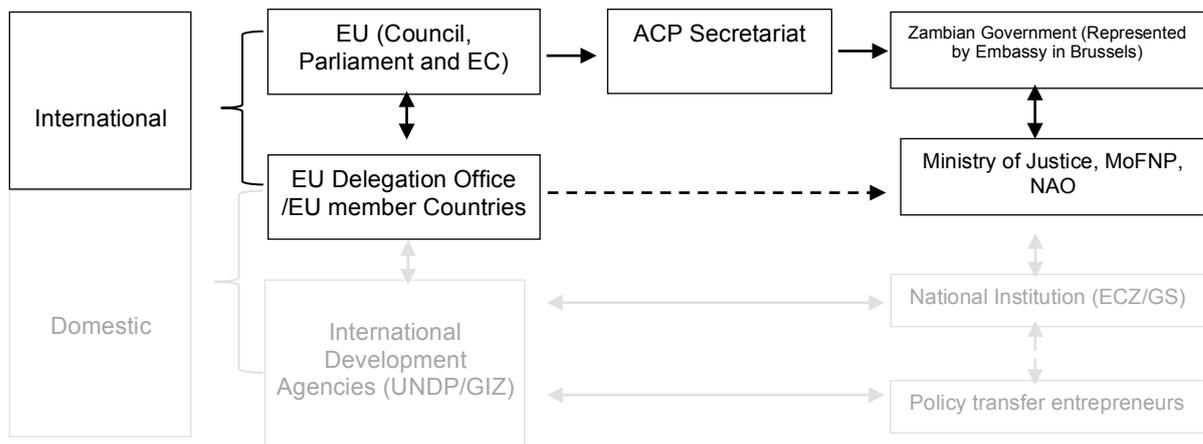
Chapter four is arranged as follows: in the first subchapter, the immediate actors involved in the adoption process at the Zambia-EU level are revised to provide contextual background. After that, the subchapter discusses the mechanisms effective in ensuring acceptance or rejection. At the Zambia-EU level, conditionalities and incentives were useful in the success and failure of EU governance reform acceptance. Policy transfer entrepreneurs provided a fruitful avenue but the Zambian Government at times limits the lobby and advocacy work of these actors. The analysis of this chapter excludes multileveling and lesson drawing because these did not play a role in leading the Zambian Government to adopt the transferred policies at the international level. The second subchapter presents the factors crucial in adopting or rejecting EU governance reforms and simultaneously the extent of adoption and provides

explanations for cases when the governance reforms are not internalised and thus, the domestic practices stay the same or diverge from the proposed reforms.<sup>32</sup>

#### 4.1. Adoption Mechanisms

Before I delve into the adoption mechanisms, I discuss the immediate actors in the first subchapter for the purpose of understanding their interactions during this transfer and adoption process. The Zambian Government interacts with various actors through a multi-level system as seen in the figure below. The National Assembly of Zambia, President, Judiciary, MoFNP, Ministry of Justice, Ministry of Foreign Affairs (Embassies), and other governmental institutions, each play a critical role in the reform of electoral and judicial and law enforcement in Zambia (National Assembly of Zambia, 2018).<sup>33</sup> With the exception of the National Assembly of Zambia, I refer to this group of actors as the Zambian Government, unless otherwise stated. Each actor in the figure plays a role in the transfer, adoption and implementation processes of governance reforms at various levels, starting at the international level. In this chapter, I am interested in the highlighted actors. The roles of the EU, ACP and NAO and how they are conceptualised in the process are discussed next.

**Figure 6: Key Actors in the Zambia Governance Sector and Development Cooperation**



Note. Various actors are involved in the transfer and adoption process of the governance policies. This diagram depicts the direct actors involved in the process at the Zambia-EU level and domestic level. This specific chapter is interested in the actors at the Zambia-EU (international) level. Own diagram

<sup>32</sup> It is imperative to mention that the typologies have no explanatory power nor do they include theory status. Instead, the typology is exploratory serving cognitive purposes allowing for systematic analysis of policy implementation and adoption (or not) by Zambian national institutions.

<sup>33</sup> In 2018, the Zambian Government separated the MoFNP into two ministries, the Ministry of National Development Planning (MNDP) and the Ministry of Finance.

## **EU, a Policy Entrepreneur**

I briefly discuss the various EU actors in order to understand which actual EU institutions were involved and why the EU is conceptualised as a policy entrepreneur. The relevant EU actors include the Council of the European Union, European Union Parliament, EC, the Directorate General of International Cooperation and Development department in the EC, European Union External Action Service (EEAS) represented by the EU Delegation Office in Zambia and EU Member States.

These actors play critical roles at various stages of the policy-making process. For example, while the EU Parliament has legislative, supervisory and budgetary responsibilities, the Council 'defines the general political direction and priorities of the European Union' (European Union, 2018). The EC 'represents the interests of the EU as a whole. It proposes new legislation to the European Parliament and the Council of the EU, and it ensures that EU law is correctly applied by member countries' (European Commission, 2016a) and third countries. The Directorate General of International Cooperation and Development department in the EC works on policy formulation at a global and sectoral level. The EEAS represented by the EU Delegation office and EU member countries ensure that partner countries implement the laws and priorities set at the EU level. In the case of the individual EU member countries, they have specific priorities as well but are not discussed in this study.

While taking the multiple actors and their roles into consideration, I am mainly interested in the EC and EU delegation office in Zambia for the following reasons. The EC proposes legislation amongst other responsibilities; it recommended the governance approach and accompanying instruments and ascertained the application of EU legislation. The EU delegation office in the partner country supports the EC in maintaining diplomatic relations work with EU member countries, UN and other actors; it also foresees implementation of EU legislation. Considering their roles, I refer to the EC and EU delegation office in Zambia transferring, adopting and implementing electoral and judicial and law enforcement reforms.

How can the EU and its role in Zambia be conceptualised? The EU as a whole is a sui generis international actor; it is unique because of its use of persuasion (in the form of conditionalities and incentives), humanitarian action, compromise and diplomacy instead of military force. As mentioned in chapter two, I conceptualise the EU as a policy entrepreneur. A policy entrepreneur is an actor, which is strongly committed to particular norms and the will to advocate these norms (Björkdahl, 2012, p. 82). This is based on the described role of the EU during the policymaking process, in which the EU promotes governance reforms in its development cooperation that are rooted in its *acquis communautaire* and because of the direct and indirect influence that the EU wields in the international system.

I am interested in the perspective of the policy recipient. I am therefore interested in analysing how the actors in Zambia conceptualise the role of the EU, as the nature of the relations between the recipient and the entrepreneur can influence the adoption process (Dolowitz, 2000, p. 27). Interviewees provided various reasons as to why the EU transfers policy to Zambia and other developing countries and how to characterise this role. These are summarised here. First, the findings suggest that the Zambian civil servants and bureaucrats, academics, experts and practitioners construct the EU as an international actor promoting specific norms in its development cooperation; these norms are rooted in its *acquis communautaire*. Hence, these were supported and transferred and consequently influence the Zambian good and democratic governance agenda and programmes according to M.F. Hamuyube, a Chief Research and Planning Officer at the Human Rights Commission of Zambia (HRCZ) (personal communication, 22 April 2015, para. 39).

To illustrate, B. Chembe, Executive Director of Southern African Centre for the Constructive Resolution of Disputes (SACCORD) described the EU's work as 'having helped in terms of state building. This support is in line with the EU values of equality, the rule of law, democracy, human rights etc., which it ultimately promotes in its development cooperation' (personal communication, April 23, 2015).<sup>34</sup> M.F. Hamuyube also shared that 'what the EU is promoting is based on its constitutive values, so through the development cooperation, these are also promoted' (personal communication, April 22, 2015, para. 39).

Literature by Gilardi (2012) and Manners (2002, 2008) support the view that the EU promotes its *acquis communautaire* through its internal and external interactions. To give an idea, Gilardi (2012, p. 14) asserted that the EU usually bases demands directed at EU partners on the *acquis communautaire* and broader political and institutional goals such as democratic principles and the respect of minorities. This argument relates so well to specific themes from interviews on the role of the EU and the type of norms, values and policies promoted in Zambia. Interviewees cited European driven solutions, financial management systems, western values such as individual human rights, and democracy/governance as being promoted in Zambia by the EU.

For instance, when discussing the reintroduction of plural politics, Dr. A. Ng'oma, a Political Analyst and Lecturer in the Department of Political and Administrative Studies (UNZA) similarly shared that, the western world generally and the EU, in particular, came in and promoted the abandonment of the one-party state. The proposed governance changes are

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<sup>34</sup> SACCORD is a Zambian based NGO formed 'to deal with issues on peace, security and democracy in Zambia and the Southern African region' (SACCORD, 2017).

based on the EU's stance that people needed to be accorded more freedom to choose and belong to a particular political party instead of just one party. Human rights and freedom of the press were therefore promoted, to ensure a political transformation (Dr. A. Ng'oma, personal communication, April 20, 2015, para. 21). Furthermore, N. Mate, Head of Department within the Department of Political and Administrative Studies (UNZA) and Vice-President of Zambia Society for Public Administration (ZSPA), stated '...we can see that there are European driven solutions for governance promoted, which now has to be adopted in Zambia' when discussing what is needed for Zambia's development (personal communication, April 20, 2015, para. 10).

While elucidating the influence of the EU on Zambia, L. Habasonda (Department of Political and Administrative Studies Lecturer at UNZA and Board Member of TIZ Zambia) stated, that with regards to elections, the EU expect the Zambian Government to adopt EU standards of managing elections. In other words, 'the election standards used are EU standards...and they [EU] certainly influence the fact that the Zambian Government must run elections on EU standards rather than the Zambian Governments standards' (personal communication, February 18, 2016, para. 8). Due to some of these normative values and standards, the interviewed academics and civil society members consider the EU as a promoter of specific election processes, western solutions, values or standards (L. Habasonda, personal communication, February 18, 2016).

Second, the research findings also suggest that the rise of China in Zambia could be a motivating factor for the EU promoting and prescribing its policies in Zambia based on the interviews with L. Habasonda (personal communication, April 23, 2015, para. 8, 18 and 20), Dr. A. Ng'oma (personal communication, April 20, 2015) and Prof. Dr. F. Chigunta, Lecturer (Department of Development Studies, UNZA) and Policy Adviser (to President Rupiah Banda) (personal communication, April 27, 2015, para. 13). On this point, Dr. A. Ng'oma pointed out, 'when discussing the EU we cannot exclude the role and activities of China in the country' because 'there seems to be some competition between the two in the areas funded and how they fund. The role of China could be fuelling the role of the EU and the influence that it has on Zambia' (personal communication, April 20, 2015, para. 12). While discussing the role of the EU in Zambia, L. Habasonda concurred and affirmed by stating that 'most EU initiatives were spurred by the EU from the perspective of the rise and influence of China. The EU aimed to increase their support to Zambia, however, there was disappointment. When President Sata [PF party], who was anti-China Government during elections in 2011, came to power he did not do the EUs bidding. The EU's policy direction was not pronounced in that period' (personal communication, April 23, 2015, para. 8).

How can this rise of China in Africa and the EUs response be explained? Existing literature and the interviewees provide some guidance. Over the years, both EU and China have each proclaimed a strategic partnership with Africa (Holslag, 2011). EU's foreign policy in Africa promotes, amongst other, good governance, sustainable development, democracy and human rights. Initially, the EU attached these as conditionalities. Recently, the EU achieves this through political and financial incentives. China, on the other hand, pursues a no-strings-attached approach (Wissenbach, 2009, p. 9). Wissenbach (2009) further found that China provides African countries with an alternative development model and promotes different international norms in comparison to the EU. To further explain, China emphasises principles of sovereignty and non-interference in domestic affairs.

The approach of China has been criticised, in particular, the policy of non-interference, as this would have adverse effects on governance and democratisation (Rakner, 2012, p. 10). Additionally, financial resources availed by China could have some negative implications on the efforts to ensure efficient and effective development cooperation (Tjønneland, Brandtzæg, Kolås & Le Pere 2006). Rakner (2012) supports this argument by evidence from the Zambia 2006 elections. During the 2006 elections, the main opposition party criticised the role of China because 'Chinese businessmen and government authorities contribute informal election campaign resources' (Rakner, 2012, p. 10; Wohlgemuth & Saasa, 2008, p. 5). In addition, China deals directly with the heads of state, thereby minimising the role of MFNP; China also does not 'share information or act in coordination with the donor community' (Rakner, 2012, p. 10). The increased role of China in Zambia and Africa has made dealing with development in Africa complex for the EU (Government of Zambia & European Commission, 2008). Hackenesch (2011) however concluded that Chinese engagement has little 'negative consequences for the European Commission's policies' in the study on the influence of Chinas engagement on the effectiveness of EU policies to promote good governance in Ethiopia and Angola (p. 36). This is a debate on its' own and goes beyond the scope of the study.

As for the interviewees, their arguments were in line with the literature. For example, Prof. Dr. F. Chigunta provided an explanation as to why Zambia's interaction with China improved in relation to the EU, by expressing that 'the Zambian Government was looking Eastwards (China funding). EU conditionalities and insistence on governance indicators are some kinds of interference in the affairs of the state. That was the view in Government; the EU was interfering too much in the affairs of the government and the government reacted' (personal communication, April 27, 2015, para. 13). L. Habasonda argued the same by elaborating that the EU 'reprimanded the Government for not allowing opposition parties to hold meetings without disturbance' however, China provides funding despite the government misbehaving

(L. Habasonda, personal communication, April 23, 2015, para. 20). Despite this, L. Habasonda added that the Zambian Government does not appreciate China's 'behaviour to perpetuate human rights abuses and bad governance' and concluded that, Zambia appreciates China, it leaves infrastructure but either way, the Zambian Government must be cautious of both the EU and China (personal communication, April 23, 2015, para. 20).

Experts and officials from the EU, ACP Secretariat and NAO officials had a differing view on why the EU transfers policies and how to conceptualise the EU. The interviewees consider the EU as an international actor that ensures effectiveness, efficiency and accountability in the development cooperation, which is aimed at reducing poverty in the partner countries. In the following, a few of the explanations by the EU, ACP Secretariat and NAO officials are provided. For instance, experts from NAO and EU Delegation officials consider the EU as an international donor promoting policies to encourage good resource management and ensuring peace and stability in the third countries (A. Biesebroek, personal communication, December 7, 2015; A. Chikwese, personal communication, April 28, 2015; M. Perino, personal communication, April 15, 2015, para. 21).<sup>35</sup> A. Chikwese, Support Officer for Governance and Social Sector (NAO) concurred and explained that the support from the EU towards Zambia 'is supposed to be a response to some gaps, it's a response to the governance needs for additional support, and therefore it buys into the government policy and planning frameworks' (personal communication, April 28, 2015).

ACP and EU delegation officials were also in agreement and provided some justifications as to why the EU ensures efficiency, effectiveness and accountability. For instance, M. Cisse, Expert of Political Dialogue and Relations with International Organisations at the ACP Secretariat explained, 'the EU needs to account for the funding that is provided to the ACP countries. They need to ensure aid effectiveness, hence the call for good governance in development cooperation' (personal communication, November 10, 2014, para. 8). M. Perino further asserted that 'the EU also has to ensure that funds are used efficiently and effectively. Some of the requirements are in place to ensure accountability, transparency and effectiveness' (personal communication, April 15, 2015, para. 21).

A. Chikwese concurred and pointed out that EU development cooperation '...involves many taxpayers money in the developed countries who demand to know that the money is going to the right targeted people and having an impact on the people' (personal communication, February 18, 2016, para. 12). A. Chikwese further mentioned, 'for that they have a

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<sup>35</sup> A. Biesebroek, Head of Cooperation at the EU Delegation to Zambia and COMESA, personal communication, December 7, 2015.

framework, which they follow which they then convince the taxpayers that yes, these are going on well. I think it is fine... They are bringing in funding from taxpayers, and they need to account for the fund and what impact the funds have made on the targeted populations' (personal communication, February 18, 2016, para. 12). Due to this, the EU uses conditionalities, political and economic sanctions as reinforcement to ensure efficiency. For instance, A. Chikwese added that on one side donors have a lot of money and they want to ensure accountability and effectiveness, this is understandable. On the other side, the Zambian government accepts the money but without demonstrating accountability, effectiveness and transparency (personal communication, April 28, 2015, para. 24-25).

Indeed, the EU sets out to ensure that its development cooperation is effective, hence the EU Consensus on Development and the Agenda for Change. Additionally, ensuring such principles is in line with the Paris Declaration promoting ownership, accountability, alignment, harmonisation and managing results (OECD, 2005, pp. 3-8), which Zambia and many other countries have agreed to. However, A. Biesebroek, also pointed out that, '...in development cooperation because donors want to ensure that the funding is used efficiently and effectively, some structures and procedures are put in place and to some extent through this knowledge, policies and or norms are transferred' (personal communication, December 7, 2015, para. 17). In other words, the EU transfers knowledge, norms and policies during the process of ensuring efficiency and effectiveness of development cooperation.

### **ACP Secretariat, Facilitator and Recipient of Policy Adoption**

At the international level, the ACP Secretariat is both a facilitator and a recipient of policy, based on its responsibilities. The ACP Secretariat coordinates and implements activities of the ACP Group in the framework of the ACP-EU Partnership Agreements (ACP Secretariat, 2017). Created by the Georgetown Agreement of 1975, ACP is an organisation with 79 ACP countries that are all signatories to the Cotonou Agreement. The Secretariat is 'responsible for the administrative management of the ACP Group, by assisting in the Group's decision-making, policy-making and advisory organs in carrying out their work' (ACP Secretariat, 2017).<sup>36</sup> At this level, the ACP group negotiated good governance into the partnership agreements, the Cotonou Agreement. It is at this and bilateral levels that respective ACP countries and ACP Secretariat legally accept policies through binding contracts.

M. Cisse briefly explained the negotiation process amongst the EU, ACP and individual member countries work. M. Cisse stated that to ensure that the ACP achieves the

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<sup>36</sup> The advisory organs include the Summit of ACP Heads of State and Government, Joint Parliamentary Assembly, Council of Ministers, Committee of Ambassadors.

partnership goal, the ACP Secretariat in Brussels negotiates with the EU on general terms for the whole of the ACP countries, e.g. the priority areas for the development cooperation (personal communication, November 10, 2014, para. 11). J. Seitz, ACP International Relations Officer at the European Commission in Brussels further stated that the negotiations are based on priorities set by the EU seeing that the EU already sets the agenda or decides on priorities of its development cooperation (personal communication, November 10, 2014). ACP and EU, therefore, base their negotiations on the partnership priorities on prior decisions of the EC. For example, the EU set the priorities in the EU Consensus on Governance (European Commission, 2006) and the Agenda for Change (European Commission, 2011). The EU and Zambian Government then based the 10<sup>th</sup> and 11<sup>th</sup> EDFs on these communications, which were harmonised with the Zambian national development plans outlining the Zambian Governments priorities.

While the ACP Secretariat negotiates with the EU, there is an Ambassadorial Committee within the Secretariat through which the EU and ACP relay information onto Ambassadors from different ACP countries, explained M. Cisse (personal communication, November 10, 2014, para. 12).<sup>37</sup> Information relayed to Ambassadors in these Ambassadorial meetings is used as a basis for bilateral negotiations through which each respective country confers on specific priority areas with the EC, according to M. Cisse and L. Chilimboyi, Expert on Parliamentary Institutions at the ACP Secretariat (personal communication, November 10, 2014, para. 12). Thereafter, the Zambian Government, specifically the MoFNP, EU and NAO negotiate the bilateral agreements and compile programming documents such as CSP and NIP. MoFNP is mandated to coordinate development cooperation (Economic and Technical Cooperation Department), manage the national budget, organise the NDPs, manage, monitor and negotiate the financing agreement with multilateral and bilateral development partners amongst other functions (MoFNP, 2017). The NAO drafts the CSP and NIP; NAO interacts with other actors at the domestic level (L. Chilimboyi & M. Cisse, personal communication, November 10, 2014). The mandate of the NAO will be discussed shortly.

### **NAO, a Facilitator and Implementer of Policy at the Domestic Level**

The NAO is a facilitator and implementer at the domestic level because it manages the EDF on behalf of the EU in the respective ACP countries. The position of NAO is outlined in Article 35, Chapter 6 'Fund Resource Management and Executing Agents', Annex IV Implementation and Management Procedures of the Cotonou Agreement (Cotonou Agreement, 2014, Article 35, Chapter 6, p. 165). The overall objective of the NAO is to

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<sup>37</sup> The Ambassadorial Committee is the second decision-making body of the ACP Group, and it acts on behalf of the Council of Ministers (ACP Secretariat, 2017).

ensure the effective and efficient implementation of programmes funded by the EU (Cotonou Agreement, 2014, p. 165). As a result, NAO corresponds with the Zambian Government. It is a 'middleman' between the EU and Zambian Government and policy transfer entrepreneurs.

The NAO has many responsibilities. NAO advises the MoFNP, which is the National Authorising Officer, on EU priorities and requirements and resolves any misunderstandings between the two parties, explained A. Chikwese (personal communication, April 28, 2015). A. Chikwese went on to state 'to ensure that projects meet conditions and are successfully implemented, NAO monitors projects from commencement to completion' (personal communication, April 28, 2015, para. 38). Through this process, the NAO facilitates and legitimises the adoption and implementation of EU policies. Despite being dedicated to managing EDF funding, NAO in Zambia falls under the MoFNP. A. Chikwese explained that, 'we [NAO] are like a secretariat or technical wing to support the NAO. NAO office ensures that all funding from EDF and EU smoothly flows into the government or non-governmental projects that have been identified (personal communication, April 28, 2015, para. 37). B. Kalaba, Programme Officer for the Parliamentary Reform Programme, National Assembly of Zambia, similarly described the role of NAO as 'signatory to the contract between EU and National Assembly of Zambia [emphasis added]. Funds are dispersed between EU and NAO... the EU has stringent requirements, running an EU project at the National Assembly is simplified because NAO handles the technicalities of the Zambia-EU contract' (personal communication, April 28, 2015, para. 14).

Not only do governmental institutions have to go through the NAO to acquire funding, but policy transfer entrepreneurs also go through the NAO. For example, C. Chileshe, a Senior Programme Specialist for Monitoring and Evaluation, Knowledge Management and Policy at the Zambian Governance Foundation (ZGF) explained, 'for the particular EU grant, the agreement was signed through the NAO and Ministry of Finance and National Planning...the NAO had to read our proposal and authorise, and when amendments to the budget have to be made, they have to be notified....' (personal communication, April 14, 2015, para. 33).<sup>38</sup> Because of the responsibilities and role of the NAO, they are considered facilitators and implementers in the adoption process and concurrently legitimisers of EU reforms.

After establishing the role of these actors, the following sections discuss the mechanisms and the roles of these actors in these pathways to identify which were effective in ensuring adoption or non-transfer.

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<sup>38</sup> ZGF was 'established to support Zambian CSOs to carry out pro-poor policy work. It was initially a 'basket-fund' allowing co-operating partners to reduce transaction costs of supporting CSOs in Zambia. The project evolved into a Zambian company funding Zambian CSOs (ZGF, 2017).

#### **4.1.1. Conditionality**

The underlying proposition under conditionalities was that EU governance areas in the form of conditionalities are negotiated into agreements thereby facilitating adoption and implementation of governance reforms. The research findings indicate that the assumption is valid, conditionalities do play a significant role in the acceptance of reforms at the Zambia-EU level and during the implementation of the programmes at the domestic level. Conditionalities were effective because they were prescribed and negotiated into (i) the Cotonou Agreement, (ii) Trade Agreements, and (iii) in the EDF rounds and respective National Indicative Programmes (NIP) at the international level, thus leading to their emergence in Zambia at the domestic level. I discuss these three next to indicate the conditionalities attached and how the conditionalities became accepted at the domestic level.

#### **4.1.2. Cotonou Agreement**

To start with, conditionalities were adopted because they were negotiated and attached to the Cotonou Agreement, a legally binding document. Generally, conditionalities attached to agreements are ex-ante. The conditionalities include, but are not limited to adherence to respect for human rights, democracy, the rule of law, and good governance, which have become some of the principles of the agreement (Cotonou Agreement, 2014). Article 96 and 97 of the Cotonou Agreement tackles issues on members not adhering to respect for human rights, democratic principles, the rule of law and good governance (Cotonou Agreement, 2014, p. 103). Cramer, Stein and Weeks (2006, p. 418), categorise such principles as legally binding requirements seeing that they are conditions attached to this legally binding document. These conditions thus 'set the basic legal and operational framework for any development funding' received by Zambia and the rest of the ACP countries according to Cramer et al. (2006, p. 418).

According to Article 96 and Article 97 of the Cotonou Agreement (2014, p. 103), lack of adherence could lead to suspension of aid; however, this is the last resort, and before, the partners would have to go through a consultation procedure. For instance, the EU applied Article 96 or 97 on some occasions, see **Table 7** below. Conditionalities in the form of political and economic sanctions were invoked in countries that violated human rights, experienced flawed elections or a coup d'état (Del Biondo, 2011, p. 380).

**Table 7: Overview of Article 96 Cases Amongst Selected ACP Member countries**

Country	Invocation Date	Context
Haiti	02.08.2000	Flawed elections o
Fiji	04.08.2000	Coup d'état
Côte d'Ivoire	22.01.2001	Flawed elections
Liberia	23.07.2001	Involvement with human rights violations, lack of freedom of the press and of expression, corruption
Zimbabwe	29.10.2001	Growing violence and insecurity, lack of freedom of expression, violence in pre-electoral period, illegal occupation of land
Central African Republic	22.05.2003	Coup d'état
Guinea-Bissau	19.12.2003	Coup d'état
Guinea	30.03.2004	Flawed elections
Togo	30.03.2004	Flawed elections
Mauritania	29.11.2005	Coup d'état
Fiji	27.02.2007	Coup d'état
Mauritania	15.09.2008	Coup d'état
Guinea	16.03.2009	Coup d'état
Madagascar	04.06.2009	Coup d'état
Niger	27.10.2009	Referendum for the third mandate of president in view of presidential elections
Malawi	01.07.2011	Massive plunder of government coffers
Burundi	14.03.2016	Political Crisis, failure to respect essential elements of human rights, democratic principles and the rule of law.

Note. This table gives an overview of Article 96 cases and the situation that led to the EU invoking the human rights clause in some ACP countries between 2000 and 2016. The EU invoked article 96 due to flawed elections, coup d'état and failure to adhere to the fundamental elements. Adapted from *Del Biondo (2011)*; *Leaks, Kivimäki, and Seppänen (2007)*; *Portela (2007)*.

Apart from the cases in the table above, there were others, but the EU never suspended the respective countries. For example, an EU election observation mission concluded that elections were problematic, in Ethiopia, Rwanda, Nigeria and Kenya, or the EU expressed explicit criticism about the electoral process despite the fact that there was no EU election observation, as in the case of Chad (Del Biondo, 2011, pp. 380-381).

To date, the EU never invoked Article 96 and 97 in Zambia; the EU and other international donors did, however, suspend aid. The EU halted EDF support due to insufficient progress in policy reforms, particularly in respect of road maintenance (Boseley, 2010). Other donors also suspended aid to Zambia between 2009 and 2010. For example, the Global Fund for Aids, Tuberculosis and Malaria froze aid to Zambia and demanded the return of unspent funds due to corruption in 2009 (Boseley, 2010; Lusaka Times, 2010). International donors suspended more than \$300 million in health assistance to Zambia, following this, other donors also suspended health aid to Zambia, e.g. Canada (The Globe and Mail, 2010). This suspension came a year after Sweden and the Netherlands postponed \$33 million in aid to the Ministry of Health due to a missing \$5 million (Lusaka Times, 2010). These events, along with changing global factors led to the revision of the aid delivery system. According to A. Chikwese (personal communication, April 28, 2015, para. 10), when funding by the Global

Fund resumed, it was channelled through UNDP instead of Ministry of Health. Many donors have followed this approach. The EU relies on and works with UNDP, GIZ, ZGF and DFID to deliver its aid and ensure its efficiency and effectiveness.

What this section intended to indicate is that by voluntarily signing the Cotonou Agreement at this international level, the Zambian Government along with other ACP member states adopted the human rights, democracy, the rule of law, and good governance principles, which were attached as conditions to the agreement. It is at this point that the EU and international standards start to emerge into the domestic realm. These principles are also prescribed in trade agreements between Zambia and EU, since the trade agreements are also signed within this Cotonou framework; the next section elaborates this further.

#### **4.1.3. *Conditionalities in Trade Agreements***

I indicate in the research that the Zambian Government also adopt governance areas through trade agreements with the EU. This observation is in line with Manners (2006b, p. 187) who referred to the same principles as being prescribed by the EU in trade agreements. These conditionalities are attached as clauses and thus contribute to the acceptance of EU policies. Once again, because this is a legally binding document, the conditions attached in the trade agreement are legally binding (Cramer et al. 2006).

This section indicates how the acceptance of these policies occurred through the Everything, but Arms Initiative (EBA).<sup>39</sup> Holland (2002) notes that agreements such as the EBA strengthen the practice of the EU influencing recipient countries through trade. Furthermore, many EBA countries are dependent on export to EU, hence providing an opportunity to influence them with policies and standards mirroring EU preferred style of governance (Mugenyi, 2012, p. 70). There is a human rights clause in the EBA binding the recipients to ethical human rights practices; these practices are similar to those stipulated in the European Convention on Human Rights (Manners, 2006b, 2008).

Consequently, to maintain the EU market, the countries are indirectly forced to implement EU desired policies in their domestic environments. The human rights clause in the EBA ensures that Zambia and other countries consider human rights in their programming and institutions. Members of the EBA that violate human rights and labour rights can be stripped of EBA preferences (European Union, 2012, Chapter V, Article 19, p. 10). It is imperative to

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<sup>39</sup> Other trade agreements include the Arusha Agreement. EU can influence Zambia and other ACP countries through the Arusha Agreement due to increasing trade between the two parties and the international community, which is an essential aspect of the agreement (Arusha Declaration, 1967; European Commission, 2014).

emphasise here that imposing human rights or good governance conducive to the environment is not necessarily considered negative for Zambia explained L. Habasonda (personal communication, February 18, 2016) and V. Hampondela (personal communication, February 10, 2016, para. 7).<sup>40</sup>

Another major trade agreement is the Economic Partnership Agreement (EPA). The EPA is going through a lengthy and challenging negotiation process, which started in 2002. Since its introduction with the Cotonou Agreement, the EPA was criticised due to its lack of infant industry clause, discriminating trade agreements, and incompatibility. For a review of the challenges and negotiation process, Björkdahl and Elgström (2015) conducted an interesting analysis. Zambia along with other countries has yet to sign the EPA. Through this EPA, Zambia and other countries would agree to some policies, leading to acceptance of these policies. For instance, Klotz and Prakash (2008) and Storey (2006) argued that during the EPA negotiation process EU transfers and possibly even impose neoliberal policies onto partner countries. Langan (2014) also found that decent work was transferred to ACP countries via EPAs as the EU pledged to the International Labour Organisation's (ILO) to promote the Decent Work Agenda in the ACP countries.

Other scholars have found that the adoption of policies and norms is not limited to trade agreements and partnership agreements such as the Cotonou Agreement. Scholars also analysed policy transfer and adoption through the Common Foreign and Security Policy (CFSP) and Kyoto Protocol. For instance, Scheipers and Sicurelli (2008) investigate promotion of EU International Criminal Court (ICC) within the framework of its CFSP, a framework emphasising EU human rights commitments. Simultaneously, the dissemination of the environmental protection norm by supporting the Kyoto Protocol in Sub-Saharan Africa is also studied. They found that in the fields of human rights and environmental protection, the EU not only constructed its identity as a normative power, but that the EU also attempted to persuade Sub-Saharan African countries to ratify the ICC Statute and the Kyoto Protocol and thereby resulting in the adoption of human rights and environmental protection norms beyond its borders (Scheipers & Sicurelli, 2008).

By elaborating on the EBA, this section aimed to elucidate that trade agreements are also other channels through which the Zambian Government adopts EU governance areas at the international level. A motivating factor for adopting the negotiated conditions is the access to EU markets. The next section explains how the conditionalities adopted through the Cotonou

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<sup>40</sup> V. Hampondela, Monitoring and Evaluation Specialist in the Governance Department at the Ministry of Justice (personal communication, February 10, 2016).

and trade agreements are adopted and implemented at the domestic level.

#### 4.1.4. Conditionality in EDF Priorities and NIPs

The conditionalities agreed on in the Cotonou and trade agreements emerge at the domestic level through the EDF, in addition to others from the European development policies. This is because the EDF funding is the leading financial instrument used to provide development cooperation to ACP countries (Molenaers & Nijs, 2011; Mugenzi, 2012; Schimmelfennig & Sedelmeier, 2004, p. 662). Through the EDF funding, indicated that various governance reforms are prescribed and attached. Three EDF rounds (9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup>) are analysed to show how governance became prominent and was translated into programmes in Zambia. See **Table 8** below for an overview of the priorities in the EDFs

**Table 8: Summary of the EU Focal Sectors in Zambia (2002 - 2020)**

9th EDF (2002- 2007)	10th EDF (2008-2013)	11th EDF (2014-2020)
<b>Focal Sector 1</b> Transport Sector Interventions Preventative maintenance of Trunk, Main and District Roads Maintenance and rehabilitation of Feeder Roads Transport mode study (rail/road) and studies for track upgrading	<b>Focal Sector 1</b> Regional integration and Transport infrastructure	<b>Focal Sector 1</b> Energy
<b>Focal Sector 2</b> Institutional Development and Capacity Building Capacity building for financial and economic management Capacity Development for Public-Private dialogue as a basis for policy and institutional environment to promote private sector led growth Support to GRZ macroeconomic reform programme Macroeconomic Support Integration of cross-cutting issues	<b>Focal Sector 2</b> Health	<b>Focal Sector 2</b> Agriculture
<b>Focal Sector 3</b>		<b>Focal Sector 3</b> Governance
<b>Non-Focal Sectors</b> Education Health Agriculture/Food Security	<b>Non-Focal Sectors</b> Main non-focal sector: Food security and agriculture diversification Other non-focal sectors: Governance NSAs EPA/Trade related support (capacity-building) EIB Response strategy	<b>Non-Focal Sectors</b> Health Support Measures

Note. The table provides an overview of the main focal and non-focal areas during three EDF rounds (9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> EDF rounds) between 2002 and 2020 to depict the changes in the priority areas over the years. Source: own compilation.

For each EDF round, a CSP and NIP is drafted. A CSP is an analysis of the respective 'country's political, institutional and security situation in a broad context, including governance, progress towards democracy, the rule of law and the observance of human rights. It links these areas to the poverty analysis' (European Commission, 2006b, p. 5). The NIP is a management tool that covers between three and five years and identifies a response strategy within each sector (European Commission, 2006b). It includes information such as main priorities and goals; specific objectives; expected results (outputs); programmes to be implemented; implementation of crosscutting themes; financial envelopes; and activities under other EU budgetary instruments for each sector (European Commission, 2006a).<sup>41</sup>

The EDF rounds along with the accompanying CSP and NSP, communications and agreements are discussed next. The agreements and EU's external development policy direction outlined in these documents influence the EDF priority areas and programmes funded. As a result, the Zambian Government adopts the EU governance reforms at the domestic level. I discuss the EDF rounds to illustrate this as well as indicate how the EU's governance agenda became pronounced over the years in Zambia.

#### **4.1.4.1.1. 9<sup>th</sup> EDF**

The 9<sup>th</sup> EDF financed the EU's development cooperation with ACP countries between 2002 and 2007. The Zambian Government and EU implemented this EDF at an exciting time for the ACP-EU partnership; it is therefore possible to link the developments during this time to the changes in the EDFs. The Zambian Government and EU implemented the 9<sup>th</sup> EDF within the new framework of the ACP-EU partnership, that is, the Cotonou Agreement signed in 2000, through which good governance plays a central role (Cotonou Agreement, 2014). Political dialogue was the crucial element in this partnership in the Lomé III Convention.<sup>42</sup> Initially, Lomé III enshrined respect for human rights and democratic principles as a fundamental clause, but after the negotiations between the ACP and EU for the Lomé IV, the human rights clause became an essential element of the cooperation agreement. Like the Cotonou Agreement, lack of adherence to this clause could lead to the suspension of aid.

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<sup>41</sup> The ECZ and GS mainly implemented their projects and programmes according to procedures set out in the Practical Guide (PRAG) to contract procedures for EU external actions (European Commission, 2016b) unless otherwise specified. According to the EU and Zambian civil servants and bureaucrats, each project and programme funded through the EDF, no matter the type and focus requires a component on governance and has to incorporate principles of good governance (T. Chihana & A. Chikwese, personal communication, April 28, 2015, para. 38).

<sup>42</sup> A review of agreements, communications and relevant development policies and frameworks reveal that EU first mentioned political dialogue in the Lomé III convention. However, the EU first introduced it in the Lomé IV which the ACP and EU negotiated in 1989, a big year in international politics.

After 2000, good governance was laid down as a fundamental and integral part of the Cotonou Agreement, along with political dialogue that was at the centre of the ACP-EU partnership (Cotonou Agreement, 2014 Article 8).<sup>43</sup> However, ACP countries argued that good governance was too vague a concept and could lay the ground for influence in domestic affairs of ACP countries (Carbone, 2010). This represented a substantial change in the paradigm of relations between the two, according to Carbone (2010). With good governance becoming a fundamental and integral part of the Cotonou Agreement, Article 96 and 97 of the agreement tackles issues on members not adhering to respect for human rights, democratic principles, rule of law and good governance (Cotonou Agreement, 2014, pp. 103-105, Chapter 1, Article 96, Article 97), as already mentioned. Furthermore, the Cotonou Agreement introduced a comprehensive framework for the role of NSAs in the development process (Carbone, 2010, p. 21).

Despite the significant changes that came with the Cotonou Agreement, the impact on the 9<sup>th</sup> EDF round for Zambia is slightly observable. According to the 2002-2007 CSP and NIP for Zambia, the main focal areas were transport, which was also part of the EU's support to regional integration, and economic governance (Government of Zambia & European Commission, 2002). Even though not prominent in the 9<sup>th</sup> EDF (see table above), other areas such as electoral reform process; human rights and good governance were also identified as areas requiring further improvement in Zambia (European Commission, 2001). However, these were not directly tackled in the 9<sup>th</sup> EDF. The EU has another funding instrument called the European Instrument for Democracy and Human Rights (EIDHR) targeting such issues. The EIDHR is a financial instrument promoting democracy and human rights in non-EU countries (European Commission, 2017b).<sup>44</sup> Zambia was a non-focus country (European Commission, 2017b) and therefore received no funding in these areas.

Apart from this, the evaluation of the EU's support to Zambia states that PFM was the donors' primary concern during this period and that the weak capacity of the NAOs and local administration were other significant constraints (Bouveyron, Klaasens, Marzano, Lof, & Chigunta, 2006, p. 85). Nonetheless, according to the 9<sup>th</sup> EDF, a number of measures were introduced by the EU under economic and financial governance through macroeconomics and direct budget support namely; efficient, equitable and transparent management of public resources through improved budgetary control system, introduction of Medium Term

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<sup>43</sup> Governance within the EU's development cooperation can be traced back to the 1991 Council Resolution of the European Communities (Radaelli, 2000).

<sup>44</sup> IDHR was established in 2006 and reflects the EU founding values, namely, democracy and respect for human rights, and that EU's external actions should be guided by the same principles (European Commission, 2017b).

Expenditure Framework and implementation of Integrated Financial Management Information System (Government of Zambia & European Commission, 2002).

#### **4.1.4.1.2. 10<sup>th</sup> EDF**

The 10<sup>th</sup> EDF represented a significant shift in the EU's development cooperation in comparison to the 9<sup>th</sup> EDF. The 2006 Communication on 'Governance in the European consensus on development – towards a harmonised approach within the EU' played a significant role in this as it introduced democratic governance and emphasised ownership and dialogue in EU development cooperation (European Commission, 2006b). For the EU, the governance approach was 'new' as it was incentive and dialogue-based aimed at partner countries adopting good governance (European Commission, 2006b). Furthermore, it was a distinct aid allocation method, compared to traditional or conditionality based resource distribution methods (Molenaers & Nijs, 2008, p. 11). The introduction of political dialogue, human rights, good governance and Non-State Actors (NSAs) distinguished the EU from other international actors in development cooperation because these issues had previously fallen outside this field (Carbone, 2010, p. 14).

To implement the approach, the EU also introduced the ECGIT, an incentive tranche aimed at rewarding countries that made commitments (European Commission, 2006b). The ECGIT is detailed in section 4.1.5. The EC identified weaknesses in nine governance areas in a governance profile of Zambia. Based on this governance profile, the Zambian Government committed itself to: democratic governance (human rights, fundamental freedoms, electoral processes, principles of constitutional democracy), political governance: judicial and law enforcement system, control of corruption, government effectiveness (institutional capacity, public finance management), economic governance (private sector/market-friendly policies, management of natural resources), internal and external security (internal and external security, external threats and global security), social governance, international and regional context (regional integration, involvement in regional initiatives on governance and peer review mechanisms (such as APRM), migration) and quality of the partnership (Government of Zambia & European Commission, 2008, p. XXX-LXXI).

These commitments were based on existing national development plans such as Vision 2030, FNDP, Aid Policy and Strategy, PRSP etc. The proposed reforms by the EU to Zambia were therefore nothing new, with the exception of some human rights components at the Zambia-EU level. The commitments were implemented in various programmes, for instance, the Support to the Electoral Cycle Management project and Access to Justice programme analysed in this study. Chapters five and six discuss these in detail and the reforms adopted.

This approach and instrument strongly influenced the 10<sup>th</sup> EDF in Zambia and led the Zambian Government to adopt prescribed governance reforms. There was a change in the focal and non-focal areas for the 10<sup>th</sup> EDF (Government of Zambia & European Commission, 2008, p. 31). In this EDF, governance became a non-focal sector and the following areas were funded: institutional capacity, PFM and support for electoral processes and constitutional democracy (Government of Zambia & European Commission, 2008, p. 33). In the previous EDF, it was neither a focal sector nor a non-focal sector. The significance of this shift is apparent with the funding availed to this non-focal area. The EU allocated approximately €25 million to governance in the 10<sup>th</sup> EDF. In the 9<sup>th</sup> EDF, the Zambian Government received approximately €15 million for institutional reform and capacity building (Government of Zambia & European Union, 2003, 2008). This approach also influenced the 11<sup>th</sup> EDF. In the 11<sup>th</sup> EDF, governance became a priority areas and funding was increased to €100 million for strengthening democratic governance (European Commission, 2011).

This section indicated how the conditionalities attached to the Cotonou and trade agreements are reinforced through the EU's governance approach. The approach promotes similar principles as the agreements in addition to others. An incentive instrument was introduced to catalyse the partner countries to commit. Zambia went through the process after making commitments. As a consequence, various governance programmes implementing the prescribed governance reforms were funded. The CSP and NIP outlined how institutional capacity, PFM and support for electoral processes and constitutional democracy programmes received more funding and the governance sector became a non-focal sector on its own.

#### **4.1.4.1.3. 11<sup>th</sup> EDF**

In the 11<sup>th</sup> EDF, governance became a focal area. This came about in the hope of making EU development policy more strategic and targeted. Through this process, the twelve points Agenda for Change and, new policy and rules for budget support reform were fully adopted (European Commission, 2011). The Agenda for Change aimed to ensure the effectiveness of development aid within a new context and after a consultation process, the EC called for changes to the approach of the EU's development cooperation (European Commission, 2011, p. 4). This new context referred to persisting severe poverty, at the time, people-led movements in North Africa and the Middle East and the fact that development, democracy, human rights and good governance are intertwined (European Commission, 2011).

Consequently, for the 11<sup>th</sup> EDF (2014 to 2020) there was an increased share of EU country and regional cooperation programmes dedicated to policy priorities in two areas namely; human rights, democracy and other critical elements of good governance and inclusive and

sustainable growth for human development (European Commission, 2011, p. 5-9). Both priority areas were accompanied by differentiated development partnerships, coordinated EU action and improved coherence among EU policies to ensure value for its money from 2011 and onwards (European Commission, 2011, p. 4). For the Zambian Government to receive funding, projects and programmes were expected to be in line with either of the two priorities. All funded programmes required, however, a governance component, no matter the type and focus of the programme (European Commission, 2011, p. 5).

This Agenda for Change not only marked good governance becoming one of two priority areas in the EU's development cooperation but also marked a move from incentivising commitments for governance reforms to rewarding results. As a result, governments were not rewarded to catalyse reforms; instead, the EU based further funding on the performance of the recipient country/programme (European Commission, 2014). Under governance, the EU in Zambia will support advancing democratic governance, accountability and state effectiveness for all, centred on increasing equality of access to justice; support to electoral system; and better management of resources and service delivery in the 11<sup>th</sup> EDF (Government of Zambia & European Commission, 2014).

In sum, the analysis of the EDFs, policy documents and agreements indicates the new focus, which is in line with Zambia's needs. Before 2000, governance was not a priority area for the EU in Zambia. With the 9<sup>th</sup> EDF, priorities of the EU in Zambia were not necessarily what the Zambian Government deemed as critical governance area at the time judging from the NDPs since 2000. This was also argued by Bouveyron et al. (2006) who found that the EU was more concerned about PFM, weak capacity of the NAOs and local administration during that period. These priorities are governance, but these focused on financial and administrative management of public institutions. The 'Communication on Governance in the Consensus on Development' (European Commission, 2006c) was a turning point as it strongly emphasised governance reforms in nine governance areas and proposed governance incentives. The principles attached as conditionalities in the Cotonou and trade agreements are reinforced by this communication and the Agenda for Change. Through the CSP and NIP, these governance areas were implemented through programmes funded by the EU.

Based on the above, conditionalities facilitated the adoption of governance reforms. The EU was able to negotiate and attach various governance areas in the form of conditionalities in partnership agreements (Cotonou Agreement) and trade agreement (EBA). These were further promoted and reinforced in the EDF rounds and the accompanying CSP and NIP.

#### **4.1.5. Incentives**

The proposition made with incentives in the transfer and adoption process is that the Zambian Government and respective national institutions voluntarily accept and implement EU governance in return of financial and trade incentives. The results of this study support this assumption and suggest that the Zambian Government are aware of policies being transferred and voluntarily accept governance reforms in return for incentives. A good example of rewards in return for adopting governance reforms is the ECGIT. The Zambian Government received an ECGIT for committing to governance reforms. In the following the ECGIT process in Zambia is elucidated.

The incentive instrument introduced to implement the EU's governance approach was worth €2.7 billion (European Commission, 2006b, p. 11). The idea of the ECGIT was to grant additional financial support to countries that committed to or adopted a plan containing governance measures and reforms (European Commission, 2006b, pp. 10-11). Apart from putting the governance approach into practice, the purpose of the ECGIT was to act as a catalyst to initiate the commitment and implementation of governance reforms in developing countries and to encourage a harmonised approach towards governance amongst the donors. It is important to note that discussions on the ECGIT and drafting of the governance profile and governance action plan occurred within the programming dialogue for the CSP and not in the context of the political dialogue. Zambia went through the ECGIT process between 2006 and 2007. This ECGIT process was as follows:

- i) The EC in Brussels prepared a governance profile. The profile is an assessment of Zambia's state of governance and trends conducted by the EU in Brussels and EU member countries present in Zambia (European Commission, 2006b, pp. 11 - 12). The profile was an analytical tool providing an overview of governance in nine areas and assisted in identifying weaknesses and the reform priorities in Zambia.
- ii) After the assessment of the governance profile in Brussels, the EC in Brussels sent the governance profile back to the EU delegation mission in Zambia. The EC did not intend on conducting the profile with Zambia; the EC and EU delegation office shared the contents, but they did not negotiate the contents (Carbone, 2010, p. 22).
- iii) After EC prepared governance profiles, Zambia was expected to propose a governance action plan, which it did. This action plan provided details on on-going and planned initiatives designed to address priorities identified in the governance profile (European Commission, 2006b). To develop the action plan, the Zambian Government relied on the Poverty Reduction Strategy Papers (PRSP), FNDP, Vision 2030, amongst other national development policies and strategies. Based on this, the Zambian Government was

aware what the EU expected from the whole process and which reforms were promoted.

- iv) Once the Zambian Government prepared these, the EU Delegation Office sent the governance action plan back to Brussels, where the EC assessed it on three criteria: relevance, ambition and credibility.<sup>45</sup> Each criterion was assigned scores.<sup>46</sup> These scores led to a differentiation between four ECGIT levels, with the lowest amounting to 10% and the highest to 30% of the ECGIT (Molenaers & Nijs, 2008).<sup>47</sup>
- v) After the assessment of the governance action plan in Brussels, the EC sent it back to the EU delegation office for discussion with EU member countries discussed it. The action plan was attached to the CSP, which was approved by the EDF Committee.<sup>48</sup> It was attached to the CSP at the time in order to monitor its implementation regularly. By 2009, Zambia presumably received between €19 and €24 million from the ECGIT annually (Molenaers & Nijs, 2009, pp. 573).
- vi) The governance profile and implementation of the governance action plan were to be monitored regularly. Based on the outcome, a country's allocation was increased annually in the event of outstanding performances (European Commission, 2006d, pp. 11 - 12). As a result, the EU does not reserve the tranche for just governance interventions; it is for overall activities (D'Alfonso & European Parliament, 2014).<sup>49</sup>

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<sup>45</sup> Relevance referred to whether the commitments matched the weaknesses recognised in the governance profile and ambition was based on the political will to address the shortcomings. Credibility considered whether there was the capacity to carry out the commitments.

<sup>46</sup> Basic ( $\leq 1$ ) intermediate ( $>1$  to 1.49) high (1.5 to 2.49) very high (2.5 to 3) (Molenaers & Nijs, 2009).

<sup>47</sup> The four ECGIT levels were: initial level (10 % of the ECGIT); second level (20 % of the ECGIT if the governance action plan was scored basic or intermediate), third level (25 % of the ECGIT if the governance action plan scored high); fourth level (30% of the ECGIT if the governance action plan scored high or very high score on all three criteria). The EC added 5% for countries that concluded the African Peer Review Mechanism (Molenaers & Nijs, 2008).

<sup>48</sup> D'Alfonso and European Parliament (2014) explained that, a 'committee consisting of representatives of EU countries, plays a role in programming of EDF funds and monitoring of their implementation: it gives its opinion on Country and Regional Strategy Papers under the Cotonou Agreement, acting by qualified majority (with the weighting of votes linked to EU countries' contribution keys to the EDF and thus different from that used in the Council)' ( p. 13).

<sup>49</sup> D'Alfonso and European Parliament (2014) described budget support as involving 'direct financial transfers to the national budget of the beneficiary country to support its national development strategy; it is meant to strengthen national systems through policy dialogue, performance assessment and capacity building in the public sector. A given country needs to meet a series of criteria concerning stable macroeconomic framework, national policies and reforms, public financial management, and transparency and oversight of the budget to be eligible for this kind of support. The scheme can include performance tranches linked to progress against indicators other than the eligibility criteria' (p. 14). This aid modality was the most preferred in ensuring increased aid effectiveness as donors allocated aid to good performers.

After receiving the ECGIT, the process was discontinued; the specificities in the case of Zambia are unfortunately not available. For instance, M. Perino of the EU Delegation office explained that, 'the GIT was not fully implemented in Zambia', Zambia received the tranche, but it was discontinued (personal communication, April 15, 2015, para. 20). M. Perino was not in the position to elaborate further since she was not at the EU when the ECGIT was introduced and because the EC in Brussels mainly carried out the process. A. Biesebroek also confirmed that 'Zambia went through the process. All ACP countries went through it and received various levels of the tranche. Some countries received more than others. The process was done by the head office and not by the delegation' (personal communication, December 7, 2015, para. 6).

Nevertheless, I was able to gather some explanations for the discontinuation of the tranche and these are discussed next. First, an interviewee pointed out that the tranche was discontinued because the EU imposed governance areas onto the Zambian Government. V. Hampondela (personal communication, April 15, 2015) explained that the Zambian Government received it with resistance because the EU imposed certain governance areas. He further elaborated, 'the government do things on their initiative and not on the initiative of other governments or international organisations. The EU came with their way of doing things...Some of the EU ideas do not fit the context of the country' (V. Hampondela, personal communication, April 15, 2015, para. 49). V. Hampondela did not go into detail on the 'EU ideas' that were imposed. L. Habasonda (personal communication, February 18, 2016, para. 15) was however direct and stated that the Zambian Government kept rejecting money related to the promotion of minority rights, that is, homosexuality. Nevertheless, there are several forms of indirect influences pushing this human rights agenda even though the Zambian Government continue rejecting these.

These statements back a critique of the ECGIT that it imposes the EU governance norms (Carbone, 2010; Molenaers & Nijs, 2009). Slocum-Bradley and Bradley (2010) also found that Zambia initially prioritised health and education for 2008 to 2010 EU development aid; however, the EU rejected these sectors and stated that to receive funding, the Zambian Government include priority sectors such as governance and competitiveness. Zambia included these sectors; hence, the EU imposed these sectors onto a country that is more in need of improving its primary social system (Slocum-Bradley & Bradley, 2010, p. 13). As a consequence, the Zambian Government made numerous commitments, as indicated.

Secondly, there was a lack of transparency from the side of the EU and a lack of openness (J. Vanheukelom, personal communication, August 24, 2017). To illustrate, various actors, including some of the interviewees that were to be part of the ECGIT process were not aware

of the ECGIT in Zambia. This contradicts the EU, which claimed that the approach would be participatory and encourage both the government and CSO to develop their own 'analytical tools' for evaluations (European Commission, 2006b, p. 9). Although the EU proclaiming the vital role and inclusion of Non-State Actors, very few were aware of the incentive approach in Zambia based on the interviews. To illustrate, C. Chileshe from ZGF was unaware of the tranche but was of the opinion that 'governments should not be incentivised to reform' (personal communication, April 14, 2015, para. 26). Other NGOs such as Civil Society for Poverty Reduction (CSPR)<sup>50</sup>, Foundation for Democratic Process (FODEP)<sup>51</sup> and SACCORD, amongst other, who are vocal in governance issues and cooperated with the EU on governance programmes in Zambia over several years were also unaware of the tranche.

This finding is not surprising as a critic of the instrument was its lack of ownership by ACP partner countries (see Slocum-Bradley & Bradley, 2010); thus this finding on Zambia empirically supports this criticism. A 2011 support study came to a similar conclusion on the ECGIT in Burundi, Kenya, Mali and Mozambique (IAG & ECDPM, 2011). The study indicated 'a significant lack of awareness of the governance initiative process itself. This was particularly the case among African stakeholders from both government and civil society' (IAG & ECDPM, 2011, p. 5). The lack of awareness stems from Zambian counterparts being excluded in the ECGIT process as said and because the EU discontinued it after a few years (M. Perino, personal communication, April 15, 2015). Furthermore, J. Vanheukelom further criticised the ECGIT process stressing that 'the whole process was too quick due to the internal EU aid-programming calendar, this limited the contribution of ACP actors and European member states' (personal communication, August 24, 2017).

Third, the IAG and ECDPM study (IAG & ECDPM, 2011) also identified the lack of ownership of the ECGIT process since the EU initiated it in Brussels and the counterparts not being included in the process as contributing factors. Other factors identified in the report included a disconnect between the ECGIT and already existing governance processes and plans in a respective country; limited follow-up on the lack of clear and well established monitoring and evaluation systems to check the effective implementation of the governance action plan, capacity constraints on both sides to manage and follow-up on the tool in a professional and coherent way and lack of clear instructions on implementation (IAG & ECDPM, 2011, p. 17).

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<sup>50</sup> CSPR is an anti-poverty civil society network. Additionally, it participates in the process of formulating and monitoring the NDPs for the country and hence sought the need to form a network that would enhance the effectiveness of this participation (CSPR, 2017).

<sup>51</sup> FODEP is a civic NGO that aims to promote and strengthen democratic governance in Zambia through advocacy and civic education programmes on the electoral process, local governance and development, and human rights (C. Mweenge, a Programme Officer, personal communication, April 20, 2015; J. Mvanba, personal communication, April 20, 2015).

As stated, Hackenesch (2011) also studied the ECGIT in Ethiopia and Angola. It appears that the ECGIT process was even more challenging in these countries. Hackenesch (2011) found that 'the Angolan government was not willing to engage in dialogue on governance issues and refused to draft a GAP as required by the EC. Instead, the EC used governance reforms as outlined in the Angolan national development plan as a substitute' (p. 18). Despite this, there were no negative financial consequences on the Angolan government for non-compliance. The Ethiopian Government never drafted a governance action plan; instead, the Ethiopian national development plan was used as a governance action plan. Hackenesch (2011) concluded that in the case of Ethiopia, the 'GIT hardly contributed to strengthening political dialogue, strengthening commitments on governance reforms and minimally contributed to governance reforms more generally' (p. 18).

This section outlined the ECGIT process in Zambia. The incentive was received between 2006 and 2009 after the Zambian Government made some commitments. Nonetheless, the ECGIT process in Zambia due to certain norms being promoted and imposed onto the Zambian Government; the process lacked transparency thus few were aware of the ECGIT and it lacked ownership, amongst other challenges to the ECGIT. Despite this, what was the outcome of this ECGIT in Zambia?

To reiterate, the ECGIT aimed to put the governance approach into practice by acting as a catalyst to initiate the adoption and implementation of governance reforms in the recipient countries and to achieve a harmonised governance approach with other donors. The ECGIT was able to achieve part of its purpose because the Zambian Government made commitments based on the PRSPs, NDPs, Vision 2030 and other Zambian policy documents (Government of Zambia, 2006b, p. 34, 2011, p. 2; Government of Zambia & European Union, 2008). As stated, policy recipients are not passive actors (Dolowitz & Marsh, 2000; Acharya, 2004). The outcome of the ECGIT in Zambia was harmonisation of the Zambian governance sector priorities and plans to the priorities and plans of the EU. In this study, I focus on the electoral and judicial reforms; chapters five and six will indicate which of the electoral and judicial reforms were actually implemented or not and make some conclusions on whether the ECGIT was able to achieve part of its purpose.

#### **4.1.6. Policy Transfer Entrepreneurs**

Policy transfer entrepreneurs include, but are not limited to local NGOs, NSAs and Think Tanks (Dolowitz & Marsh, 1996, pp. 344-345; Stone, 2001). The policy transfer entrepreneurs working on governance issues in Zambia and the themes of this study included: SACCORD, TIZ Zambia, FODEP, Law Association of Zambia, Paralegal Association Network Zambia (PAN), Zambian media institutions, Center for Policy Dialogue,

UNZA/Institute of Economic and Social Research (INESOR), ZGF, Anti-Voter Apathy Project, Women for Change, CSPR, JCTR<sup>52</sup> and HRCZ. These policy transfer entrepreneurs interact with EU actors, Zambian Government, national institutions, NAO and development agencies in implementing governance reforms while lobbying for similar interests.

The assumption made for the role of the policy transfer entrepreneurs in the transfer and adoption process was, policy transfer entrepreneurs are reinforced by the EU to directly/indirectly assist in legitimising EU reforms and thus facilitate the adoption and implementation of governance reforms. I was not able to support this premise with the research findings. Instead I found that the Zambian Government limits the role of policy transfer entrepreneurs. Existing literature also reaches similar findings and observes a trend in governments limiting the role of policy transfer entrepreneurs in various countries (Buyse, 2018; Carothers & Brechenmacher, 2014; Dupuy, Ron & Prakash, 2016; Gershman & Allen, 2006). In particular, Poppe and Wolff (2017) state that between 40 and 60 countries introduced or tightened restrictions against CSOs thus limiting the capacity and/or autonomy of these actors. Buyse (2018) conceptualised this as the restricting of 'civic spaces', that is, 'the layer between state, business, and family in which citizens organise, debate and act', while Carothers and Brechenmacher (2014) refer to this phenomenon as 'closing spaces'.

The question that arises is why would the Zambian Government limit the civic space of the policy transfer entrepreneurs? Various reasons are provided as to why governments limit the role of the policy transfer entrepreneurs. For instance, in Russia, CSO's are considered as foreign agents, which is synonymous for foreign spies (Buyse, 2018, p. 66). In particular, the CSOs engaging in political activity and receiving foreign funding are legally requested to register as 'foreign agents' since 2012 (Romanov & Larskaia-Smirnova, 2015). CIVICS (2015, p. 19) also explains that because of accessing funding from foreign donors, the CSOs are considered as delivery mechanisms of the donors. In the case of Zambia, the study found that policy transfer entrepreneurs are considered suspicious and foreign agents. Because of the dependence on donors for funding, and adjusting the priority areas to access funding, these actors are seen as the delivery mechanisms of donors.

### **Suspicious and Agents of Foreign Donor**

Policy transfer entrepreneurs are active in promoting and advocating for access to justice, elections and other governance-related issues in Zambia, nonetheless, the role of the policy transfer entrepreneurs in the adoption process was limited because the Zambian

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<sup>52</sup> JCTR engages in research, education, and advocacy in Zambia and Malawi, in the tradition of Catholic social teaching and of Jesuit development centres' worldwide (JCTR, 2015).

Government views them as 'suspicious' and 'agents of foreign donors'. For instance, Dr. E. Daka, a Lecturer and Researcher in the Department of Political and Administrative Studies (UNZA) shared that the EU supported civil society organisations such as FODEP and its programmes related to the electoral process. FODEP was active in the electoral process of Zambia. 'Due to this support, FODEP and other civil society organisations are considered suspicious by the Government because they may promote the values of the donors' (Daka, personal communication, April 23, 2015, para. 5). In addition, Dr. Ng'oma (personal communication, April 20, 2015, para. 13) held that due to the enthusiasm or over-ambitious of from civil society organisations while calling for reforms, these local organisations 'have been labelled as agents of foreign countries trying to destabilise what is happening, trying to impose some foreign agenda on African countries' (Ng'oma, personal communication, April 20, 2015, para. 13).

In the following, the various explanations from interviewees on why the Zambian Government considers the policy transfer entrepreneurs suspicious and agents of foreign donors are provided. For instance, N. Mate questioned the influence of the EU on policy transfer entrepreneurs, particularly CSOs and asserted that norms can be influenced through various actors and instruments ranging from conditionalities, agreements, civil society and so forth. You have the EU that is funding NSAs; one question that arises is, how are they influenced and how are norms transferred through them to Zambia (personal communication, April 20, 2015, para. 10).

L. Habasonda was of the same opinion whilst that individuals or institutions that back NGOs and GRN departments supporting certain human rights for example, are actually exporting their way of doing things, ideas and therefore promoting their foreign policy (personal communication, April 23, 2015, para. 10). While discussing the role and activities of the EU in Zambia, Dr. A. Ng'oma explained that, the EU and other western aid agencies have 'tried to find a way of supporting good governance in Africa, that is, return to democracy and promotion of good governance in Africa, the platform that the EU together with other agencies has found working through civil society organisations' (personal communication, April 20, 2015, para. 11). He further expressed that NGOs such as the Anti-voter Apathy Project, SACCORD, FODEP, and Women for Change etc. engage the government to try and deepen good governance practices in this country. Some of these NGOs have been funded to conduct civic education to explain democracy to citizens and their role in a democratic dispensation (Dr. A. Ng'oma, personal communication, April 20, 2015, para. 11-12).

Nonetheless, Dr. A. Ng'oma further clarified that the EU's interest in policy transfer entrepreneurs might be due to the understanding that 'a strong and vibrant civil society is

cardinal in the well functioning of any democratic dispensation' (personal communication, April 20, 2015, para. 9). The significance of a functioning, vibrant civil society and the theoretical importance is apparent to the international donor community, to practitioners as well as to researchers. For instance, this reflects the EU's stance on NSAs as being essential for the effectiveness and legitimacy of EU policy-making in the EU and towards the outside (European Commission, 2001; Government of Zambia & European Commission, 2008, p. 33) as they transfer ideas through advocacy and involvement in domestic and transnational policy transfer entrepreneurs as well (Stone, 2004).

Consequently, NSAs are a priority area for the EU in Zambia. For instance, on NSAs, the EU envisaged to 'support in a holistic context i.e. including human development (transfer of knowledge, experience, skills, values, etc.), organisation strengthening (establishment of management systems, development of an organisational culture, improvement of work processes, etc.) and institutions and policies (improvement of the legal and administrative framework, promotion of cooperation between state, private sector and civil society) (Government of Zambia & European Commission, 2008, p. 33). All in all, policy transfer entrepreneurs are driven, thus useful for transferring and implementing governance reforms, however, for the Government this is perceived differently.

### **Changing Priorities to Access Resources**

Certain interviewees pointed out that policy transfer entrepreneurs change their priorities by fitting into the priorities of the EU to access funding. To illustrate, M. Mutupa, a Governance Programme Officer at Action Aid provided an example of influence by the EU through two strict calls for proposals from the EU. M. Mutupa explained that the EU provided areas of funding and were 'not flexible with these areas so that they [EU reforms] can fit into what the NGOs or whoever the NGOs are working on...Civil society thus change their forecast because they want to access funds' (personal communication, April 23, 2015, para. 22). Because the funding for civil society was shrinking, civil society accept the areas and attached conditions, as a result they are affected or influenced by the EU (M. Mutupa, personal communication, April 23, 2015, para. 22). N. Milapo, a Research Fellow in the Governance Programme at the Institute of Economic and Social Research (INESOR), was in agreement and stated, 'sometimes there is a specific request for calls in thematic areas. Institutions will change just to fit into that...Having worked in NGOs, I know myself that these conditions do impact the way things are done...I understand that the negative impact is that people are made to respond to things that they would not have done...' (personal communication, April 29, 2015).

According to Dr. N. Simutanyi, a Policy analyst and Director of a think tank, 'many NGOs in Zambia depend on 100% on the donor, financially and for ideas because the NGOs tailor the proposals to suit what the donors want. You find that NGOs go and work out *proposals and projects* [own emphasis] that will bring funding' (personal communication, April 24, 2015, para. 13). Speaking from experience, Dr. N. Simutanyi also clarified that 'donors draw up a priority area and they draw up the criteria that they feel should be fulfilled and then advertised' (personal communication, April 24, 2015, para. 9). In response to donors requiring policy transfer entrepreneurs to fit their programmes and priorities into those of the donors, Dr. N. Simutanyi asserted, policy transfer entrepreneurs [emphasis added] cannot be subjected to a straitjacket where we are told the specific areas and how we [think tanks] qualify because then the projects become directed by the donors ... If we [think tanks] cannot define the priorities then we [think tanks] are not think tanks, but just a consultancy commissioned to work...' (personal communication, April 24, 2015, para. 9).

Because policy transfer entrepreneurs are considered 'suspicious' and 'agents of the foreign donors', governments have introduced various restrictions. The types of measures alluded to in the literature impeding policy transfer entrepreneurs include constricting the right to associate; introducing challenging registrations; restricting access to foreign and domestic financing; arbitrary interference in internal affairs; restricting lobbying or political activities; threats and harassment; criminalisation of policy transfer entrepreneurs. In this study, three main factors contributed to the Zambian Government restricting the role of the policy transfer entrepreneurs (Buyse, 2018, pp. 970-973; Carothers & Brechenmacher, 2014, pp. 7-15; Gershman & Allen, 2006, pp. 40-46). In Zambia, the restriction has so far been in the form of a proposed NGO act and this is explained next.

### **NGO Act, Limiting the Policy Transfer Entrepreneurs**

I found that the role of policy transfer entrepreneurs in implementing programmes and their interactions with the government is a challenge. To restrict policy transfer entrepreneurs in Zambia, the Zambian Government proposed the controversial revised NGO Act of 2009. Interviewees provided experiences, reasons why the NGO Act is being proposed and the response of the policy transfer entrepreneurs. To start with, H. Elischer (personal communication, April 16, 2015, para. 20), the Country Director of the Friedrich-Ebert-Stiftung in Zambia briefly explained the proposed NGO Act in Zambia, on which FES is also working on with the Irish and Norwegian Embassies. NGOs are expected to register with the Ministry of Community and Development, regardless of their legal standing. The act also created an NGO Board, whose membership is dominated by government appointees. The board has the authority to deny registration to organisations not complying with provisions of the law.

M. Mzyece (personal communication, April 13, 2015, para. 15), the Acting Executive Director of CSPR further described the proposed revised NGO act as being designed by the Zambian Government 'in a way that it almost criminalises the work of civil society, especially those that work in advocacy. For instance, within the act, the Minister can close a CSO based on public interest, but public interest is not defined'. M. Mzyece further explained that, the NGO Act 'looks at critical organisations that look into advocacy. It tries by all means to get CSO into service delivery than advocacy... a lot of NGOs involved in advocacy were and are still against the act. They are not against the principle of regulation, but the form of regulation' (personal communication, April 13, 2015, para. 15).

M. Mzyece provided additional explanations as to why the NGO Act was introduced and the experience of CSPR. According to M. Mzyece, CSOs were vocal concerning the constitution process, so the enforcement of the NGO Act at that time seemed to target NGOs during that process. For instance, in 2014, there was a problem in conducting the budget tracking exercise in the eastern province of Zambia. All the government departments at that provincial level were written to not cooperate with CSPR and its activities; this was a critical period between government and CSOs relations'. (personal communication, April 13, 2015, para. 15). Dr. N. Simutanyi (personal communication, April 24, 2015, para. 19) also concurred and assumes that the NGO Act is also aimed at limiting the financial resources of the policy transfer entrepreneurs by stating that with the revised NGO act, NGOs need to provide information on where they get their funding, provide government access to their accounts and contacts. Furthermore, to access international funding, approval is required from an NGO Coordinating Group appointed by the Zambian Government is required.

T. Chihana and A. Chikwese (personal communication, April 28, 2015) provided some reasons as to why the financial resources of the policy transfer entrepreneurs are targeted. They explained that, the NGO Act was revised to regulate funding to the NGOs. According to Chihana and Chikwese, a major problem with international donors is that there is no unified approach; donors come in various forms, e.g. programmes or projects and with different conditionalities. Furthermore, there were instances, that donors funded specific NGOs, but without the governments awareness of the partnerships or how funds were used and whether funds were utilised at all. The NGO act therefore aims to mitigate such issues' (T. Chihana, & A. Chikwese, personal communication, April 28, 2015, para. 16).

### **Response of Policy Transfer Entrepreneurs**

Nonetheless, M. Mzyece (personal communication, April 13, 2015) indicated dissatisfaction by civil society and those they would not register under this act. Some NGOs called for a repeal of the Act (Zambia Watchdog, 2013), as it would allow 'the Ministry of Community and

Development to directly intervene in the internal affairs of NGOs, to deregister an organisation if its activity is deemed not in the public interest' (Gumede, 2017). Whilst explaining that 'the process of accessing funds from the EU is very tedious and this is why TIZ does not bother to apply', G. Lungu, Executive Director of Transparency International Zambia, stated with the NGO Act that, 'I don't think that the Zambian Government from the past 8 years has provided that endorsement. This provides some difficulty for civil society to access EU funding...'. (personal communication, April 16, 2015, para. 6).

In October 2013, a letter by 112 CSOs from 46 different countries was sent to the then President, Michael Sata, to raise their concerns on the NGO Act (CIVICUS, 2013). In 2014, NGOs were still expected to register, and the government gave a 30-day deadline. NGOs that did not register were sent letters requesting an explanation for not registering (Lusaka Times, 2014). M. Mzyece confirmed and explained that, in 2014, the Ministry of Community Development who are the enforcers of the NGO Act 'wrote to some CSO organisations giving them an ultimatum as to when to register or they face de-registration. This was contested by civil society through a legal process and that legal process has changed and conceded with the Ministry of Justice' (personal communication, April 13, 2015, para. 15).

I found that apart from proposing an NGO Act, the Zambian Government interfered with the activities of the policy transfer entrepreneurs. For instance, it appears that they also interfere in the types of activities that are implemented by the policy transfer entrepreneurs. Dr. N. Simutanyi (personal communication, April 24, 2015) alluded to a situation where the government interfered. Dr. N. Simutanyi (personal communication, April 24, 2015, para. 16) explained that when PF came into power, they did not expect that FES would support other causes that were critical of the government. FES funded a programme and conference on electoral moderation organised by the Center For Political Dialogue. The government did not like that, which resulted into the PF and FES falling out. Discussing critical issues of decisions democratically was not possible under the then government'. Through such actions, the Zambian Government or political parties in power seek to exert control over the spaces of the policy transfer entrepreneurs and to silence the critical voices (Buyse, 2018).

All in all, the premise was that EU reinforced policy transfer entrepreneurs to directly/indirectly assist in legitimising EU reforms, thus leading to adoption and implementation of reforms by the Zambian Government. The research results did not support this assumption. Due to the role of policy transfer entrepreneurs, the Zambian Government views them as agents of foreign donors and has attempted to limit their advocacy and work by measures such as the NGO act. These findings are supported by research in various countries, which reached similar conclusions (CIVICS, 2015; Buyse, 2018; Gershman & Allen, 2006).

## **4.2. Factors and Degrees of Adoption**

This subchapter discusses the factors inherent in the mechanisms of adoption and describes the degrees of adoption and non-transfer. The subchapter thus contributes to answering two sub-questions: what factors facilitate or impede the implementation process? And how can the degree of adoption and non-transfer be described at the Zambia-EU level? The factors and the extent of adoption and non-transfer are discussed simultaneously. I found that the presence or lack of the following factors contributed to the Zambian Government harmonising, resisting and contesting the governance reforms: social appropriateness, financial and trade incentives, political will, financial and technical resources as well as alignment. These are explained next and are summarised in **Table 8**.

### **4.2.1. Social Appropriateness**

Social appropriateness of the proposed and prescribed governance reforms was crucial in the agreements and ECGIT process. Social appropriateness is a contractual factor related to the ideological and cultural incompatibilities, in other words, normative fit (Minkman et al. 231). As indicated, the EU identified and described various governance weaknesses through the governance profile. In response, the Zambian Government voluntarily committed itself to adopt and implement the governance reforms before receiving additional funding. Despite incentives, the appropriateness of the reforms is a crucial contextual factor in the adoption process. How did this factor play a role? The role of this factor is illustrated through the reforms that were proposed; some reforms were internalised, while a component of human rights was resisted and contested. The extent of the adoption was therefore harmonisation and non-transfer. These are explained next.

### **Internalising International Standards**

To reiterate, the Zambian Government committed itself to reforming the following nine governance areas, these were outlined in the governance action plan: democratic governance (human rights, fundamental freedoms, electoral processes, principles of constitutional democracy), political governance: judicial and law enforcement system, control of corruption, government effectiveness (institutional capacity, public finance management), economic governance (private sector/market-friendly policies, management of natural resources), internal and external security (internal and external security, external threats and global security), social governance, international and regional context (regional integration, involvement in regional initiatives on governance and peer review mechanisms (such as APRM), migration) and quality of the partnership (Government of Zambia & European Commission, 2008, p. XXX-LXXI).

Based on what the EU was promoting and prescribing through these reforms, most are internationally accepted standards. For instance, the EU promotes improving accountability of public administrations, however this can be subsumed under the idea of the good governance principles and the rule of law (Del Sarto, 2016). Furthermore, the election standards are international and implemented in various countries (Norris, 2015; van Ham, 2015). Under democratic governance reforms, the EU referred to the ratification of conventions such as the Convention on the Elimination of all forms of Discrimination against Women, the Rights of the Child, Child Trafficking; the Rights of All Migrant Workers (MWC); African Charter on Human and People's Rights; Rights of Women in Africa African Charter on the Rights and Welfare of the Child, amongst other, (Government of Zambia & European Union, 2008). These are once again universal (OHCHR, 2017). Based on this, it may be argued that EU governance rules and practices are embedded in the broader universal norms. The Zambian Government therefore willingly committed to reforming these areas.

### **Contesting Human Rights Components**

I indicated with the research findings that not all reforms prescribed were accepted. The EU also promoted Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) rights, but these were resisted and contested. The rights of the LGBTI are part of EU democracy and good governance; the EU, therefore, promotes these in its development cooperation. Specifically, the promotion of the rights of non-heterosexuals falls under inclusive equality, one of the nine normative principles constituted and promoted by the EU (Manners, 2002, 2008). The European Council has a particular guideline on the promotion of the human rights of LGBTI (Council of the European Union, 2013). In the guideline, the Council explicitly states that 'EU aims to promote and protect all human rights of LGBTI persons from existing international legal standards in this area, including those set by the United Nations and the Council of Europe' (Council of the European Union, 2013).

Officials of EU institutions and EU member countries promote these human rights through various tools. The tools include human rights country strategies, monitoring human rights of LGBTI persons in individual countries, EU Heads of Mission, démarches and public statements, propose specific action for individual cases, court hearings and prison visits, political dialogue, supporting civil society, international mechanisms and visiting EU and Member State missions (Council of the European Union, 2013). The 'EU Strategic Framework' and the 'Action Plan on Human Rights and Democracy' complements this guideline (Council of the European Union, 2013, 2015).

It is imperative to highlight that the inclusion of the rights of the LGBTI community is not only an EU policy, these are also universal norms, thus having an impressive track record of

transforming societies (Björkdahl, 2012; Risse & Sikkink, 1999). Despite this, these were resisted and contested in Zambia, resulting in non-transfer. Non-transfer occurs when the policy recipient does not create new tasks and instruments and internalise the reforms (Payne, 2001, p. 41; Dolowitz & Marsh, 2000, p. 17), in other words, there was no adoption at all. Although not explicitly affirmed in the governance action plan, T. Chihana (personal communication, April 28, 2015) and L. Habsonda (personal communication, April 23, 2015) mentioned that the EU 'imposed' the reform of the rights of the LGBTI onto Zambia and the Access to Justice programme during the negotiation of development cooperation.

T. Chihana (personal communication, April 28, 2015) similarly explained that the inclusion of the rights of non-heterosexuals was tabled at negotiations and never implemented because the GS, NAO and Zambian Government strongly contested it. Stone (1999) explains that policies that are coerced will be resisted. In this case they were not only resisted, they were also contested. Contestation, as mentioned, is defined as a social practice entailing objection to specific issues relevant to people while in IR it involves various social practices that discursively express disapproval of norms (Wiener, 2014). Resistance is a result of policy recipients not creating any new tasks and instruments, and the targeted policy, as well as an institutional model, remain mostly intact (Acharya, 2004, p. 254).

### **Why Resist and Contest LGBTI?**

Cramer et al. (2006) argued that conditionalities/requirements aimed at changing the behaviours of the recipients to development cooperation compromise the ownership of development activities as well as their implementation. This study is in agreement, based on the research finding, addressing the rights of the LGBTI in the programme was contested because of the following reasons. First, engaging in same-sex relations is against the law in Zambia (Constitution of Zambia, 2016). Based on their mandates, reforming the rights of the LGBTI community fall under the Access to Justice programme, the Ministry of Justice and Ministry of Gender and Development. Addressing the rights of non-heterosexuals also falls under responsibilities of the HRCZ as well as other institutions.

Nonetheless, the GS does not address this human rights component in the Access to Justice programme. Policy transfer entrepreneurs in Zambia also do not address these rights. For instance, the Lesbians, Gays, and Transgender Association (LEGATRA) was refused to register as an NGO; this registration of LEGRATA led the then Vice President Christon Tembo to declare that 'anyone who promotes homosexual practices after today will be arrested' (Human Rights Watch, 1998).

Second, key politicians were publicly against improving the rights of the LGBTI in Zambia. On this, Bunce (1981) argues that it is probably impossible to implant an idea or policy irrespective of its merit or how many other countries are pursuing it if crucial members of a government are opposed to it. Rose (1993) stated that the principal actors in the process are politicians and elected officials in the parliament and government as 'their values give direction to public policy and their endorsement is needed to legitimate the adoption of programmes' (p. 52). Elected officials and politicians set boundaries of acceptable policy during their administration (Dolowitz, 2000, p. 17).

In the case of Zambia, the then president, Frederick Chiluba referred to the LGBTI as 'unbiblical' and 'against human nature', however, Dr. Kenneth Kaunda argued that 'homosexuality was here to stay' and that Zambia needed 'time to examine it carefully' (Human Rights Watch, 1998). Despite this, in 2013, Edgar Lungu who was acting in the capacity of Minister of Home Affairs and is currently the president of Zambia spoke out strongly against LGBTI rights stating. 'There will be no such discussion on gay rights. That issue is foreign to this country...Those advocating gay rights should go to hell, that is not an issue we will tolerate' (Zambia Reports, 2013). Because Edgar Lungu and Frederick Chiluba spoke against the rights of the LGBTI, he set boundaries of acceptable policy (Dolowitz, 2000, p. 17) and also made it impossible to implant a policy irrespective of its merit or how many other countries are pursuing it (Bunce, 1981).

Third, the rights of the LGBTI were not considered as part of Zambia's identity<sup>53</sup> or a normative fit and therefore incompatible (Acharya, 2004; Minkman et al, 2018). The observations of the Zambian academics, civil servants, bureaucrats and practitioners on the debate on the LGBTI in Zambia indicates that meaning and value in this policy is not the same for the EU and Zambia. Instead, the Zambian Government and national institutions contest the meaning and value of the LGBTI.<sup>54</sup> The Vision 2030 can be used to elaborate this normative miss fit. By 2030, Zambia aspires 'to live in a strong and dynamic middle-income industrial nation that provides opportunities for improving the well being of all, embodying values of socio-economic justice, underpinned by the principles of: (i) gender-responsive sustainable development; (ii) democracy; (iii) respect for human rights; (iv) good traditional and family values; (v) positive attitude towards work; (vi) peaceful coexistence and; (vii) private-public partnerships (Government of Zambia, 2006b, p. 2). All policies aimed at

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<sup>53</sup> The understanding of identity in this study is based Berger (1966) and Wendt (1992) definitions. Identity refers to the self-concept, understanding and expectations that are always within a socially constructed world (Berger, 1966, p. 11; Wendt, 1992, p. 397).

<sup>54</sup> Contestation, as mentioned, is defined as a social practice entailing objection to specific issues relevant to people while in IR it involves various social practices that discursively express disapproval of norms (Wiener, 2014).

achieving these goals do not mention the rights of the LGBTI while the amended Constitution of Zambia does not recognise the rights of the LGBTI.

Surprisingly, the EU has not taken any action against the Zambian Government for not committing to some of the policies or components of human rights. Nevertheless, Zambia has and still faces pressure from the donor community and international human rights organisations to acknowledge the LGBTI. However, Dr. A. Ng'oma explained, 'Africans' have their conceptualisation and definition of what democracy and good governance entails, and the rights of the LGBTI for now is excluded and will be resisted (personal communication, April 20, 2015, para. 21). He further asserted, donors such as the EU at times ignore traditional norms and practices of the recipients and that 'western values' such as homosexuality in the name of good governance is championed even though recipients reject (Dr. A. Ng'oma, personal communication, April 20, 2015, para. 21). To further illustrate, Dr. Ng'oma highlighted countries such as Zimbabwe and Uganda, whose presidents openly refused reforming the rights of the LGBTI. As a result, there is a clash between EU and 'African' norms (Dr. A. Ng'oma, personal communication, April 20, 2015, para. 21).

A follow up on this was complex as the programme implementers who worked on these issues at the time are no longer there, and project documents are not accessible. Apart from this, not all of the Zambian academics, civil servants and bureaucrats interviewed were keen to discuss or elaborate. One reason may be due to the perception of the LGBTI and the stigma that comes with supporting the rights of LGBTI individuals in Zambia while highlighting this stigma and providing reasons as to why the rights of the LGBTI are contested. Dr. E. Daka also pointed out that the rights of the LGBTI are currently not a priority of the Zambian Government by stating that by accepting donor funding and their prescribed conditions, the recipients accept to a large extent what the donors want. In the end, recipients implement things that are embracing western principles and values. Often these are in line with the country goals, but there are a few cases where the rights of certain groups are promoted which are currently not a priority for the country (Daka, personal communication, April 23, 2015, para. 10).

Based on the debate in Zambia, this human rights component is currently ideologically and culturally incompatible (Benson & Jordan, 2011; De Jong, 2009; Dolowitz, 2000) to Zambia. Acharya (2004, p. 241) also confirmed this finding by explaining that local actors may offer resistance to new external norms because of doubts about existing beliefs and practices, as just seen. This resistance can be conceptualised as active resistance, as there was resistance only towards this specific content within the promotion of human rights (Saurugger & Terpan, 2013). This resistance did not trigger any change at the domestic level, thus

resulting in inappropriate transfer (Dolowitz & Marsh, 1996, p. 17). All in all, what this factor indicates is, despite the reforms being associated with conditionalities and incentives, only those that are considered a normative fit are adopted and more likely to be internalised.

#### **4.2.2. Financial and Trade Rewards**

EU regularly uses positive and negative incentives to induce adoption (Börzel & Risse, 2012, p. 7). To persuade the partners to adopt its rules, conditionalities and, technical and financial assistance are used (Kelley, 2004; Vachudova, 2005). Schimmelfennig and Sedelmeier (2004) assumed and found that the 'effectiveness of rule transfer increases with the size and speed of rewards' (p. 665). After applying their theory to the CEECS, Schimmelfennig and Sedelmeier (2004) found that 'the size of the domestic political costs of incumbent governments shaped their [CEECS] response to EU demands'. As a consequence, they concluded that determinacy of conditions and the size and speed of benefits did not have a systematic effect on rule adoption' (Schimmelfennig & Sedelmeier, 2004). In this study, I aimed to analyse whether the partners are persuaded by the financial incentives and therefore adopt the reforms. Similar to Schimmelfennig & Sedelmeier (2004), I found that financial incentive was not a factor. However, I did find that trade incentives may play a role in the Zambian Government adopting EU reforms. These two factors are discussed next.

#### **4.2.3. Financial Incentives**

As asserted, the Zambian Government received a tranche in 2007 (Government of Zambia & European Commission, 2008, p. XIX) following a qualitative assessment by EU headquarters and the Zambian Government committing to governance reforms by producing a governance action plan. As a result of its commitments, the Zambian Government received additional allocations between 10% to 30% as 'top-ups' to their NIP (IAG & ECDPM, 2011, p. 17). A qualitative assessment determined the level of the tranche and double-checked by a quantitative assessment of the governance action plan (Del Biondo & Orbie, 2014, p. 417; European Commission, 2009, pp. 7-9; Molenaers & Nijs, 2009).<sup>47</sup> As stated, the EC prepared these assessments and sent them to EU delegation offices for discussion with EU Member country representatives in the respective country. When developing the governance action plan, the Zambian Government referred to the PRSP, FNDP, Vision 2030, amongst other national development policies and strategies (Government of Zambia & European Commission, 2008). As a result, the ECGIT resulted in the harmonisation of the priorities and strategies of the Zambian Government to the EU priorities. Furthermore, through this process, it was possible to push for Zambia's own development agenda.

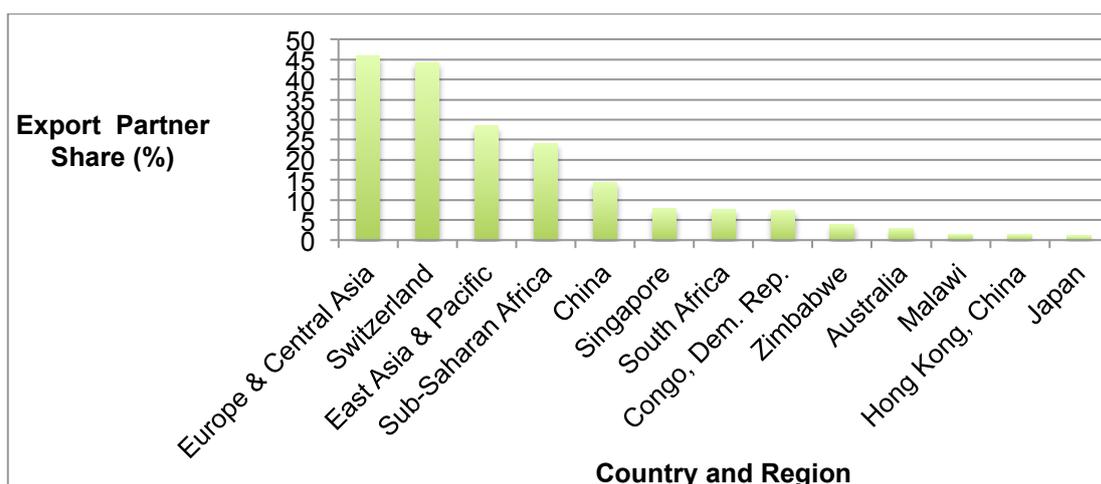
It appears that for the Zambian Government the incentive was high enough only to refer to the existing national development plans in the governance action plan. Overall, the ECGIT

was not high enough to commit and implement all the governance reforms at the domestic level. Molenaers and Nijs (2009, pp. 573) assume that by 2009, the Zambian Government received between €19 and €24 million from the ECGIT annually. The ECGIT was thus less than 0,5% of Zambia’s gross national income (European Commission, 2009). Because the EU fed the ECGIT ‘into the Country Strategy Papers of the 10<sup>th</sup> EDF’ (Hackenesch, 2011, p. 28), it is not clear how much of the funding was from the ECGIT to date.

#### 4.2.4. Trade Benefits

Trade benefits played a role in accepting the EU’s proposed governance reforms. The Zambian Government entered into trade agreements with the EU and accepted the human rights clauses and other conditionalities attached. As explained, Zambia is part and parcel of the EBA scheme, which allows duty-free and quota-free access to the EU market. Through this scheme, Zambia exports metals and agricultural products, and it imports various transport equipment, machinery and chemical products. As seen in Figure 7 below, European and central Asian countries are some of Zambia’s biggest trading partners. In particular, Zambia’s highest exports are to Switzerland (44,26%), followed by East Asia and the Pacific countries (28,42%) such as China, Singapore and Hong Kong. To Europe and Central Asia countries, Zambia’s exports amounted to 45,91% in 2015.

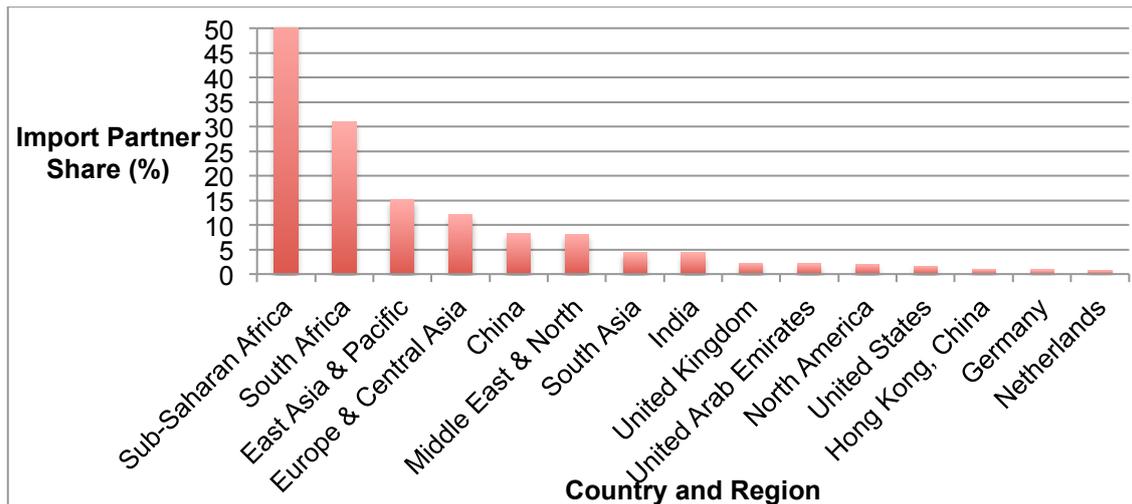
**Figure 7: Zambia Export Partner Share (%) by Country and Region, 2015**



Note. The export percentage share of Zambia with selected trading partner countries in 2015. Source: World Integrated Trade Solutions (WITS), World Bank Group, 2018

Zambia relies on imports from Europe and Central Asia countries. However, Zambia mainly imports from South Africa. According to the 2015 statistics, approximately, 30,9% of the imported products was from South Africa. Imports from Europe and Central Asian countries amounted to 12,14% as seen in Figure 8 below.

**Figure 8: Zambia Import Partner Share (%) by Country and Region, 2015**



Note. The import percentage share of Zambia with selected trading partner countries in 2015. Source: World Integrated Trade Solutions (WITS), World Bank Group, 2018

In addition to this trading partnership, Zambia also benefits from the EU's aid for trade through which financial assistance was provided to Zambia to improve economic and institutional infrastructures (Makhan, 2011). For instance, the EU availed aid for trade in the 8th, 9th and 10th EDF in the form of a capacity building or institutional support for growth through regional integration and trade (Government of Zambia & European Commission, 2008). Through this support, the EU funded the 'Department of Foreign Trade in developing a good base of analytical and negotiating skills to improve the formulation of national trade policy and negotiating positions' (Government of Zambia & European Commission, 2008, p. 33). Furthermore, the Government of Zambia and European Commission (2008) stated that the support also aimed at enhancing 'sanitary and phytosanitary standards, certification and marketing conditions, thereby improving product quality, health standards, branding opportunities, and market awareness and penetration' (p. 33).

Based on the above and that the Zambian Government agreed to the conditionalities and clause attached to the trade agreements, I proceed to argue that access to EU markets through trade is high enough to adopt the governance reforms as well as implement them as briefly elaborated through the aid for trade. Research by McDonagh (2008, p. 144; and Schimmelfennig and Scholtz (2008, p. 190) also found that trade played an essential role in CEECs decision to adopt and implement EU policies. Trade benefits played a role during bilateral negotiations between the Zambian Government and EU considering the benefits of access to EU markets.

#### **4.2.5. Political Will**

Political will by high officials in the Zambian Government was a factor that contributed to lack of reform. In particular, reluctance by the political leaders contributed to the non-acceptance

and non-implementation of promoted and prescribed EU governance areas was. Reluctance is identified through hesitation, that is, lack of initiative, delaying, flip-flopping and recalcitrance, i.e. a lack of responsiveness towards the demands made by others (Destradi, 2015). Abolishing the death penalty in Zambia is an excellent example.

In Zambia, the death penalty is still in force. The Zambian Government committed itself to abolish the death penalty in the governance action plan (Government of Zambia & European Commission, 2008, p. XXXI). Despite this, there was and is continued hesitation and recalcitrance from the Zambian Government to abolish the death sentence. This hesitation and recalcitrance is summed up by the countrywide debate on the abolishment of the death penalty according to M.F. Hamuyube (personal communication, April 22, 2015). General arguments on abolition include 'no legal, political or religious justification for maintaining the penalty in the laws of the country' (Mvula, 2016). Being on death row alone causes anguish and suffering that most of the convicts die on death row (Mvula, 2016).

HRCZ and the Zambian Prisons Services have all objected to the death sentence explained M.F. Hamuyube (personal communication, April 22, 2015, para. 37). HRCZ, like many national institutions, is against it, prisoners are on death row, and this alone is punishment enough. HRCZ works closely with the Zambian Prisons; they are also against it. Many countries have abolished it. Prisoners live in harsh conditions; in addition to being on death row, it is punishment enough. Many political leaders and churches have publicly stated the need to abolish it, but the will is lacking to remove it from the constitution (Mvula, 2016).

Considering that Zambia is a Christian nation, focus should be on reconciliation because the death is no solution. Furthermore, the 'sentence is a violation of fundamental rights; it should be substituted with progressive' punishments (Times of Zambia, 2016).<sup>55</sup> These arguments are in line with those by Amnesty International. Amnesty International (2017) argued that the sentence is the deliberate and cold-blooded killing of human beings by the state. Additionally, the penalty is unproductive, culprits learn nothing, and it is costly for the state (Amnesty International, 2017).

In addition to these debates, since 1997, Zambia has not executed anyone, owing to a presidential moratorium on executions upheld by four presidents. President Edgar Lungu in 2015, commuted the death sentences of 332 to life imprisonment (Amnesty International, 2017). In 2013, Michael Sata commuted 123 death penalties. Previous presidents such as

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<sup>55</sup> Lusaka Times is an independent online news platform, the Post is an independent newspaper, while, Zambia Daily Mail and Times of Zambia are state-owned.

Rupiah Banda (2008 to 2011) and Levy Mwanawasa (2002 to 2008) also publicly vowed never to sign a death warrant during their tenure of office (Lusaka Times, 2017). Despite this, the death penalty is still in effect.

Hesitation and recalcitrance to reform may be partly explained by some citizens who seemingly support the death penalty. Arguments for keeping the death penalty are rooted in religious beliefs and lack of a severe sentence (ACHPR, 2012). The Times of Zambia (2016) reported in an article on the death penalty in Zambia that, this type of punishment is biblical and should, therefore, be upheld considering that Zambia is a Christian country. However, the Council of Churches in Zambia is, 'totally, holistically, biblically and theologically opposed to death penalty' (Council of Churches in Zambia, 2016). While elaborating on the stance of the HRCZ, M.F. Hamuyube (personal communication, April 22, 2015, para. 37) also alluded to the argument that some believe that maintaining the death penalty can serve as a deterrent to would-be offenders. If the Zambian Government abolished the death sentence, some believe that people will not fear a sentence because they know that there are no other severe sentences other than life imprisonment (Mvula, 2016).

Despite these arguments for and against, and Zambian presidents opposing the death penalty publicly, Zambia has not ratified the Second Optional Protocol on International Covenant on Civil and Political Rights (ICCPR) of 1966 that abolishes the death penalty (OHCHR, 2017). In 2013, as part of the constitutional review process, it was voted to retain the death sentence in the First Draft of the Zambian Constitution according to M.F. Hamuyube (personal communication, April 22, 2015, para. 37). National (e.g. HRCZ, Zambia Police Services, Council of Churches etc.) and international (e.g. EU, Amnesty International, Hands of Cain etc.) groups have all called for Zambia to abolish the death penalty. For instance, supported by the Italian Foreign Ministry, Hands off Cain led a mission to Zambia in November 2016; the delegation was composed of members of the Italian League for Human Rights and the World Coalition against the Death Penalty (Hands of Cain, 2016). Despite the calls and pressures, Zambia abstained from the Resolution on a Moratorium on the Use of the Death Penalty at the UN General Assembly in December 2016 (Guillot & Plaçais, 2016).

As mentioned, previous presidents commuted numerous prisoners. The commutations maintained Zambia's status as 'abolitionist de facto', and inclusion of the death penalty in the amended Constitution suggests that complete abolition may not be for some time (OHCHR, 2017). The 2016 amended Constitution of Zambia still included the death penalty (Constitution of Zambia, 2016). Additionally, Zambia abstained from the Resolution on a Moratorium on the Use of the Death Penalty (Guillot & Plaçais, 2016). I consider these actions as instruments of resistance and reluctance towards this reform. This EU and

international policy have not triggered any change at the domestic level. This case thus indicates that there is not only a shared value in the policy, but there is also political will; however, there is a lack of initiative (Destradi, 2015), that is hesitation from the presidents and politicians to act and push for the abolishment of the death penalty. This hesitation could also emanate from pressure from citizens considering the discussed arguments.

#### **4.2.6. Financial Resources**

Financial resources, in particular, lack of finances and technical resources were also a factor as these hampered the ratification of protocols committed to by the Zambian Government. Due to inadequate financial and technical resources at this higher level, protocols could not be transposed to the domestic legislation. Benson and Jordan (2011) also explain that financial resources, in particular the transaction costs of adjusting the transferred policies into the domestic affect the adoption process. This was the case in Zambia. There was some delay towards ratifying specific protocols, which the Zambian Government committed itself to in the governance action plan. Despite aiming to improve women and children's rights, Zambia has yet to ratify some protocols (OHCHR, 2017) that it committed itself to receive the EU tranche (Government of Zambia & European Commission, 2008, p. XXXI).

According to M.F. Hamuyube, 'Zambia is a signatory to many international treaties or protocols, e.g. protocols on women, children, etc. Zambia has made commitments to ratify these, but there are challenges relating to capacity and political will to implement these treaties' (personal communication, April 22, 2015, para. 10). The Zambian Government ratified its Convention on the Elimination of all forms of Discrimination against Women, but it did not sign the Optional Protocol to this Convention yet. Also, the Zambian Government has not ratified other protocols. For example, Rights of the Child, Child Trafficking; Rights of All Migrant Workers (MWC) African Charter on Human and People's Rights on the Rights of Women in Africa African Charter on the Rights and Welfare of the Child (OHCHR, 2017).

#### **4.2.7. Alignment**

By alignment, I refer to the Zambian Government and EU aligning the EUs development cooperation with development priorities and plans, which Zambia identified (Paris Declaration, 2005). This study considers this as a contextual factor, that is putting reforms into the social, economic, political, institutional and policy context (Dolowitz & Marsh, 2000, p. 13; Rose, 1993, p. 118). Dolowitz (2000, p. 26) points out the relevance of social, economic, institutional, political and policy context, as these are necessary for transferability and adoption of policies. The findings indicate that these were crucial at the Zambian-EU level. V. Hampondela alluded to the importance of putting reforms into Zambia's social, economic, political, social and policy context by stating that with the multitude of donors in

Zambia, the Government confidently put up structures to manage donor funding and projects. So, when donors like the EU come with funding, the Government requests them to adjust to these existing structures (personal communication, February 11, 2016, para. 11).

The ECGIT process was the main instrument through which the Zambian Government priorities and plans were aligned to those of the EU governance reforms. This was however discussed in detail in section 4.1.5. To further illustrate how the Zambian priorities and plans were aligned with the EU development cooperation, the EDFs provide good examples. The JASZ is another instrument aimed at aligning development cooperation with national development plans but this was not the case in Zambia. These are discussed next.

### **Alignment of Priorities through EDFs**

Over time, the EU shifted its priority areas to resemble those of Zambia, thus resulting in alignment. The EDFs illustrate these very well. In the 9<sup>th</sup> EDF (2002 to 2007), overall governance played a minimal role even though the Zambian Government identified it as a critical issue. Transport infrastructure and capacity development in the private-public dialogue amongst others were a priority in the 9<sup>th</sup> EDF. Over the years there was a shift and thus, in the 10<sup>th</sup> EDF (2008 to 2013), regional integration and transport infrastructure, health, food security, agriculture and governance (NSAs and EPA) were prioritised, while governance itself was a non-focal sector. Under governance, the priority for Zambia was government effectiveness and democratic governance: institutional capacity, public finance management and support for electoral processes and constitutional democracy (Government of Zambia & European Commission, 2008, p. 33).

The 11<sup>th</sup> EDF reflects the drastic change in priorities, with governance, agriculture and energy being the main three EU priority areas for Zambia. Under governance, the EU prioritised the election system, access to justice and public finance management of the National Assembly of Zambia. **Table 8** depicts these changes in priorities. Governance also played a role in the other two sectors, agriculture and energy because a governance component is a requirement in these sectors as well according to A. Chikwese (personal communication, April 28, 2015, para. 55). This alignment in the priorities and plans resulted in the Zambian Government and EU harmonising governance reforms at the international level. Harmonisation implies that the policies of the Zambian Government and those of the EU converge or are synthesised.

It is important to mention here that the alignment in the priorities was also prompted by the international debate on development effectiveness and the EU Policy Coherence for Development. Due to the international debate starting in the 1990s on modalities and

instruments suitable to improve the effectiveness of development cooperation donors and recipients began focusing on ownership, accountability, alignment, harmonisation in the development cooperation (Leiderer & Faust, 2012; Paris Declaration, 2005). Furthermore, Börzel and Risse (2009) concluded that the EU recognised that ‘there is no unitary institutional model to promote governance and that efforts have to take into account the situation inside a particular country’ (p. 11). There was therefore a shift and it was supported through EU policy documents such as the EU Policy Coherence for Development embedded in the European Consensus on Development (European Commission, 2006c) and reaffirmed in the Agenda for Change (European Commission, 2011) as well as the international call for harmonising and aligning donor practices.

### **Joint Assistance Strategy for Zambia (JASZ)**

The alignment of the Zambian Government priorities and plans to the EU’s development cooperation can also be illustrated through the JASZ. Cooperating Partners introduced the JASZ I<sup>56</sup> (2007 to 2010) principles and later the JASZ II<sup>57</sup>, considering the many donors in Zambia (Cooperating Partners, 2007, 2011). The Zambian Government did not sign these documents, because it is a donor document that corresponds to how they could support the Zambian Government with the FNDP (Oxford Policy Management, 2010, p. 22). Besides this, in 2007, the Zambian Government adopted the Aid Policy and Strategy, which provides guidelines and procedures for donor coordination and harmonisation (Government of Zambia, 2005). The policy outlines the respect for ownership and how a trued partnership can be enhanced through ,dialogue, coordination, harmonisation, alignment and information sharing’ (Government of Zambia, 2005). This policy faced some challenges, in particular, it failed to reach an agreement with the cooperating partners on the donor coordination framework; the implementation of the policy thus remained incomplete (Leiderer, 2015, p. 1427; Oxford Policy Management, 2010, p. 7).

Nonetheless, the purpose of JASZ was to coordinate incoming development cooperation and various donors (Cooperating Partners, 2011). For instance, A. Chikwese expressed that there are several donors, but ‘one major problem is the issue of having a unified approach... That is what such a policy document tries to address...’ (personal communication, April 28,

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<sup>56</sup> JASZ I had 12 bilateral donors as signatories and the JASZ II, 15 bilateral donors as signatories. The EU is the leading donor in Governance, Transport, Agriculture and Macroeconomics in Zambia (Cooperating Partners, 2011). See Appendix E.

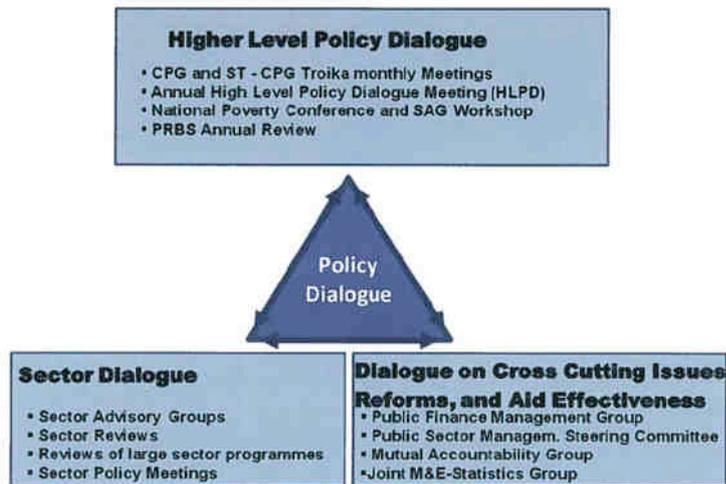
<sup>57</sup> According to Kaunda (2013), JASZ II was re-written by the cooperating partners in 2010 to create accountability and delegation in aid distribution amongst cooperating partners. Few cooperating partners realigned their activities to the Zambian NDPs or the JASZ. Instead, they rely on their own national choices to influence their development allocation rather than align their efforts behind government priorities.

2015, para. 16). When new donors come in, they are requested to adjust to what already exists on the ground, thereby contextualising and harmonising priorities and projects. The JASZ reflects and formalises the dialogue amongst Zambian Governmental ministries, governmental agencies, cooperating partners (T. Chihana & A. Chikwese, personal communication, April 28, 2015). A. Chikwese (personal communication, April 28, 2015) also stated that the key factor is ownership in the strategy and that the Paris Declaration, Abuja Declaration, Maputo Declaration etc. are the starting points because the JASZ buys into these international frameworks on governance and development. Overall, 'this document [JASZ] is the key framework for managing donor funds in Zambia' explained two NAO officials, T. Chihana and A. Chikwese (personal communication, April 28, 2015).

T. Chihana and A. Chikwese (personal communication, April 28, 2015) further clarified that it answers questions like how do we govern donor flows? What is the government's role? What is the donor's role? Which fundamental principles should govern donor support? What would be the responsibilities of the government? And what are the minimum responsibilities? Apart from that, issues of predictability, priorities and priority setting (who set the priorities) and how the partners buy into the priorities are addressed in the JASZ (Cooperating Partners, 2007, 2011). For instance, in the National Assembly of Zambia programme, 'the EU fits into this wider public finance management programme of the National Assembly of Zambia. The issue is to enhance the capacity of the National Assembly of Zambia to provide budgetary oversight, which was on-going and part of the Assembly reform programme' according to B. Kalaba (personal communication, April 28, 2015, para. 18).

Figure 9 illustrates how the JASZ functions. Policy dialogue in the JASZ functions as follows. The sector dialogue is anchored in the Sector Advisory Groups (SAGs) which is comprised of four actors and is a forum for these actors to 'engage in sector planning, budgeting, monitoring processes and sector-level policy and technical discussions on a quarterly basis' (Cooperating Partners, 2011). Through SAGs, the review of sectoral resources and expenditures are conducted to ensure sectoral budgets reflect sectoral priorities and Vision 2030 goals and objectives of the NDPs and these are ultimately all linked. Finally, SAGs prepare summaries of progress and challenges that all partners discuss at the High-Level Policy Dialogue.

**Figure 9: Policy Dialogue in JASZ II**



Note. For the JASZ to function, it is composed of three equal levels namely, (i) sector dialogue, (ii) dialogue on crosscutting issues, reforms, aid effectiveness and (iii) higher-level policy dialogue. Source: Cooperating Partners, 2011

Despite this formal set up, the development practices indicate otherwise. For example, sometimes the government and some sectors try to be very strong on ensuring that when donors come, the GRZ direction is used, explained A. Chikwese (personal communication, April 28, 2015). However, this is a challenge. As M. Cisse indicated, policy and political dialogue with the EU is biased and favours those with economic power (personal communication, November 10, 2014). T. Chihana and A. Chikwese furthermore, explained that when managing funding, the plans are often distorted leaving the government to focus on issues, which are not as important and leaving those, which are critical (personal communication, April 28, 2015, para. 17).

What A. Chikwese implied was that ‘on paper, priority setting is supposed to come from the policy documents of the government. The partners link in through the established systems which start with the same JASZ’. However, in reality, this is not always the case because the partners still fund what they want to fund’ elaborated T. Chihana and A. Chikwese (personal communication, April 28, 2015, para. 17). S. Kaunda, Researcher and Head of Monitoring and Research at the Policy Monitoring and Research Centre (PMRC) in Zambia, concurred and explained that donors come already knowing what they will fund. S. Kaunda, provided an example of the SNDP, which donors were not in agreement with. ‘The biggest challenge is they do not agree with the SNDP, but come with their directions on how things should be or what should be done. Instead of complementing the SNDP’ (S. Kaunda, personal communication, April 29, 2015, para. 16).

The Zambian Government showed the EU their dissatisfaction due to the lack of ownership in its approach and imposition of conditionalities. For example, Zambian Government top

officials were requested not to attend EU functions according to Prof. Dr. F. Chigunta because of the conditionalities imposed and the skewed partnership between Zambia and the EU (personal communication, April 27, 2015, para. 8). Prof. Dr. F. Chigunta who conducted an evaluation on the Zambia and EU relations at the time found that,

Officials from the Ministry of Finance were uncomfortable with the conditionalities imposed on the government at the time by the EU partners...There was resentment, the EU claims they have a partnership, but ultimately they make the decision. They decide and tell us (Ministry of Finance) what to do. These are the indicators that should be met to receive funding, and if not met, the EU will not do this for them. This was a severe challenge identified by government officials (personal communication, April 27, 2015, para. 8, 9 and 13).

The issues of the Ministry of Finance civil servants and bureaucrats were brought up to EU officials through a report that resulted in a round-table meeting with EU member countries and Zambian Government officials, explained Prof. Dr. F. Chigunta (personal communication, April 27, 2015, para. 13).

He further stated that 'EU conditionalities and insistence on improving governance indicators were considered as some interference in the affairs of the Zambian Government's state...' (Prof. Dr. F. Chigunta, personal communication, April 27, 2015, para. 13). He went on to say,

in response to this, an instruction from the government came out, that at EU and embassy functions, no senior government official should attend or officiate. Only directors from the Ministry of Affairs were to attend to show the governments dissatisfaction with EUs way of handling things. The government saw the Zambia and EU partnership as biased, favouring the EU (Prof. Dr. F. Chigunta, personal communication, April 27, 2015, para. 13).

To an extent, the proposed revised NGO act is also targeted at the EU and other international donors. If the NGO Act is introduced, it would affect the work of the EU and other actors seeing that the policy transfer entrepreneurs are considered as valuable partners (Government of Zambia & European Commission, 2008, p. 33). L. Habasonda also supported this proposition by adding that, 'there is money for NGOs through the EU, but some of it is about promoting cheques and balances, GRN is not too keen to allow that money to flow to NGOs' (personal communication, April 23, 2015, para. 15).

#### **4.3. Summary**

The purpose of this chapter was to analyse how and why the Zambian Government adopted EU governance areas at the Zambia-EU level (international) thereby contributing to answering the main research question. In addition, this chapter contributed towards filling the gap on the lack of research on developing countries and to question the assumption that the transfer process is smooth, uncontested and automatic (Björkdahl et al., 2015; Dolowitz & Marsh, 1996; Risse et al. 1999). In the findings, I indicated that the adoption process is not self-perpetuating and Zambia rejected policies that were neither socially appropriate nor

fitting to the economic and political context at the Zambia-EU level.

The EU proposed nothing new in their governance reforms. Nevertheless, not all reforms were smoothly adopted; the reluctance of political leaders stymied the abolishment of the death penalty even though it has not been enforced since 1997. Furthermore, resistance and contestation impeded reforming the LGBTI rights in the Constitution. The table below encapsulates the findings.

**Table 9: Zambia-EU Level: Mechanisms, Factors and Degrees of Adoption Overview**

<b>Mechanisms</b>	<b>Factors</b>	<b>Degrees</b>
1. Conditionalities (Cotonou Agreement, Trade Agreements, EDF and CSP/NIP)	1. Social Appropriateness 2. Trade Benefits 3. Political Will (Reluctance)	1. Harmonisation 2. Resistance 3. Contestation
2. Incentives (Financial and Trade Incentives)	4. Financial Resources (Lack of)	
3. Policy Transfer Entrepreneurs (important but had no role)	5. Alignment	

Note: A summary of the mechanisms through which the Zambian Government adopted and rejected the transferred policies; the factors present within these mechanisms and finally the extent to which the transfer and non transfer can be explained.

Conditionalities and incentives were effective mechanisms in adopting some governance areas; thus, I answer the research question on how the Zambian Government adopts policies at the Zambia and EU level. Conditionalities were effective as governance reforms were attached to legal agreements and EDF funding rounds. Incentives in return for committing to the governance reforms also played a role but it was not a factor as assumed. In the case of policy transfer entrepreneurs, this was not as effective as the Zambian Government considers these as promoters of EU values thus, e.g. the NGO Act restricted their role in the adoption and implementation process. Adoption through a pure case of learning and multileveling through development agencies was not present at this level, although, the ACP Secretariat and NAO facilitated the acceptance process at a higher level.

Even though the EU attached governance reforms as conditionalities, other main factors determined adoption, thus answering why the adoption at the Zambia-EU level and also explaining two sub-questions, what factors facilitate or hinder the implementation process and how can the degree of adoption and non-transfer be described? These included social appropriateness of the policy, trade benefits, political will, financial resource and alignment. Hence, the Zambian Government adopted most reforms at this Zambia-EU level, except for LGBTI rights. Furthermore, these findings indicate that EU is not the main source of the changes in the partner country, as also argued by Bulmer and Burch (2005). The next chapter presents the findings from the first case study, Support to the Electoral Cycle Management project, through which electoral reforms were implemented.

## 5. Adopting and Implementing Electoral Processes

To reiterate, in this study, I explore and analyse the adoption mechanisms to identify factors that facilitate or hinder the adoption and implementation process in Zambia as well as explain the extent of this adoption and non-transfer. Through this, I provide an improved understanding of the Zambia and EU relations during policy implementation, a stage in the policy making process that is less studied (Shipan & Volden, 2012, p. 793).<sup>58</sup> The EU promoted and prescribed several reforms under the EU's governance approach as discussed in the previous chapter. This study scrutinises the adoption and implementation of democratic and political governance area reforms, which the EU prioritised and funded in Zambia. For the European Commission (2008), democratic and political governance encompassed human rights, fundamental rights, electoral process, principles of constitutional democracy and the rule of law (judicial and law enforcement system).

In the previous chapter, I indicated that due to lack and presence of alignment, social appropriateness of proposed reforms, trade benefits, political will and lack of financial resources, reforms were harmonised and resisted. I also demonstrated that the Zambian Government are not passive and that the adoption process is not self-perpetuating, even in a mechanism such as conditionalities and incentives. In comparison to the previous one, this chapter goes a step further and presents and discusses the adoption and implementation of electoral processes in the Support to the Electoral Cycle Management project through, which the Zambian Government accepted electoral processes. These reforms were implemented by the ECZ and UNDP. The project was briefly introduced back in chapter three. In this chapter, I apply the theoretical framework outlined in chapter two to explain the research findings of this case study. I gathered the research findings using the research design described in chapter three. The added value of this case is it illustrates how policies considered appropriate and encompasses inclusive decision-making and implementation processes are smoothly accepted and implemented at the domestic level. However, factors like lack of financial resources and institutional inefficiencies hinder the reform processes.

This chapter unfolds in two parts. The first subchapter analyses mechanisms through which EU governance reforms were adopted and implemented in the ECZ. Through this discussion, the chapter analyses the specific democratic governance reforms (electoral processes and freedom of expression) that the ECZ implemented in the project through the five mechanisms. The second subchapter discusses how certain factors led the ECZ to mimic the

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<sup>58</sup> While discussing the future of policy transfer and diffusion research, Shipan and Volden (2012) specifically state that 'implementation may present some of the most important opportunities for learning and imitation over time and across governments. Extending the policy diffusion literature beyond initial policy adoptions is warranted and long overdue' (p. 793).

Electoral Cycle Approach, harmonise priorities and restructure the ECZ thereby reconstructing EU electoral processes into the ECZ and Zambia.

As outlined in the research design and method chapter, data is analysed by examining the weaknesses identified by the EU and commitments made by the Zambian Government and comparing these to the actual outcomes in the project through various pathways. The pathways are then analysed to pinpoint factors and simultaneously elaborate on the degrees of adoption and implementation at the domestic level.<sup>59</sup>

### **5.1. Mechanisms for Adopting and Implementing Election Process Reforms**

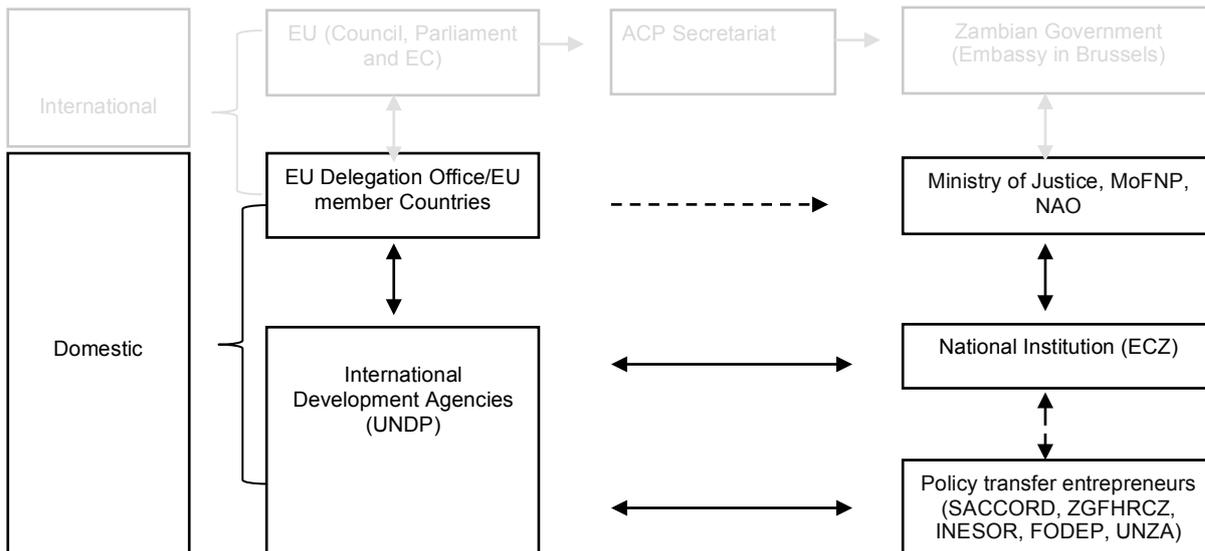
Before discussing how reforms were adopted and implemented (or not) through the mechanisms, this subchapter highlights the actors involved during these processes.<sup>59</sup> Addressing the actors provides an insight into their role in the Zambian governance sector, their influence on the sector and, in accepting and implementing governance reforms.

The goal of the Electoral Cycle Management project is to 'address existing and emerging electoral challenges, including the increased integrity of and public confidence in the electoral system in Zambia' (Chandiwira, 2015, p. 17). Various actors are therefore involved in the project. Here, I am interested in the institutions involved in the adoption and implementation of the project and reforms. The institutions were the ECZ, EU (represented by the EU Delegation Office in Zambia), GIZ, MoFNP, NAO, Ministry of Justice, DNRPC and policy transfer entrepreneurs (ZGF, SACCORD, HRCZ, INESOR, FODEP/UNZA). The MoFNP, Ministry of Justice and DNRPC are however excluded because they are large line ministries and departments with various partners, thus making it difficult to study. Besides this, the implementation of the project with DNRPC was challenging, due to the strained relationship amongst EU, UNDP and DNRPC. This also hindered access to interviewees at DNRPC. Nevertheless, Figure 10 depicts the actors studied in this case study.

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<sup>59</sup> Adoption refers to a process through which the government and national institutions internalise the EU governance reforms into the development and implementation of programmes, national institutions or policies by copying, harmonising, contextualising, using in combination or used as inspiration (Dolowitz, 2003; Dolowitz & Marsh, 2000). *Implementation* implies applying in practice the proposed EU electoral and judicial and law enforcement reforms into programmes or national institutions implementing the reforms, thus leading to influence in the programmes and national institutions.

**Figure 10: Key Actors in the Adoption and Implementation of Electoral Reforms**



Note. The diagram depicts actors involved in the adoption and implementation of the promoted and prescribed EU reforms and how they interact, this is indicated by the arrows. Source: Own diagram.

### **ECZ, Recipient and Programme Implementer**

As mentioned, in this chapter, I am interested in the implementation of EU transferred policy at the domestic level by civil servants and bureaucrats in the national institutions. In this study, national institutions refer to government institutions receiving EU funding to implement the prescribed governance reforms into programmes and projects. I therefore, assume that the programme implementers in the national institutions adopt, implement or oppose reforms at this level on behalf of the Zambian Government. In this case study, ECZ is the national institution implementing electoral processes in Zambia. In addition to other institutions in Zambia, the ECZ is also responsible for improving fundamental freedoms such as freedom of expression. The ECZ worked directly with the EU delegation office in Zambia along with UNDP on the project, and these institutions are also studied. The ECZ and its role in the governance sector and the project is discussed next. The EU was already presented in the previous chapter. As seen in the figure above, the UNDP and various policy transfer entrepreneurs are also involved in the adoption and implementation of the project; these are discussed later in the respective sections on policy transfer entrepreneurs and multileveling.

The Zambian Government established the ECZ in 1996 as an autonomous body managing Zambia’s electoral processes (Parliament of Zambia, 2016). According to the Constitution of Zambia (2016), the functions of the ECZ outlined in the constitution are to ‘supervise and control elections in a fair and impartial manner’ (Article 25, p. 581). Apart from managing parliamentary and presidential elections, the Zambian Government mandates the ECZ with conducting local government elections. The ECZ is structured as follows. At the top are president appointed ECZ Chairperson, Vice-Chairperson and three other members (Constitution of Zambia, 2016). For the day-to-day management of the ECZ, there is a Chief

Electoral Officer/Chief Executive Officer and other staff members for the IT, legal, public relations, human rights, financial management, and electoral operations departments (Parliament of Zambia, 2016). The staff in the various departments, mainly the IT department were responsible for managing the Electoral Cycle Management along with UNDP (B. Kasaro, personal communication, April 27, 2015)<sup>60</sup>.

Even though tasked with conducting legal and electoral reforms, the ECZ has no formal mandate to fulfil this because the Zambian Constitution does not outline this role (Constitution of Zambia, 2016, Article 25). Therefore, the Zambian Government on behalf of the ECZ decides whether to adopt or reject specific reforms and standards promoted. Due to this and the lack of autonomy, the ECZ as an institution can only be active within its powers. For instance, the ECZ does have administrative and regulatory powers, which allows it to initiate legislation on the election code of conduct and conflict management regulations.

### **Other Actors**

As mentioned, ECZ does not decide alone which reforms to adopt and implement. Various stakeholders such as the Ministry of Justice, MoFNP, National Assembly of Zambia, review commissions, political parties, policy transfer entrepreneurs, donors and media institutions are directly or indirectly involved in the process/decision making. Not all actors are discussed here. Besides this, Ministry of Justice, MoFNP, National Assembly of Zambia; review commissions are part of the government. Political parties, media institutions and political foundations also play a role in the adoption process, but these are not directly studied because they are indirect actors in the implementation of the electoral reforms.

To illustrate, media institutions are critical and during elections, they ensure that governments responsive to the needs of the citizens (Besley & Burgess, 2001). Political parties and foundations similarly play a critical role in the election system in Zambia. Political parties are involved in the process at the domestic level as they search for new ideas and policies to increase their electoral appeal and to appease party activists (Dolowitz, 2000, p. 19). Zambia has over 30 political parties, but as at 2018 two were influential, the Patriotic Front, which is currently in power and the United Party for National Development (UPND).

Moreover, each political foundation has a specific normative basis determining their activities in the respective countries (Stone, 2004, p. 557). The political aims and objectives of many political foundations revolve around improving democracy, supporting civil society participation; research and knowledge transfer as well as strengthening dialogue and

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<sup>60</sup> B. Kasaro, Acting Director and Head of IT Division, ECZ (personal communication, April 27, 2015).

cooperation amongst socio-political stakeholders (Stone, 2004). For example, the Friederich Ebert Stiftung (FES) in Zambia engages in 'democratic statehood, political participation and social justice' (FES, 2017).

Nonetheless, this study does not include political parties and foundations because they were not involved in the direct implementation of the project under study. However policy transfer entrepreneurs and development agencies were involved, these are introduced and discussed under the policy transfer entrepreneurs and multileveling sections. Media institutions also played a role, media institutions were part of the beneficiaries of the project and are referred to from time-to-time. But before this, I discuss the adoption and implementation of electoral reforms through conditionalities and incentives.

### **5.1.1. Conditionalities**

In line with the theoretical framework, the underlying proposition is that governance in the form of conditionalities is negotiated into agreements thereby facilitating their adoption and implementation. The research results suggest that there were conditionalities conferred and imposed onto the ECZ, which were accepted and implemented. Case in point, financial and administrative management processes, electoral processes and freedom of speech were adopted and executed by the ECZ. These were conditionalities in return for increased development aid to the project and ECZ.

The Zambian Government committed itself to these in the governance action plan. Besides this, the EU also enshrine governance standards like financial and administrative management processes in the agreements and grant application forms according to A. Chikwese (personal communication, April 28, 2015). While acknowledging the influence of the EU conditionalities on Zambian programmes and national institutions, A Chikwese also justified the use of EU conditionalities. Due to lessons learned and most funding coming from taxpayers, there is a large amount of bureaucracy so as to report back to the taxpayers where the money is going to, whether the right people are targeted and if there is an impact (Chikwese, personal communication, February 18, 2016, para. 13).

In the next sections, I will discuss the conditionalities that were internalised by the ECZ and how they were adopted through conditionalities. Financial and administrative management systems are first discussed, followed by the presentation and analysis of the electoral processes and freedom of expression.

### **5.1.2. Financial and Administrative Management Processes**

The findings show that financial and administrative management processes were negotiated, copied and implemented at the start of the project and during implementation. In this study, financial and administrative management processes refer to rules and procedures for governing or managing a project and institution intended to establish efficiency, effectiveness, consistency, responsibility, and accountability (European Commission & UNDP, 2003). These were new and based on the EU and UNDP standards; they were negotiated, adopted and implemented through agreements and the application for funding. Furthermore, these have their basis in technical considerations (Cramer et al, 2006), in this case, to manage the finance resources and manage the project generally. Cramer et al. (2006) explain that projects that do not adhere to these accepted requirements would not be eligible for funding or further disbursements.

#### **EC-UNDP Electoral Assistance**

The EU and UNDP outline financial and administrative management processes in their agreement, while UNDP ensures the implementation of these management systems into the project. The ECZ had to adhere to these systems while implementing the project explained C. Kaunda-Zambezi, Project Officer at UNDP (personal communication, April 16, 2015). M. Perino also agreed and further alluded to the 'special agreement between the EC and UNDP on election assistance' (personal communication, April 15, 2015, para. 16). The purpose of the EC-UNDP electoral assistance in Zambia is to promote meaningful and comprehensive participation of voters and all stakeholders in elections throughout the electoral cycle process (Government of Zambia & UNDP, 2009, p. 12).

The ECZ and UNDP implemented the project within the framework of the EC-UNDP partnership on electoral assistance. The Financial and Administrative Framework Agreement (FAFA), signed in 2003, governs the cooperation between the EU and UN. The FAFA aimed to harmonise and simplify financial and administrative contractual work between partners and provides a framework governing the specific agreements signed between the two institutions (European Commission, 2001). Besides, EU and UNDP signed an addendum to FAFA in 2014. C. Kaunda-Zambezi further explained that,

at the EU and UN level, the two organisations create and agree on standards. UNDP recommends standards, which the EU similarly prescribes and are agreed on in Brussels. They are agreed on every five to ten years. When the EU and UN create the standards, these prevail and it never changes. The project was based on the standards agreed upon at that point in time. They changed last year...there is a framework agreement, called the Financial and Administrative Framework Agreement, which is the basis of any implementation (personal communication, February 10, 2016, para. 7).

Some EU policy statements formed the basis of this partnership along with the governance

concepts defined in these documents and agreements between the EU and Zambian partners, explained M. Perino (personal communication, April 15, 2015, para. 7). The ECZ and UNDP implemented the policies outlined in those documents; the reforms include the way in which the ECZ should conduct elections by emphasising the Electoral Cycle Approach (Bargiacchi, Bakken, Guerin, and Godinho Gomes, 2011, p. 14; European Commission, 2001; UNDP, 2017). As the development agency in EC-UNDP projects, UNDP implements the governance policies enshrined in this agreement. The specific role of UNDP is discussed in detail in section 5.1.7. Through this partnership, EU and UNDP also share knowledge and expertise on elections through conferences, workshops, training, e-learning opportunities, toolkits, election materials and publications with the recipients (Bargiacchi et al. 2011; UNDP, 2017).

### **Grant Application Process**

Financial and administrative management processes were also adopted and implemented through the application process for funding. Financial and administrative management processes and other governance aspects are prominent conditionalities or requirements in the application process according to T. Chihana and A. Chikwese (personal communication, April 28, 2015). The adoption of such reforms occurs when applying for funding when applicants complete a template of a grant application from the EU.<sup>61</sup> T. Chihana and A. Chikwese (personal communication, April 28, 2015) explained that in the application process, the EU translates concepts of governance into this form. Potential recipients are also requested to include information related to the concepts. For example, A. Chikwese affirmed this by explaining that,

conditions in place and the structure of the template for the project documents is structured in such a manner that it addresses all critical governance issues at planning, implementation, monitoring and evaluation. When developing project documents such as the project budget or estimates, they have templates that have to be followed, and that is the way the EU concept of governance is fused into EU funded projects, quoted with the national concept of governance. That is how they are weaved together (personal communication, April 28, 2015, para. 55).

The application process is depicted in the figure below. In the following, this application process is summarised and described.

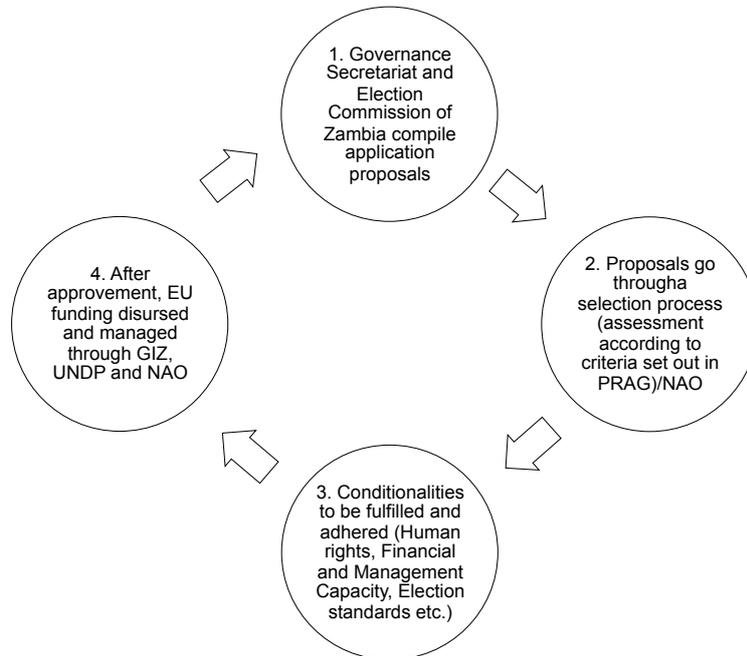
First, applicants complete and submit a funding form along with the project proposal, which is judged according to specific criteria. The EU and other relevant stakeholders first evaluate the project on the relevance and design of the proposed action. They then establish the

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<sup>61</sup> Legal entities apply for funding through Potential Applicant Data On-Line Registration (PADOR), a database of legal entities/potential applicants to calls for proposals (European Commission, 2016b, 2017c).

significance of the project to the EU and Zambian Government’s objectives and priorities, needs and involvement of the target group and the stance and actions on ‘environmental issues, promotion of gender equality and equal opportunities, needs of disabled people, rights of minorities and rights of indigenous peoples, or innovation and best practices’ are revised (European Commission, 2016b). Thus, the EU aims to ensure that applicant priorities are in line with EU priorities and human rights are respected. The applicants’ priorities also have to be inline with those of the respective country.

**Figure 11: Application Process for EU Initial Funding**



Note: The figure illustrates the application process for funding from the EU. This process incorporates governance related conditionalities, which the applicant needs to fulfil. Own diagram

Second, the project and programme concept notes/proposals that pass this first step move onto a second round where the EU and other relevant stakeholders further assess these. The purpose of the second round is ‘to evaluate the applicant and affiliated entity’s operational and financial capacity and to evaluate the quality of applications in relation to objectives and priorities set forth in guidelines, and to award grants to projects maximising overall effectiveness of the call for proposals’ (European Commission, 2016b, pp. 20-26). Here, the EU and other relevant stakeholders raise questions on the financial and administrative management processes, the effectiveness and feasibility of activities, project

sustainability, appropriate reflection of activities in the budget.<sup>62</sup> Through this stage, the EU and other relevant stakeholders assess the effectiveness of governance in the institution.

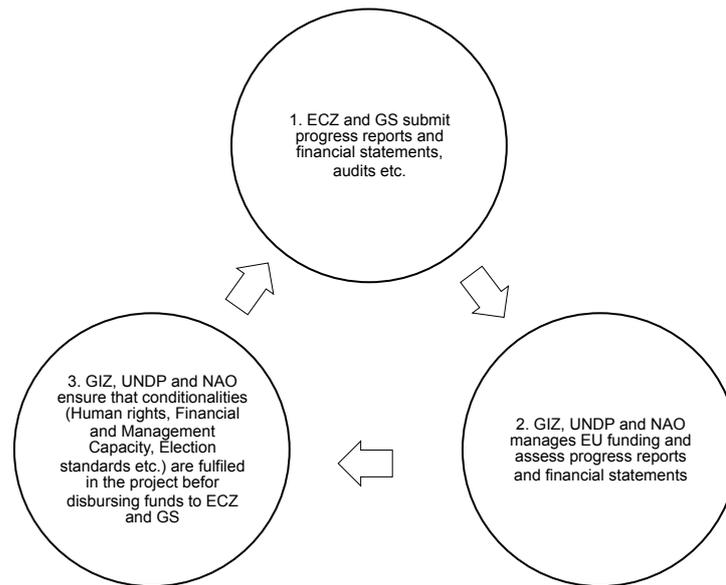
Third, the final step is verification of eligibility; the EU delegation office, NAO and development agencies conduct this last step. For example, the cases under study qualified for EDF funding based on their overall rationale, improving electoral systems and accessing justice are part of good governance, and the government committed to reforming the justice and electoral system. Furthermore, they are in line with the priorities of the EU and Zambia, and both contribute to improving the respect of human rights (European Commission, 2006a, 2008, 2011; Government of Zambia, 2006a; 2006b). The NAO, GIZ and UNDP assisted in verifying and establishing their eligibility (M. Perino, personal communication, April 15, 2015).

As mentioned, funding is not distributed at once; thus, ECZ has to fulfil agreement conditions to acquire further funding. UNDP and NAO ensure standards and agreement conditions are achieved and fulfilled before ECZ receives further disbursements. As depicted in Figure 12 below, the ECZ and GS submit project reports to GIZ and UNDP before they disburse further funding. B. Kasaro mentioned ‘...the reports would go to the UNDP, and the UNDP would share with the EU and the rest of the contributing partners’ when discussing implementation and interactions with the EU (personal communication, April 27, 2015, para. 20).

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<sup>62</sup> Financial and administrative management systems are part of the governance concept as they relate to how actors manage resources; they are a critical aspect of the overall governance of projects and programmes. These systems are rules and procedures for governing or managing a project and institution intended to establish efficiency, effectiveness, consistency, responsibility, and accountability (European Commission & UNDP, 2003).

**Figure 12: A Simplified Process for Funding Disbursement**



Note: The funding and disbursement process is cyclic as depicted. Before receiving funding, ECZ and GS develop project reports, which they submit to GIZ, UNDP and NAO who report to the EU. GIZ, UNDP and NAO ensure ECZ and GS fulfil those prerequisites before they receive further funding. Source: Own diagram.

### **Influence on the Project and ECZ**

Did these financial and administrative management systems lead to any changes in the practices and arrangements of the project? The financial and administrative management system condition influenced multiple facets of the project and the ECZ. For instance, while discussing the impact of EU conditionalities, A. Chikwese asserted that for the EU to provide funding, applicants have to meet certain minimum standards that include financial management and general governance of the project and the resources that are offered (personal communication, February 18, 2016, para. 6). The EU has its own elaborate systems, which have to be followed. These systems include detailing how finances are managed, the appointment of those involved in the programme or project, what rights or powers they will have and even the procurement systems (Chikwese, personal communication, February 18, 2016, para. 6).

Chileshe also confirmed this experience with the EU, from the perspective of a policy transfer entrepreneur. ZGF, an NGO supporting Zambian CSOs to carry out pro-poor policy work, receives funding from the EU. 'Everything is very organised, coordinated and ZGF has to stick to the EU guidelines. These very strict guidelines are appreciated by ZGF, which is aspiring to be a vital force in terms of civil society support, it is therefore useful to know about how other organisations or intuitions manage with guidelines and processes that are so well laid out' (Chileshe, personal communication, April 14, 2015, para. 17).

C. Kaunda-Zambezi elaborated on the scale of effect on ECZ as a result of internalising financial and administrative management systems. C. Kaunda-Zambezi indicated that when EU funding began, ‘the plan to restructure the ECZ immediately changed to dealing with some very particular issues regarding performance management such as having a corporate work plan that we then link to individual unit work plans or rather departmental work plan and scale it down to own performance appraisals’ (personal communication, February 10, 2016, para. 11). Apart from the changes in the practices and arrangements of the project and ECZ’s financial and management systems, the ECZ, Zambian Government, UNDP and EU restructured the ECZ (C. Kaunda-Zambezi, personal communication, February 10, 2016, para. 11), This is an outcome of the adoption of policies through conditionalities which is discussed later on the extent of the adoption. These are discussed later in the chapter on the restructuring of the ECZ.

To summarise this section, by negotiating such conditionalities/requirements and implementing these financial and administrative management systems through the agreements and application processes, the EU through UNDP ensured that these systems were taken up or improved before the ECZ could receive further funding. Violation of these conditions or insufficient performance in these areas can lead to partial or total suspension of development funding until credible reassurances or measures are established (European Commission, 2017a). Thus, the practice is a deliberative process, meaning EU and UNDP deny countries and applicants that fail to implement the ‘proposed or desired’ reforms and may revise economic assistance or conditions for continued support.

Does the existing literature support this finding? Indeed, it does. For instance, Molenaers and Nijs (2011) and Youngs (2001, p. 192) argued the same and described EU conditionality as positive because EU offers and withholds carrots, but does not carry a big stick. What this means is the EU provides funding, but can also deny access to further funding as the EU rarely uses political and economic sanctions. Evans (2006, p. 481) also found and argued that recipients are compelled by donors, supranational institutions, international organisations, and development agencies to introduce policy change to secure grants, loans or other forms of investment. Donors halt further funding to recipients that fail to introduce policy change (Evans, 2006).

### **5.1.3. *Reforming the Election Processes and Freedom of Expression***

Reforming the Zambian election system is another example of the various negotiated conditions to receive funding. However, there was nothing new about these reforms. The EU identified the electoral systems as part of the weaknesses in the governance profile as discussed. The Zambian Government then committed itself to reform these areas and proceeded to implement these in the ECZ through the Support to the Electoral Cycle

Management project (Government of Zambia & European Commission, 2008, p. XIX). To analyse whether these or which of the reforms were implemented, this section compares the weaknesses identified by the EU in the governance profile to the commitments made in the governance action plan. Thereafter, the activities implemented are analysed and compared with the commitments to identify what was implemented or not and how.

#### **5.1.3.1.1. Weaknesses**

A governance profile of Zambia was conducted between 2005 and 2006 (Government of Zambia & European Commission, 2008, p. XXXVI).<sup>63</sup> This programming tool provided a qualitative, extensive and detailed assessment to help identify the main constraints (weaknesses), benchmarks and targets for reform (Government commitments) on some core issues of governance in Zambia (European Commission, 2006d). The governance areas relevant to the Support to the Electoral Cycle Management project were election process, institutional capacity and freedom of expression.

#### **Election Process and ECZ Institutional Capacity**

The Zambian Government and EU identified three main weaknesses with the electoral process and ECZ institutional capacity. First, the major weakness identified was the structure of the ECZ, as the old structure undermined interdependence, impartiality and credibility of the authority in charge of supervising the electoral processes (Government of Zambia & European Commission, 2008, p. XIX; Government of Zambia, 2006a, p. 282-283). Moreover, the ECZ only consisted of a chair and four members ratified by Parliament but appointed by the president (Constitution of Zambia, 2016). The appointed ECZ members led an administrative structure that had its separate heading in the government budget but relied on other government departments to perform its institutional duties (Government of Zambia & European Commission, 2008, p. XIX).

Based on the above, the ECZ lacks autonomy. B. Kasaro (personal communication, April 27, 2015) also confirmed this and other institutional inefficiencies. According to a project evaluation report, the main obstacles identified for public institutions to exercise their power adequately were 'lack of qualified staff and adequate budget resources; lack of effective coordination between central and local level government; national and local administration formulating and implementing policy initiatives; managing external aid; lack of National Decentralisation Policy; weak coordination between vertical line Ministries and local government structures and the credibility of the public sector as a whole that is of critical

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<sup>63</sup> For countries that had gone through the APRM, the EU based the governance profile on it. Zambia was first peer-reviewed between 2012 and 2013. The EC conducted the governance profile for Zambia between 2005 and 2006.

importance' (Chandiwira, 2015).

The EU Observer Mission to the 2006 Presidential Elections further underlines the weaknesses in the electoral process and institutional capacity in the recommendations. For instance, L. Habasonda (personal communication, April 23, 2015) elucidated that elections are 'a significant question for the EC, the constitution and the elections in Zambia. In the past, they [EU] leveraged their relations through elections, that is, building capacity through election monitors under the EU. It has brought up observer missions to complement the sort of financial support that comes through...' (personal communication, April 23, 2015, para. 16). The 2006 Observer Missions report recommended ECZ to ...

To ensure fast, efficient and accountable election preparations, a detailed election calendar, incorporating all legal and sub-legal timelines, should be produced for future elections. A thorough operational plan should precede each future election. [...] Appropriate departments should be established within the ECZ's Directorate, including one specifically for the training of electoral staff and Decentralise the ECZ amongst other... (European Union, 2006, pp. 33-34).

The governance profile therefore underscored these weaknesses already identified in the EU Election Observation Mission Report of 2006.

Second, in addition to this, there was a lack of election monitoring from authorised international election observation and local observers from independent NGOs or political parties to operate according to B. Kasaro (personal communication, April 27, 2015) and C. Kaunda-Zambezi (personal communication, April 16, 2015, para. 11). Third, other weaknesses identified included the need to improve the voter registration system and lack of leeway by opposition parties to campaign freely (B. Kasaro, personal communication, April 27, 2015, para. 9-10; C. Kaunda-Zambezi, personal communication, April 16, 2015, para. 5).

### **Freedom of Expression**

Apart from election processes and institutional capacity of the ECZ, freedom of expression and speech are major issues under democratic governance in Zambia. To illustrate, there is a lack of leeway by opposition parties to campaign freely, as mentioned by B. Kasaro (personal communication, April 27, 2015, para. 9-10) and C. Kaunda-Zambezi (personal communication, April 16, 2015, para. 5). As indicated, FES is working on issues related to campaigning freely by all parties and intimidation amongst parties (H. Elischer, personal communication, April 16, 2015). Another challenge is the freedom of assembly and association, whereby holding meetings by political opposition or demonstrations are problematic in Zambia (L. Habasonda, personal communication, April 23, 2015).

B. Kasaro (personal communication, April 27, 2015) and C. Kaunda-Zambezi (personal communication, April 16, 2015) concurred with H. Elischer (personal communication, April 16, 2015) because the support to the project also intends, amongst various activities, to contribute to improving free and fair campaigning by opposition parties, as these continue to be a challenge. With campaigning, the president and vice-president at times involve themselves into subtle threats and promises of rewards for people and areas that would support the ruling party (Government of Zambia & European Commission, 2008). Campaigning is a big problem that H. Elischer (personal communication, April 16, 2015) called attention to while he explained the frequent work of FES with political parties on issues related to weaknesses in campaigning freely by all parties, implementing party manifestos, intimidation by the leading party among other (Rakner, 2012, p. 13). FES currently works with the ruling party, the Patriotic Front. 'However, this was difficult at times especially when FES supports other parties or organisations as the PF expects FES to work only with them' (H. Elischer, personal communication, April 16, 2015, para. 9).

In addition to this, many journalists were jailed or face criminal trials, and the government has gone as far as closing a newspaper down based on MISA Zambia annual reports (MISA Zambia, 2016). For example, The Post closed operations for some time due to intimidation (MISA Zambia, 2016). In Zambia, there is mostly a free media environment; however, there is a concentration of state-owned media particularly in television and print where two of the three main national newspapers are state-owned (Government of Zambia & European Commission, 2008). During election campaigns, these state-owned media favour the candidate from the party in power by providing them with more coverage (Government of Zambia & European Commission, 2008). Rakner (2012) also alludes to these challenges and provides examples of the 2011 elections in which 'Zambian media appeared very polarized and restricted'. She further argued that the government owned media institutions covered the candidate of the MMD, which was the ruling party, and in response, the private media promoted the views of the opposition and anti-government voices' (Rakner, 2012, p. 15).

These and other specific problems undermine the principle of equal campaigning opportunities during elections. Equal access for all contesting parties to state-controlled media, availability of published and broadcast media in all constituencies, transparency of financing of political groups/candidates (Government of Zambia & European Commission, 2008) are also contributing challenges. However, Dr. N. Simutanyi suggested that the issues in this sector in Zambia go deeper. The issue with elections and campaigning is partly due to the lack of a constitutional and institutionalised nomination system, strengthening parties and political party funding (personal communication, April 24, 2015, para. 14).

Apart from this, there was a lack of mechanisms for checking and validating election results (B. Kasaro, personal communication, April 27, 2015) at the time of writing. Rakner and Svåsand (2005, p. 86-87) agree and focus on the instability of election rules and regulations and the organizational weaknesses of ECZ as the primary constraint in achieving electoral progress in Zambia. Instead of working on improving these challenges, the political elite in Zambia instead 'take advantage of the instability of the rules and regulations guiding elections and electoral administration' thereby ensuring that the same political parties remain in power (Rakner & Svåsand (2005, p. 86-87). Whilst acknowledging this, the EU funds the electoral cycle project to address these weaknesses. There are other international donors also involved in the process. Furthermore, the EU does intervene from time to time. For instance, there was a situation where 'EU reprimanded the government for not allowing opposition parties to hold meetings without disturbance', explained L. Habasonda (personal communication, April 23, 2015, para. 20).

#### **5.1.3.1.2. Commitments**

In response to the above weaknesses, the Zambian Government made the following commitments. First, the Zambian Government committed itself to improve fair and free elections by enforcing a new Electoral Act. The Act aimed at enhancing the effectiveness and fairness of the playing field for all political players and effectively guaranteeing equal and fair access by all parties to the media to request authorised international and local observers for election observations (Government of Zambia & European Commission, 2008).

Second, to improve credibility and impartiality, the Zambian Government committed to continuing to strengthen the electoral process for example by finalising the constitutional reform process and consolidation of the National Electoral Commission (Government of Zambia & European Commission, 2008). Put differently, the ECZ was to be restructured to strengthen operations asserted B. Kasaro (personal communication, April 27, 2015, para. 9) and C. Kaunda-Zambezi (personal communication, April 16, 2015, February 10, 2016).

Third, commitments were also made to initiate and improve on the continuous voter registration exercise and voter education (C. Kaunda-Zambezi, personal communication, April 16, 2015, February 10, 2016; B. Kasaro (personal communication, April 27, 2015, para. 12-13). Finally, to improve freedom of movement, information and expression, the government committed itself towards enshrining these in the Constitution and loosening control over state-owned media (Government of Zambia & European Commission, 2008).

This study does not imply that the Zambian Government had not acknowledged the

inefficiencies and made commitments to improve these before the EU came with the recommendations. Zambia has not been passive to the challenges nor in finding solutions. Programmes and institutions such as the GS, Access to Justice programme, reforming the electoral system (Government of Zambia 2006a, 2011) amongst others, were in existence or introduced before the EU came with funding. All these were addressed in the FNDP (Government of Zambia, 2006a, p. 276-285). As proof, after the 2001 elections, there was a loss of confidence in the political and electoral processes (Burnell, 2002; European Union, 2006). As a consequence, an Electoral Reform Technical Committee and a Constitution Review Commission was appointed in 2001 to review the legal and electoral frameworks (APRM, 2013). Furthermore, the Government's commitments towards improving institutional capacity are also enshrined in the PRSP starting 2002 (Government of Zambia, 2006a, 2006b). Based on this, what was proposed by the EU was therefore not new. However, what the EU and UNDP implemented is of interest.

#### **5.1.3.1.3. Implementation**

Through the Support to the Electoral Cycle Management project activities related to the above commitments were implemented. The activities included continuous voter registration, enhancing the capacity of media institutions, voter education and domestic observation (Government of Zambia & UNDP, 2009). Additionally, EU and UNDP introduced a new Electoral Cycle Approach and developed a new structure for the EMB. All these are discussed here in detail to indicate the adoption and implementation of EU electoral processes at the domestic level.

As a result of the implemented activities, the project achieved the following results through a multi-stakeholder consultative process: enhanced organisational effectiveness and efficiency of the ECZ, a workable continuous voter registration system developed, increased number of registered voters, digitized National Registration Cards; revised legal framework for elections (Electoral Act, Code of Conduct etc.), dispute resolution mechanisms, increased women's participation in the electoral process, capacity of media actors' enhanced and effective media monitoring mechanisms in place for improved media coverage of elections, civic, voter education and domestic observation programmes enhanced inter-party dialogue strengthened (Government of Zambia & UNDP, 2009; Chandiwira, 2015). B. Kasaro alluded to the same activities and achievements of the projects during an interview (personal communication, April 27, 2015).

ECZ and UNDP achieved these activities mainly through reforming the electoral process by adopting and implementing the Electoral Cycle Approach and restructuring the ECZ. The Electoral Cycle Approach and restructuring of the ECZ are detailed next.

#### **5.1.3.1.3.1. Electoral Cycle Approach**

To improve the election process in Zambia, the Electoral Cycle Approach developed by the EU and International Institute for Democracy and Electoral Assistance (International IDEA) was used to run and manage elections, mentioned C. Kaunda-Zambezi (personal communication, April 16, 2015, para. 11).<sup>64</sup> See Figure 13 below for the Electoral Cycle approach depicted as a 'visual planning and training tool aimed at assisting development agencies, electoral assistance providers and electoral officials in partner countries to understand the cyclical nature of various challenges faced in electoral processes' argued Bargiacchi et al. (2011). The EU and International IDEA use this approach as a manual for EMB; assistance providers and donors, to determine the most effective form of electoral assistance required in any given country, assisting with advocating long-term support strategies rather than supporting ad hoc projects aimed at specific electoral events (ACE Electoral Knowledge Network, 1998; Bargiacchi et al. 2011, p. 4).

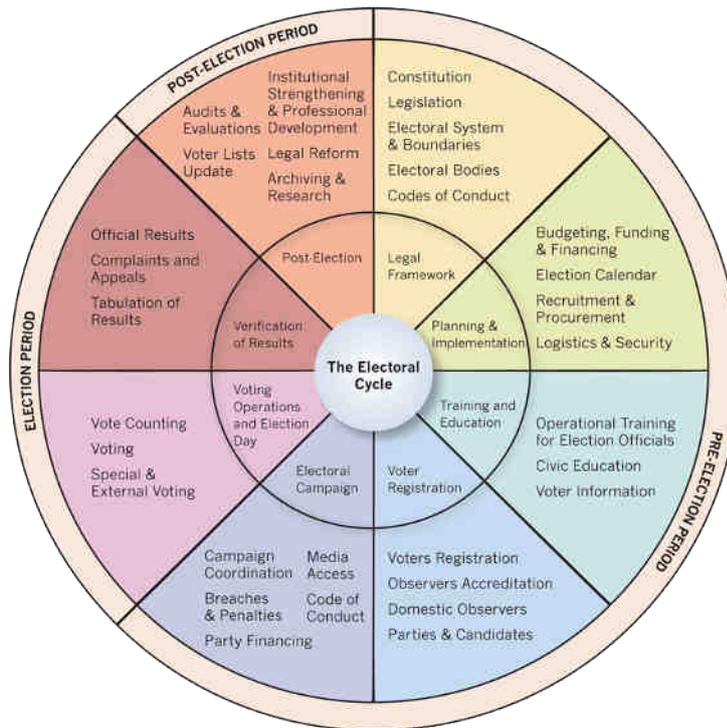
The outcomes, which are apparent with this approach include increasing participation in the democratic process; developing shared democratic values; enhancing integrity and accountability of the process; promoting sound electoral management practices; efficient use of national resources; and the development of desirable synergies with other state institutions (ACE Electoral Knowledge Network, 1998; Government of Zambia & UNDP, 2009, pp. 12-13). Inherent in this approach are also governance policies, which the EU and UNDP proposed as reform areas for Zambia.

The approach was adopted with the EU-UNDP Operational Guidelines for the Implementation of an Electoral Assistance Project, in April 2006. As a result, electoral assistance projects managed by UNDP with EU contributions employ this approach (UNDP, 2017). According to Bargiacchi et al. (2011), the main challenges faced by democratising countries concerning elections are usually the lack of experience and knowledge. Also, the electoral cycle goes beyond the Election Day as the electoral cycle encompasses a series of activities and processes that lead up to the Election Day and after elections are held (Bargiacchi et al. 2011). Thus, Bargiacchi et al. (2011) stated that the approach represented a 'critical shift in international electoral assistance from short-term, event-based support to longer-term comprehensive assistance with an increased focus on sustainability, i.e. through capacity development, of assistance efforts' (p. 4).

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<sup>64</sup> According to Bargiacchi et al. (2011), the Electoral Cycle approach was explained in detail in October 2006 in the EU Methodological Guide on Electoral Assistance, in the International IDEA Handbook on Electoral Management Design (December 2006) and later on also in the UNDP Implementation Guide on Electoral Assistance (November 2007).

**Figure 13: EU and International IDEA Electoral Cycle Approach**



Note. The figure represents a visual of the Electoral Cycle Approach. As seen, the EU and International IDEA divide the approach into 8 phases and categorise these into the pre-election period, election period and the post-election period. Source: Bargiacchi et al. (2011).

Considering that ECZ has no legal and electoral reform mandate (Constitution of Zambia, 2016, Article 25), the new system was approved by the Ministry of Justice and National Assembly of Zambia. Once adopted at this higher level, it was implemented by the ECZ through the Electoral Cycle Management and funded through basket funding by UNDP, EU, ECZ, Netherlands, Finland, USAID, CIDA and DFID. The EU was the principal donor and UNDP, the development agency, implemented the project with the ECZ. Netherlands, Finland, USAID, CIDA and DFID also contributed financially to the project.

It is imperative to mention that this Electoral Cycle Approach is not case specific. The approach is applied to all elections funded by the EU and UNDP, thus making the approach and policies universal. For instance, the approach was adopted and implemented in Sierra Leone and Nigeria, which were the first countries to adopt the electoral process (Bargiacchi et al. 2011, p. 4). Since then, UNDP and EU have supported electoral processes in over 58 countries (UNDP, 2017). For example, the EU availed over EUR 66 million for electoral assistance programmes implemented in Benin, Botswana, Democratic Republic of Congo, Ivory Coast and Sierra Leone (UNDP, 2017).

#### **5.1.3.1.3.2. Restructuring the ECZ**

In addition to introducing the Electoral Cycle Approach, the EMB was restructured. Restructuring of the ECZ aimed at increasing the ECZ's organisational effectiveness to respond to emerging challenges in a timely and cost-effective manner (Government of Zambia & UNDP, 2009). The result of this restructuring was a five-year strategic plan (2010 – 2015), organisation restructuring and introduction of a new performance management system as a way of improving staff performance (Chandiwira, 2015) and introducing clear internal procedures to ensure the transparency of the ECZ (European Union, 2006, pp. 33-34). All in all, C. Kaunda-Zambezi called attention to the new EMB structure that 'was very contextualised, but ECZ worked with various consultants, some local and international consultants, to come up with the structure that best fits the Zambian scenario' (personal communication, February 10, 2016, para. 14).

The ECZ and Zambian Government initiated this restructuring, as already mentioned, reforming the electoral system was outlined in the FNDP (Government of Zambia 2006a, p. 283) before the EU came with funding. UNDP and EU did not go into the project with their solutions; instead, EU and UNDP 'expect situations where national entities are supported to grow themselves and to have some thinking to provide for their environment' clarified C. Kaunda-Zambezi (personal communication, February 10, 2016). Thus, 'a lot of this support is helping them think through, providing technical advice, helping them to think through what is the best approach to respond to the environment,' she further elaborated. In other words, 'solutions and activities undertaken are not factors picked from country X and taken to Zambia, it was very contextualised' (B. Kasaro, personal communication, April 27, 2015, para. 30; C. Kaunda-Zambezi, personal communication, February 10, 2016, para. 14).

By 2017, the new structure was not in effect due to many reasons. First, the new structure required ECZ to decentralise to the district level. Decentralisation of the ECZ and the Zambian Government is one of the biggest obstacles in ensuring government effectiveness explained D. Longwe and M. Namumba (personal communication, April 21, 2015).<sup>65</sup> As a consequence, the ECZ could not fully implement the new structure. Second, apart from a lack of decentralisation, the ECZ lacks human resources in the areas of voter education, IT and legal training (B. Kasaro, personal communication, April 27, 2015).

Third, B. Kasaro (personal communication, April 27, 2015) focused on the autonomy of the ECZ and clarified that the ECZ lacks independence and thus struggled with appointing its

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<sup>65</sup> D. Longwe, Programme Officer at Local Government Association of Zambia (LGAZ) and M. Namumba, Executive Secretary/CEO at the LGAZ (personal communication, April 21, 2015).

members, securing funding and ensuring performance. Although an autonomous body, the ECZ has no formal mandate to conduct legal and electoral reforms solely because it is not outlined in the Constitution (Constitution of Zambia, 2016, Article 25). Once again, with a lack of autonomy, fully enforcing the new structure is a challenge. Fourth and finally, B. Kasaro (personal communication, April 27, 2015, para. 24) suggested that due to a lack of financial resources from the government, changes from restructuring were not fully capable. C. Kaunda-Zambezi concurred and also asserted 'there are various factors towards why that implementation has not happened and which was beyond the control of the project anyway. It is to do with the treasury leader not having the funds for ECZ to get decentralised' (personal communication, February 10, 2016).

To summarise, conditionalities facilitated the adoption and implementation of financial and administrative management systems, the Electoral Cycle Approach, the new structure of the ECZ and freedom of expression in the project and the ECZ. This chapter showed that to receive funding, the Zambian Government had to make governance commitments; these commitments were based on Zambian national development plans. The EU approved these commitments, thus, the proposed reforms are from the Zambian Government, with the exception of the promoted Electoral Cycle Approach. The implementation of these reforms, in particular, financial and administrative management systems, was achieved through agreements, the application process for funding and the role of UNDP. The specific role that UNDP played in facilitating the adoption and implementation of the Electoral Cycle Approach and the restructuring of the ECZ is discussed shortly.

#### **5.1.4. Incentives**

The underlying postulation made under incentives was that the Zambian Government and respective national institutions voluntarily accept and implement EU governance areas in return for financial and trade incentives. Gibson et al. (2005) did argue that incentives come in different forms. Whether incentives are high enough, the reforms will be accepted in return for these different forms of incentives. Schimmelfennig and Scholtz (2008) are in agreement and explained well that the 'effectiveness and credibility are crucial in adoption. Specifically, the effectiveness [of the incentive] will increase with the size of the incentives...while conditionality needs to be credible, with regard to both the EU's threat to withhold the rewards in case of non-compliance and, conversely, the EU's promise to deliver the reward in case of compliance (p. 191). This study, therefore, assumes that the Zambian Government and respective national institutions voluntarily accept and implement EU proposed and prescribed electoral process and judicial and law enforcement reforms as a result of effective and credible financial and trade incentives.

The research results indicate that the ECZ was aware of policies being transferred by the EU and UNDP by going through the ECGIT. Thus, the Zambian Government along with the ECZ voluntarily made commitments in the governance action plan based on the weaknesses identified by the EU. This was discussed in the previous chapter. At the domestic level, the Zambian Government and ECZ also willingly adopted and proceeded to implement the proposed reforms under electoral reform through the Electoral Cycle Approach and restructuring the ECZ among many other activities. There was, therefore, awareness about what the EU was prescribing under election processes.

The ECZ voluntarily accepted and implemented the policies promoted and prescribed due to the following. It appears that financial, institutional and social benefits emanating from the EU funding contributed to the ECZ accepting and implementing the policies and standards. In particular, the motivating factor for the ECZ to commit and implement governance reforms was the restructuring of the ECZ and improving the electoral process. As mentioned, the ECZ and Zambian Government lack the financial resources to conduct such reforms alone (B. Kasaro, personal communication, April 27, 2015, para. 30).

In addition to this, the ECZ struggles to secure funding or to properly decentralise according to B. Kasaro (personal communication, April 27, 2015, para. 9 and 30) and C. Kaunda-Zambezi (personal communication, February 10, 2016, para. 11-12). Thus, restructuring the ECZ and adopting and implementing EU and UNDP policies would ultimately contribute towards improving the institution, ensuring its effectiveness and eventually have a positive effect on the Zambian society through decentralisation improved and effective election processes (Rakner & Svåsand, 2008, p. 101). Hence, financial assistance, restructuring the organisation and aid to the overall elections system were high incentives and played a role in the Zambian Government and ECZ implementing the standardised EC-UNDP election processes. Similarly, Domínguez (2010) argued that EU monitoring missions were incentives to accept democracy clauses in certain Latin American countries (Domínguez, 2010). In comparison to chapter four, trade benefits played a key role in the adoption of governance reforms, at the domestic level however, financial resources and the ability to utilise these resources to address institutional challenges was important in the implementation state.

#### **5.1.5. Policy Transfer Entrepreneurs**

The premise in the theoretical framework is that policy transfer entrepreneurs are reinforced by the EU to directly/indirectly assist in legitimising reforms and thus resulting in the Zambian Government and ECZ to adopt and implement the reforms. The policy transfer entrepreneurs involved in the Support to the Electoral Cycle Management project included SACCORD, Transparency International Zambia (TIZ Zambia), FODEP, Law Association of Zambia, PAN,

HRCZ, Zambian media institutions, UNZA/INESOR, ZGF and CSPR. These actors are active in promoting and advocating access to justice, elections and other governance-related issues in Zambia and interact with the Zambian citizens, Zambian Government, NAO, EU actors, development agencies, political parties and political foundations amongst others.

The EU in Zambia provides the most financial and technical support towards the Zambian governance sector and civil society (Cooperating Partners, 2007). The 2001 ECs White Paper on European Governance officially acknowledged the role of policy transfer entrepreneurs. According to this paper, such actors are essential for the effectiveness and legitimacy of EU policy-making in the EU and towards the outside (European Commission, 2001, p. 13). Additionally, as a normative principle of the EU, good governance has two elements, participation of civil society and the strengthening of multilateral cooperation. As a result, significant emphasis was placed on the promotion of good governance through the involvement of civil society to encourage openness and transparency as well as to facilitate democratic participation (Manners, 2008, p. 74; Treaty of Lisbon, 2007, Article 21a and 8b).

Policy transfer entrepreneurs play a critical role in the advocacy of various issues in Zambia as discussed in chapter four. These actors provide an alternative policy paradigm and argument for change (Dolowitz & Marsh, 1996; Hall, 1990). Specifically, they are valuable partners for the EU in improving the election system. Thus, in the case study project, Dr. A. Ng'oma deemed that donors 'assist NGOs in conducting civic education to explain more deeply to people what democracy is about, what elections are and what their role is in a democratic dispensation' when discussing the EU in Zambia (personal communication, April 20, 2015, para. 12). Dr. A. Ng'oma further explained 'there was financial assistance rendered to civil society organisations themselves for administrative conveniences, to run and be able to do what they are expected to' (personal communication, April 20, 2015, para. 12).

To some extent, policy transfer entrepreneurs were successful in implementing some governance reforms, particularly, voter education. In other words, the role of policy transfer entrepreneurs in transferring governance reforms into the project and the ECZ was minimal. The Zambian Government partly hampers the advocacy work of policy transfer entrepreneurs. As discussed in the previous chapter, the Zambian Government view policy transfer entrepreneurs as agents of the foreign donors or actors promoting the donors foreign policy (L. Habasonda, personal communication, April 23, 2015, para. 10; Dr. A. Ng'oma, personal communication, April 20, 2015, para. 13). Consequently and to monitor policy transfer entrepreneurs in Zambia, the NGO Act was proposed by the Zambian Government.

Nonetheless, the policy transfer entrepreneurs' role in the project was complementary and

contributed to realising the objectives of the project by implementing supporting activities on behalf of ECZ as just mentioned. In the ECZ project, policy transfer entrepreneurs were crucial in educating citizens on elections and increasing voter registration, argued B. Kasaro (personal communication, April 27, 2015, para. 17). For instance, many governance initiatives through policy transfer entrepreneurs were funded by UNDP through the EU. SACCORD and other policy transfer entrepreneurs received support from the EU to implement activities related to the electoral process specifically, to raise awareness to increase citizen participation in elections, according to G. Lungu (personal communication, April 16, 2015, para. 13).

B. Kasaro also confirmed the support provided in the project by these actors. The support went to voter education, women participation in elections as well as the capacity building for media houses in order to achieve more informed and balanced reporting and for media personnel to appreciate the technicality of elections and when they are reporting' (Kasaro, personal communication, April 27, 2015, para. 15-16). Equivalently, B. Chembe (personal communication, April 23, 2015) indicated that at SACCORD, the EU was one of the most significant stakeholders supporting governance for some time. 'EU support mostly linked to SACCORD activities was the work on assisting the Zambian citizens understand their democratic rights, the importance of voting, maintaining peace and participating in the governance processes of the country' (Chembe, personal communication, April 23, 2015).

C. Mweenge, a Programme Officer at FODEP also indicated that FODEP received EU funding. 'There was a project in collaboration with Diakonia Zambia, MISA, Churches Council Zambia looking at introducing local democracy, in particular, to assess spaces available for political or citizen participation in governance and observing the challenges that also goes in ways of enlisting citizen participation in local democracy' (Mweenge, personal communication, April 20, 2015, para. 10). G. Lungu concurred and pointed out that 'the turnout has gone dramatically down because the civil society had limited funding in 2015 to undertake awareness campaigns. For the 2011 elections, they [policy transfer entrepreneurs] did a lot, and there was a lot of networking by the civil society' (personal communication, April 16, 2015, para. 13). Based on this, policy transfer entrepreneurs do play a critical role in advocating and implementing activities. For example, policy transfer entrepreneurs advocating policies or programmes, which the government or ruling party deems inappropriate or not in its favour, face challenges. To reiterate, H. Elischer stated that, 'the FES is working with the current ruling party, however, this was difficult at times especially when FES supports other parties or organisations as the PF expects FES to work only with them' (personal communication, April 16, 2015, para. 9).

To summarise, the policy transfer entrepreneurs do play a critical role but in this project there were no cases through which policy transfer entrepreneurs facilitated and legitimised reforms of the EU in the project and ECZ. Instead, policy transfer entrepreneurs were employed to implement voter education with the citizens by the ECZ, EU and UNDP.

#### **5.1.6. Multilevelling**

The theoretical contention related to multileveling was that development agencies facilitate and legitimise the adoption and implementation of EU reforms at the domestic level. The findings of this study suggest that UNDP is critical in the implementation of electoral reforms because of its role in EU funded programmes. As a result of this role, UNDP/multileveling does facilitate and legitimise the adoption and implementation of specific EU reforms. In this section, I detail the EU and UNDP partnership and how the UNDP was able to facilitate and legitimise the adoption of electoral reforms in the project and restructure the EMB.

EU and UNDP have a long history of cooperation. The goal of this partnership is 'to establish the solid foundations for peace and recovery from crisis and of promoting the Millennium Development Goals, particularly, the fight against poverty' (European Commission & UNDP, 2004, p. 3). The aim for governance under this partnership is 'to help countries of the OECD-DAC in developing their institutions, policies and capacities to assist in eradicating poverty' (European Commission & UNDP, 2004). The agreement further details that the <EU and UNDP cooperation will include areas such as, 'democracy building, including elections and legislatures; public administration reform and human resources development/capacity building; justice and the rule of law; security sector reform; governance at the local level and decentralisation; regional governance; economic governance; Human Development Reports (global, regional and national); disaster preparedness and response; Mid-Term review processes and country and regional strategy papers of the Commission' (European Commission & UNDP, 2004, pp. 5-6).

The governance goal and areas of support are similar to the EU governance priority areas promoted in the EU's governance approach. In other words, the EU and UNDP have a harmonised view on governance. In recent years, the cooperation between the two increased through two communications. The first communication is 'Building an effective partnership with the UN' (European Commission, 2006b, p. 30) and the second is the 'EU-UN relations: The choice of multilateralism' (European Commission & UNDP, 2003). The two communications enshrine the EU's policy towards the UN. EU and UN introduced specific measures to improve this cooperation. As mentioned, EU and UN signed the FAFA in 2003, and the addendum signed in 2014 governs this partnership.

How was UNDP able to facilitate and legitimise the adoption of electoral processes and facilitate the implementation of these reforms? In addition to ensuring that agreement requirements are adhered to and fulfilled, UNDP facilitated and legitimised the adoption and implementation of electoral reforms because of its partnership on electoral assistance with the EU and due to technical and capacity building provided to ECZ and its partners. The role of UNDP during the application process and ensuring the fulfilment of agreement conditions were explained under conditionalities. To reiterate, while carrying out its responsibilities, UNDP ensures that the ECZ fulfils all requirements to continue receiving funding and that the projects are efficiently and effectively implemented. Through this process, UNDP guarantees that the ECZ adheres to the rules of the EU and UNDP agreement.

#### **5.1.7. *EC-UNDP Partnership on Electoral Assistance***

In the following, the EU-UNDP partnership on elections and the technical assistance and capacity building, which UNDP provides is explained. First, one of the critical roles of the partnership is the assistance to the election processes as outlined earlier. EU and UNDP work together since 1995 and provided assistance starting from pre-electoral planning, through the polling period and the post-election period (ACE the Electoral Knowledge Network, 1998; Bargiacchi et al. 2011). According to Bargiacchi et al. (2011), the purpose was to ensure that the election processes were fair and free, nationally owned and safeguarded human rights, including the expression of free speech. Also, the partnership provided expertise and knowledge sharing through workshops, conferences, e-learning opportunities, tool-kits and other services (UNDP, 2017). In 2006, EU and UNDP adopted the electoral approach developed by EU and International IDEA, as conferred earlier. This approach promotes governance policies similar to the EU's governance approach.

A trust fund for the project was set up with the primary donor being the EU. Although UNDP also provided some financial support, it was the main development agency managing the programme on behalf of the EU. UNDP was responsible for the timely and cost-effective delivery of the agreed project outcomes (C. Kaunda-Zambezi, personal communication, April 15, 2015). Through a letter of agreement, UNDP had the following service delivery responsibilities to the project: project procurement especially related to the continuous voter registration; procurement support to DNRPC; support to NSAs which included civil society organisation, women groups, media, and political parties to enhance their role in electoral processes through a grant-making scheme; and recruitment of project personnel (B. Kasaro, personal communication, April 27, 2015). Through consultations with the MoFNP, UNDP was also responsible for securing approvals on the project document revisions and amendments (C. Kaunda-Zambezi, personal communication, April 15, 2015).

### **5.1.8. Technical Assistance and Capacity Building**

ECZ also achieved this adoption and implementation through technical assistance and capacity building provided through UNDP to ECZ. Existing literature does support this observation. For instance, Stone (2001) also argued that technical assistance and support for capacity building is used as instruments to build material or immaterial capacities to improve governance policies. Gibson et al. (2005, p. 6) were in agreement and noted additional training and technical assistance as one of rewards used in development cooperation in addition to further financial resources to government budgets and overseas travel opportunities. The next sections explain technical assistance and capacity building and how adoption and implementation of electoral reforms was achieved with these instruments.

#### **5.1.8.1.1. Technical Assistance**

UNDP provided technical assistance to the ECZ and other actors during the implementation of the project. This was an additional incentive to the ECZ. Schimmelfennig, Engert and Knobel (2003) also argue that in the case of CEECs, the EU offered technical and financial assistance in the transition of these countries to market economies. In other words, these were additional incentives to reward the enforcement of EU rules.

Technical assistance often accompanies financial support. C. Kaunda-Zambezi highlighted that ‘a lot of this support is about providing technical advice, helping them to think through what is really the best approach to respond to the environment’, whilst elaborating on the decentralisation and restructuring of the ECZ (personal communication, February 10, 2016, para. 14). ‘Technical assistance was provided to develop a strategic plan, performance management system and for reconfiguring the organisational structure,’ explained B. Kasaro (personal communication, April 27, 2015, para. 9 and 24). Technical assistance in this project included, ‘supporting recipients concerning how to reconfigure the structure to make them more effective and cost-efficient regarding the interests to decentralise’ expressed C. Kaunda-Zambezi (personal communication, February 10, 2016, para. 11).

While providing this technical advice and developing strategic plans and performance management systems, governance policies can be reconstructed and influenced. As Sokol (2008) explains, in the process of changing an organisation’s internal structure (revamping the departments or operations and processes), policies materialise as the understanding of governance is implemented through technical assistance and consultants. This was the case for the ECZ, which saw UNDP and other EU and UNDP approved consultants and technical assistance assist in implementing the project.

In this study, I found that policy consultants assisted in implementing governance reforms in programmes because they based their work on the contracting partners such as the EU and UNDP. This was also indicated by Dr. B. Boetius, Senior Consultant in the Africa Department, (Good) Governance Portfolio, GFA Consulting and K. Trappe-Willms, Portfolio-Manager Governance in the Africa-Department, GFA Consulting (personal communication, June 21, 2017). Policy consultants (individuals and firms) assist in the development and implementation of new programmes, policies and institutional structures (Stone, 2001). Policy consultants offer advice based on what they regard as the best model or practice but also based on the needs of the contracting partners; thus, their role in policy transfer is complex (Dolowitz & Marsh, 2000; Stone, 2001). Sometimes these policy consultants are part of donor programmes over which they have no control (Stone, 2001). For instance, Dr. B. Boetius and K. Trappe-Willms (personal communication, June 21, 2017) explained that, institutions such as the EU which has its regulations and objectives contract consultants; thus, the consultants do not have much control over the implemented reforms and projects, and with regard to how the projects are applied, the contractor has to agree. It is hence likely that the 'what and how' reflects the ideals of the contractor such as the EU; thus, technical assistance and consultants provide advice in line with the ideas of the donors, clarified Dr. B. Boetius and K. Trappe-Willms (personal communication, June 21, 2017).

#### **5.1.8.1.2. Capacity Building**

In addition to technical assistance, capacity building and training was received. According to A. Chikwese, this capacity building is 'not just related to the EU projects, but also connected to the general strengthening of the systems and the management of cooperation of donors (A. Chikwese, personal communication, February 18, 2016, para. 6). Through this, ECZ adopted and implemented electoral reforms. Börzel and Risse (2012, p. 7) are in agreement and state that capacity building can be considered as additional resources for the recipients, these resources enable them to make some strategic choices. In the Support to the Electoral Cycle Management project, capacity building was directed towards decentralising and improving the performance management of the public relations team concerning engaging stakeholders and the IT Department, explained C. Kaunda-Zambezi (personal communication, February 10, 2016). B. Kasaro (personal communication, April 27, 2015) elaborated that, with the IT Department, capacity development aimed at improving the voter registration and accompanying software.

Policy transfer entrepreneurs also provided capacity building. B. Kasaro (personal communication, April 27, 2015) explained that the purpose of the policy transfer entrepreneurs training, in particular, NSAs to citizens was to improve voter education, youth and women participation in elections and their participation in the electoral process and

election monitors. Furthermore, B. Kasaro pointed out that 'there was also the support towards planning and logistics around elections. Staff training related to the popular programme called...Building Resources in Democracy Governance and Elections was provided to enhance stakeholder relations, build capacity in the public relations team on engaging stakeholders' (personal communication, April 27, 2015, para. 11).

Additionally, UNDP provided capacity building to non-state media organisations and other NSAs working on improving advocacy, citizen participation and government engagement (C. Chileshe, personal communication, April 14, 2015). As pointed out by B. Kasaro that 'capacity building towards media houses aimed at achieving more informed and balanced reporting, for media personnel to appreciate the technicality of elections and when they are reporting there is that context to it and to try gender balance reporting, particularly in the state-owned media institutions' (personal communication, April 27, 2015, para. 16).

Capacity building and training as well as technical assistance always accompanies financial support from the UNDP and GIZ. Dr. N. Simutanyi however contended that capacity building is not necessary; in particular, 'capacity building should not be a conditionality or incentive as it is not always relevant', it is there to influence the direction of the think tanks or recipients of funding (personal communication, April 24, 2015, para. 10). Dr. N. Simutanyi further argued that 'funding should be unconditional, and further the purpose, which organisations want to fulfil' because the donors should be supporting the recipients in conducting their work and not what the donors assume should be the direction and areas to address by the recipients (personal communication, April 24, 2015, para. 10). Dolowitz and Marsh (2000) provided the same reasons that these instruments (technical assistance and capacity building) are all methods through which policy entrepreneurs transfer policies.

What this study takes from these findings is, multilevelling is effective in implementing the electoral process in the project and ECZ. UNDP implemented the Electoral Cycle Approach and restructured the ECZ, along with other activities and introduced standards such as financial and administrative management systems. Technical advice and capacity building were useful instruments through which governance reforms were also adopted and implemented. Technical assistance and capacity building provided by policy consultants 'guided' beneficiaries in what to do and how to do it. To conclude, by subcontracting the UNDP, the findings support the assumption that multileveling through development agencies facilitate and legitimise the adoption and implementation of EU policies, thereby ensuring the EU to have this much influence (see Lavenex, 2016). During implementation, the EU relied on UNDP, and other stakeholders as the EU does not implement the programmes, GIZ and UNDP 'ensure that the institutions that apply or receive funding meet the set requirements'

according to M. Perino (personal communication, April 15, 2015, para. 16). What factors about multileveling led to the adoption and implementation of these reforms as well as their legitimisation? Subchapter 5.2 addresses the legitimisation of the reforms in addition to other factors in the mechanisms discussed that contributed to the smooth adoption and implementation of these EU governance reforms.

#### **5.1.9. Lesson Drawing**

The theoretical proposition in the theoretical framework outlined in chapter two under lesson drawing was that the Zambian Government and national institutions drew governance related lessons from the EU. Hence, this lesson drawing is likely to enhance the validity of EU electoral processes and thus conducive to the expansion of these policies to developing countries. Lesson drawing assumes that actors adopt policies without persuasion or incentives (Rose, 1991; Dolowitz & Marsh, 2000). I found no pure case of lesson drawing, as conditionalities, incentives and multileveling were mainly present in the partnership and main mechanisms in the adoption and implementation processes.

Nonetheless, all three institutions (ECZ, UNDP and EU) were able to draw lessons in some way or another. First, the ECZ and Zambian Government were dissatisfied with the election system in Zambia. As pointed out, the Zambian Government already identified some weaknesses in the electoral system since Zambia began its democratisation process. Furthermore, the ECZ felt that there was an interest and a need to develop software in the IT department that would contribute towards improving voter registration and the output of results explained C. Kaunda-Zambezi (personal communication, February 10, 2016). Thus, some aspects of the project came from the ECZ. To reiterate, 'it is not necessarily that there is an incentive...the biggest principle with the development projects is not to provide the solution to the ECZ or other local partners, but to let ECZ to find solutions themselves and also have a dialogue with them,' explained C. Kaunda-Zambezi (personal communication, February 10, 2016, para. 19). Furthermore, she emphasised that this approach creates more impact than something UNDP or EU have developed as partners and impose on the local partner (C. Kaunda-Zambezi, personal communication, February 10, 2016).

Second, EU and UNDP also learned from the implementation of the programme. As mentioned, EU and UNDP implemented the approach in many other countries thus lessons learned from the case of Zambia would assist in improving future implementation of projects in Zambia and other countries. Thus, in this case, knowledge was transferred not only from UNDP to the ECZ and the DNRPC, but the ECZ also provided 'us knowledge regarding lessons learned to inform UNDP and EU programming going forward', explained C. Kaunda-Zambezi (personal communication, February 10, 2016, para. 24).

## **5.2. Factors and Degrees of adoption and Non-Transfer**

This subchapter presents and discusses factors present in pathways that facilitated or hindered the adoption and implementation of the electoral process and freedom of expression in the Support to the Electoral Cycle Management project and ECZ. To reiterate, the main research question I address is as follows: how and why does the Zambian government implement EU electoral process and judicial reform measures in a selective manner? The sub-questions include: through which mechanisms are reforms implemented? What factors facilitate or hinder the implementation process? How can the degree of adoption and non-transfer be described? In the previous subchapter, I provided explanations to the first sub-question found that conditionalities, incentives and multileveling were most effective. But what factors in these mechanisms facilitated or hindered the adoption and implementation of the reforms? In this section, I answer this second sub question.

In this chapter, I aim to understand why the ECZ and Zambian Government adopted EU reforms and demonstrated that the fear of refusal of aid does not ensure that the ECZ and Zambian Embassy implements the reforms; there are other factors crucial for the successful implementation of transferred policies. The most prominent factors identified included inclusion, ownership, alignment, shared importance in the value of the electoral process and institutional inefficiencies. These factors led the ECZ to copy and harmonise the project priorities to the EU and UNDP priorities. Overall, this chapter also contributed towards indicating that the adoption and implementation process is not a self-perpetuating process. The factors are discussed next starting with ownership and inclusion.

### **5.2.1. Ownership and Inclusion**

At the Zambia-EU level, I found that ownership and inclusion were important effective development principles. Khan and Sharma (2003) also support this finding by explaining that ownership is critical, without any firm commitments from the recipient government and other relevant actors, the policy measures are less likely to be implemented' (p. 228). At the domestic level, I found that ownership, inclusion and alignment were critical factors. Both were present during the implementation process. As explained in chapter 2, ownership was considered an implementation factor.

I found that ownership and inclusion contributed towards the ECZ accepting and implementing the electoral process, thus leading to emulating/contextualising and harmonising the related reforms. As explained in chapter two, emulation refers to adjusting policies for contextual differences, it involves the transfer of ideas behind the policy or programme (Dolowitz & Marsh, 2000, p. 13; Rose, 1993). For instance, the Electoral Cycle

Approach under the EU-UNDP electoral assistance project, which was contextualised to Zambia but simultaneously, the idea behind this approach, that is, the idea of the EU, IDEA and UNDP on the way in which elections should be managed and what the process should entail was transferred and adopted. Harmonisation implies 'convergence in reforms as a consequence of the political recognition of interdependence and awareness of the costs of divergence' (Stone, 2001).

In this section, I explain how ownership and inclusion was achieved in the programme. To achieve development goals, partner countries or developing countries need to take ownership of projects and programmes. As Gibson et al. (2005) argued 'without such ownership, critics argued, recipients do not make the kind of commitments needed to ensure the realisation of the intended long-term results of donor assistance' (p. 11). Several evaluations of development projects conducted proved that projects without ownership failed, while those that ensured ownership succeeded in achieving long-term sustainability (Cramer et al., 2006; Gibson et al. 2005, p. 11; Weeks, Anderson, Cramer, Geda, Hailu, Muhereza & Stein, 2002). There is thus a collective agreement in the discourse on development cooperation that for development policies to have a lasting effect, donors and recipients should develop the policies in close dialogue, and that national ownership of projects and processes is critical.<sup>66</sup> In the implementation of electoral processes, ownership and inclusion were present starting from the preparation of the project. How was this accomplished? This was achieved with strong dialogue during the preparation of the project and through the UNDP's National Execution (NEX) modality.

### **Dialogue during Project Preparation**

B. Kasaro pointed out 'at inception, there was a lot of interaction between the ECZ and UNDP concerning areas that the ECZ requires support from the donor community' (personal communication, April 27, 2015, para. 30). While speaking on the Electoral Cycle Management and why the EU and UNDP can have this much influence, C. Kaunda-Zambezi (personal communication, April 16, 2015) asserted that ECZ, DNRPC, Cooperating Partners, the Joint EC-UNDP Task Force on Electoral Assistance and UNDP jointly prepared the project and that the dialogue was strong because for this particular project,

'there are quarterly reviews at the technical level. High-level meetings are also held twice a year and constitute the Steering Committee Meetings of the project. The ECZ provides regular reports based on

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<sup>66</sup> The Paris Declaration on Aid Effectiveness from 2005 and the Accra Aid Effectiveness conference in 2008 ensured that donors and recipients put these into practice. In the Paris declaration, responsible politicians and officials from developed and developing countries vowed to act by the principles of ownership, harmonisation, alignment, results and mutual accountability; therefore ensuring that recipient countries are in the driver's seat of their development (OECD, 2005, 2008).

UNDP guidelines, approved by the EC. To secure further funding, the project has to ensure that specific financial management systems are met and the set activities are implemented and good governance principles are followed' (C. Kaunda-Zambezi, personal communication, April 16, 2015, para. 7).

This assessment was also shared by M. Perino, who explained that, 'there are cycle management meetings; consultations and continuous process/dialogue with GRN, CSOs from different backgrounds with different beneficiaries' while describing the inclusion of local views during policy formulation and implementation (personal communication, April 15, 2015, para. 8). As already mentioned, C. Kaunda-Zambezi expressed that 'as UNDP whenever we support projects, we are not going in there with our solutions. We want situations where we are supporting national entities to grow them and to have some retrospective thinking to provide for their environment... ' (personal communication, February 10, 2016, para. 14).

Through this joint preparation, dialogue amongst actors was strengthened. Dialogue is imperative for major social segments in society to feel involved in democracy promotion efforts for them to be successful and dialogue is able to reach this sense of involvement (Jonasson, 2013). Finally, B. Kasaro stated that dialogue amongst ECZ, UNDP and EU improved due to extensive consultation. 'At project inception, there was a lot of interaction between ECZ and UNDP in terms of areas that ECZ requires support from donor community and so forth. Since it's a basket fund and it's supporting the process and process matters, the ECZ is the critical player. There are other players', e.g. civil society, etc. ...however, ECZ drives the programme' (Kasaro, personal communication, April 27, 2015, para. 30).

With joint preparation and strong dialogue, the findings indicated the presence of ownership and inclusion during the adoption and implementation of the project.

### **National Execution (NEX)**

The inclusive approach of UNDP played a role in the adoption and implementation process. More specifically, the Support to the Electoral Cycle Management project was implemented using UNDP's NEX modality, under which the ECZ drove execution of the project, and DNRPC as implementing partners, explained C. Kaunda-Zambezi (personal communication, April 16, 2015, para. 9). As mentioned, the EU outsourced the Support to the Electoral Cycle Management project to UNDP, UNDP also contributed financially (B. Kasaro, personal communication, April 27, 2015).

While elaborating on ownership in the project, C. Kaunda-Zambezi (personal communication, April 16, 2015) pointed out that, to implement the project, UNDP used a UNDP implementation modality that entrusts governments and institutions in recipient countries the

responsibility of executing projects. UNDP recognised that a cooperative approach in the provision of development cooperation is necessary; in particular, the partnership among people and active participation by those in the programme country in the design and implementation of development programmes and projects is crucial (Ssekandi & Johnson, 2000, p. 40). C. Kaunda-Zambezi (personal communication, April 16, 2015, para. 9) explained that, as a result of this, UNDP implementation modalities of projects are through NEX or Direct Execution (DEX). For NEX implemented projects, the national partner is directly concerned with the project's activities and results and the intended sustainability of the results. With directly implemented (DEX) projects, UNDP takes on full responsibility for implementation and assumes overall management responsibility and accountability.<sup>67</sup> NEX ensures ownership because through this modality, governments assume the overall responsibility (Ssekandi & Johnson, 2000) and as 'an entity, this is the modality mostly used in a stable country like Zambia', expressed C. Kaunda-Zambezi (personal communication, April 16, 2015, para. 9).

### **Project Management Structure**

To further strengthen dialogue and ensure ownership and inclusion, there was a structure set up for the management of the project by the partners. The structure included a Technical Support Team and Steering Committee under the leadership of the Project Manager (B. Kasaro, personal communication, April 27, 2015). This Technical Support Team was housed in the ECZ and provided day-to-day support to project activity implementation, while UNDP provided overall quality assurance in the activity implementation process (Chandiwira, 2015).

Additionally, the project design emphasised stakeholders and donors. To achieve this, the ECZ and UNDP put two coordination mechanisms and two management bodies. Under coordination and information sharing, a donor coordination mechanism included Heads of donor agencies and UNDP, and the ECZ co-chaired it explained B. Kasaro (personal communication, April 27, 2015, para. 7). Chandiwira (2015, p. 8) explained that the forum was concerned with donor coordination, with an emphasis on high-level policy dialogue, collaboration and information sharing related to project implementation. Furthermore, the ECZ convened the information-sharing forum and invitees were organisations working on elections and other relevant officials from donor organisations. Finally, the forum served the purpose of knowledge sharing on elections and harmonisation of stakeholder efforts to avoid duplicating activities (Chandiwira, 2015, p. 8).

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<sup>67</sup> UNDP usually undertakes DEX in crises where project implementation requires speedy delivery of services and decision-making, while the national partner's functions/capacities were severely reduced such as during national disasters or conflicts (Ssekandi & Johnson, 2000).

In addition to the Technical Support Team, there was a Steering Committee responsible for setting strategy and providing general oversight of activities, financial oversight and approving funding allocations as recommended by the Technical Support Team (Chandiwira, 2015, p. 8). Chandiwira further explained that, within the Steering Committee, a Technical Sub-Committee was established and tasked to prepare the issues to be tabled and discussed in the Steering Committee. The Technical Sub-Committee membership included representatives of the ECZ and other relevant beneficiaries. The Technical Sub-Committee was established within the ECZ to facilitate easy transfer of knowledge to the beneficiary institutions and to facilitate open interactions between the project and non-state actor beneficiaries of the project (Chandiwira, 2015, p. 8).

What this study takes from these findings is that, ownership and inclusion throughout the project is strong. UNDP considers ownership, harmonisation, accountability, alignment and results in the design and implementation of programmes. Interviewees support this observation. For instance, A. Chikwese also asserted that 'the key theme was to try and promote national ownership of all programmes and their policy frameworks. Not only are donor principles ensured, but Paris Declaration, Abuja Declaration, Maputo Declaration etc. are also considered when distributing funding to recipients to ensure that there is national ownership of all these programmes rather than bring in the most foreign programmes which are rejected' (personal communication, April 28, 2015, para. 15). To reiterate, A. Chikwese (personal communication, April 28, 2015) also pointed out that the project and programme implementers would not identify themselves with such programmes otherwise more funding will be spent without any positive results. Apart from considering the principles set out in international documents and agreements, reference is also made to the ECs External Assistance Management Report on a daily basis as explained by M. Perino (personal communication, April 15, 2015) who spoke on the EU ensuring ownership in programmes.<sup>68</sup>

### **5.2.2. Alignment**

This section indicates how the EU, UNDP and ECZ aligned their priorities and plans on electoral processes in the project and this resulted in internalisation. The findings indicate that the reforms promoted and prescribed by the EU were contextualised with the Electoral Cycle Management project objectives and activities; they also addressed the electoral weaknesses in Zambia. As a result, the electoral reforms were adopted and implemented

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<sup>68</sup> 'The EAMR is the main accountability (assurance) and management tool between Delegations and Headquarters to assure the management of funds sub-delegated to them. It consists of a set of Key Performance Indicators (KPIs) on sound financial management and the efficiency of internal controls and audit systems' (European Commission & High Representative of the European Union for Foreign Affairs and Security Policy, 2011, pp. 20-21).

through the Electoral Cycle Approach, the restructuring of the ECZ and other activities.

How exactly was the project contextualised? The project itself aimed to address limitations in the capacities of the EMB (B. Kasaro, personal communication, April 27, 2015; C. Kaunda-Zambezi, personal communication, February 10, 2016). In the case of elections, ‘...results can be a contentious issue in the election process...’, there has always been the ‘complaint that the results were taking too long’ explained C. Kaunda-Zambezi (personal communication, February 10, 2016, para. 19). Overall, the efficiency and effectiveness of the electoral process in Zambia is a challenge according to L. Habasonda (personal communication, April 23, 2015) and B. Kasaro (personal communication, April 27, 2015). The electoral reforms proposed to restructure the ECZ and adopt the Electoral Cycle Approach, thereby addressing these challenges and objectives.

Additionally, freedom of thought and expression weaknesses were also targeted and addressed by the reforms and in the project. Zambia recognises freedom of thought and expression but poorly exercises them. For instance, H. (personal communication, April 16, 2015) indicated that there is a lack of leeway by opposition parties to campaign freely. As mentioned in chapter three, one of the challenges while conducting the study was the lack of access to journalists.<sup>69</sup> Consequently, improving freedom of information and expression is very crucial in Zambia. Accordingly, the following weaknesses were identified by the EU and the Zambian Government committed itself to support the electoral process; establish a continuous voter registration process; implement civic/voter education programmes with civil society organisations; engage media in disseminating electoral information; document lessons learned; and develop support systems for the coordination of international observers and training of local election monitors (Chandiwira, 2015, p. 8; Government of Zambia & European Commission, 2008, p. XXXVI-VII).<sup>70</sup> These were contextualised by the Zambian Government relying on existing national development plans and strategies as basis of the commitments. Thereafter, these were implemented in the project.

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<sup>69</sup> To reiterate, the study also aimed to interview journalists, this was difficult as many journalists in Zambia work anonymously due to the lack of freedom of speech in Zambia, there is intimidation from political leaders and this has led to the closure of newspapers, as well as the arrest of editors and journalists, in the past few years (MISA Zambia, 2016; Reuters, 2016).

<sup>70</sup> This activity had two elements to it. There was direct support to the ECZ towards implementation of a barometric register, instead of electronic barometric voter registration. At that time the ECZ did have a barometric register, but the data capturing in the field was manual. This brought inaccuracies and the technology used to translate that manual information and to digitise it had become obsolete. The project facilitated the change to electronic barometric registration where the information could be captured directly and electronically on the field (B. Kasaro, personal communication, April 27, 2015; C. Kaunda-Zambezi, personal communication, February 10, 2016).

### **Copying the Electoral Cycle Approach**

What was the outcome of this alignment? As I highlighted, due to alignment, an election process model (Electoral Cycle Approach) was voluntarily copied by the Zambian Government and implemented in the ECZ (C. Kaunda-Zambezi, personal communication, February 10, 2016). To reiterate, copying involves direct and complete adoption and implementation (Dolowitz & Marsh, 2000, p. 13; Rose, 1993, p. 30). This electoral cycle model was mimicked to administer and manage the electoral processes (B. Kasaro, personal communication, April 27, 2015), thereby improving these processes and adhering to the electoral weaknesses. To explain this 'mimicking', Kleibrink (2011, p. 73) for instance argued that countries and institutions at times 'model themselves on other organisations considered legitimate to gain legitimacy (p. 73).

Copying the Electoral Cycle Approach was not solely done by the ECZ. Adopting the approach meant changing the electoral system in Zambia. The ECZ has no formal mandate to conduct legal and electoral reforms solely because the Constitution does not outline this mandate in the Constitution (Constitution of Zambia, 2016, Article 25). The ECZ heavily relies on the Ministry of Justice, amongst other responsibilities, as it drafts bills on behalf of the ECZ, due to the ECZs lack of human capacity in the legal department as explained by B. Kasaro (personal communication, April 27, 2015). These bills are submitted to the cabinet for approval because the ECZ lacks the legal capacity and mandate to do so (B. Kasaro, personal communication, April 27, 2015).

The National Assembly of Zambia also plays a role in the electoral reform; the National Assembly of Zambia approves any submissions on the electoral process and the ECZs budget (National Assembly of Zambia, 2018). Additionally, donors, the ERCT, policy transfer entrepreneurs, political parties and institutions such as the Anti-Corruption Commission, media institutions also play a role in adopting new electoral processes. These actors approved the Electoral Cycle Approach at this higher level before being implemented by the ECZ, EU and UNDP.

Apart from copying the Electoral Cycle Approach, another outcome of alignment was the restructuring of the ECZ, which was a priority of the Zambian Government and ECZ. Through this restructuring, the ECZ and UNDP developed a five-year strategic plan (2010 – 2015), a new organisational structure, as well as a new performance management system, as a way of improving staff performance; the ECZ and UNDP introduced these in the ECZ through the restructuring process, explained B. Kasaro (personal communication, April 27, 2015, para. 9 and 24) and C. Kaunda-Zambezi (personal communication, February 10, 2016). Moreover, the project improved voter registration process and implemented voter education through

CSOs and media engagement asserted C. Kaunda-Zambezi (personal communication, April 16, 2015) while outlining the achievements of the project at the time. For example, consultants were brought in and attached to the IT department. The restructuring also included introducing new systems to improve the capacity of the ECZ, DNRPC and CSOs to manage and organise elections (B. Kasaro, personal communication, April 27, 2015; C. Kaunda-Zambezi, personal communication, February 10, 2016).

All in all, enhancing the capacities of these three actors (ECZ, DNRPC and CSOs) was aimed at achieving the following eight results: enhanced organisational effectiveness and efficiency of the ECZ; workable continuous voter registration system developed with increased number of registered voters; digitized (new biometric) National Registration Cards issued to Zambian citizens; revised legal framework for elections (Electoral Act, Code of Conduct etc.) and dispute resolution mechanisms; increased women's participation in the electoral process; capacity of media actors' enhanced and effective media monitoring mechanisms in place for improved media coverage of elections; civic voter education and domestic observation programmes enhanced; inter-party dialogue strengthened (Government of Zambia & UNDP, 2009).

In this section, I showed that adjusting reforms for contextual differences led the ECZ and Zambian Government to adopt and implement electoral reforms. This alignment of the reforms addressed the electoral weaknesses faced in Zambia. The result of this was mimicking of the Electoral Cycle Approach and restructuring the ECZ.

### **5.2.3. Nature of Partnership and Social Appropriateness**

What about the UNDP and its role led the ECZ and Zambian Government to adopt and implement the electoral reforms? The findings indicate that the promotion of a reform by a 'trusted' actor's (UNDP) and the appropriateness of the proposed reform led to its adoption and implementation. In this section, I first explain why the UNDP was considered a trusted partner and thereafter discuss why the ECZ and Zambian government considered electoral reforms socially appropriate.

#### **Nature of Partnership**

First, my findings suggest that the partnership with the UNDP was important. UNDP are more trusted in comparison to the EU in Zambia; the Zambian partners consider the UN with its 193 member countries a neutral and impartial partner in comparison to the EU composed of 'European' member states. As C. Kaunda-Zambezi pinpointed,

We are seen as a trusted partner, a partner that is always on the national institutions side. We have various member countries, so we are impartial. With the EU, they have member states, but they are

somehow considered as a donor and not a partner. We [UNDP] are the partners, we can talk about a lot of things openly without feeling restricted...It is complicated for a bilateral to sit and brainstorm with a national institution. UNDP is on a different dimension...they [donors] realised that they cannot channel their funds directly to national institutions; it becomes a challenge. They will most likely not achieve the desired results. UNDP is more trusted at times in comparison to, e.g. the EU (personal communication, February 10, 2016, para. 22).

M. Tmava, the Policy Advisor CSSP/Governance team at GIZ, agreed and stated that GIZ is also often seen as a neutral mediator as it is easy for GIZ to get involved in the policy field because it is not just on the side of civil society or government or seen as a donor because GIZ does not come with a lot of money, GIZ implements projects. GIZ is often considered as more neutral between civil society, government and donors in comparison to USAID or EC, etc. (personal communication, April 15, para. 50). Due to the trust, conditions and reforms coming from UNDP or GIZ are most likely accepted and copied in comparison to those coming directly from the EU.

The interactions between the EU and ECZ appeared to be positive. Based on the interviews with T. Chihana & A. Chikwese (personal communication, April 28, 2015) and B. Kasaro (personal communication, April 27, 2015), Zambian actors consider the EU as an international donor aimed at improving the lives of the Zambian citizens and ensuring accountability and efficiency of its development cooperation. What this means for the study is that the nature of the partnership and mutual understanding between the ECZ and UNDP is crucial in ensuring successful adoption as theorised by Dolowitz (2003) and, Dolowitz and Marsh (2000). Weeks et al. (2002) also found that the close relationship between SIDA and the Tanzanian Government played a prominent role in the relations. More specifically, due to the long and lose relationship between Tanzania and Sida, there is great trust between the two thereby putting Sida, in a prime position to support national efforts to increase ownership' (p. 197). This may be the same for development agencies and Zambian Government.

Despite the elections being adopted and implemented, some interviewees had a different view on the elections being promoted and implemented by the EU and UNDP. For instance, Dr. A. Ng'oma was of the opinion that 'the intention by the western world generally and the EU, in particular, is to try and ignore the traditional norms and practices of the African people and to try and impose on the African western values' (personal communication, April 20, 2015, para. 21). Following similar lines of arguments, certain Zambian academics and policy analysts share the opinion that the EU wants Zambia to imitate a certain way of managing elections, due to the implementation of the Electoral Cycle Approach in many countries.

To reiterate, L. Habasonda, for instance, stated, 'when you look at elections, the issue here is about getting Zambia to adopt EU standards to manage the elections. The ECZ uses election standards that are EU standards, not African standards. They certainly influence the fact that we must run elections on their standards rather than our own standards' (personal communication, February 18, 2016, para. 8). He further stated, 'clearly the support that goes towards elections, towards human rights and general issues of governance and accountability are premised on... where they [EC] come from (L. Habasonda, personal communication, February 18, 2016, para. 8). N. Mate also shared the same assessment that donors like the EU have their priorities or know already what to fund based on past work experience with the EU whilst working on elections, political parties, etc. According to N. Mate, 'with the EU and UNDP support to elections, it is as if they expect Zambia to run elections on EU standards or how they perceive Zambia should run elections and not whether it fits to the political situation of Zambia and institutional capacity of the ECZ, considering the lack of resources, political interference amongst other challenges' (personal communication, April 20, 2015, para. 20).

### **Social Appropriateness**

Second, multileveling was also effective in facilitating the adoption of electoral reforms because the EU and UNDP promoted universal standards of elections. In other words, the electoral reforms were considered socially appropriate because a 'trusted' partner such as UNDP promotes these, particularly the Electoral Cycle Approach which is mimicked in various countries. The UNDP and EU supported electoral processes in over 58 countries; the EU and UNDP availed over EUR 66 million for electoral assistance programmes implemented in Benin, Botswana, Democratic Republic of Congo, Ivory Coast and Sierra Leone (UNDP, 2017), amongst other countries. Thus, the ECZ accepted the Electoral Cycle Approach because the EU and UNDP implemented it in many African before doing the same in Zambia. In addition to this argument, the election standards promoted in the approach are a 'universal norm'; these are agreed on international standards that govern the appropriate conduct of elections. The ECZ and Zambian Government were therefore not hesitant in accepting election processes promoted. Because the election standards are universal, they were perceived by the ECZ as socially appropriate and not because they are functionally superior and more effective solutions (Gilardi, 2016), similar to the financial and administrative capacities implemented.

In sum, this section indicated the factors that led the ECZ and Zambian Government to adopt and implement electoral reforms, which were mainly prominent in multileveling. The UNDP that are a more trusted partner validate/legitimise the electoral approach. Besides, they promote an approach implemented in many other African countries and the promoted

standards are socially appropriate and accepted worldwide.

#### **5.2.4. Lack of Decentralisation, Institutional Efficiency and Financial Resources**

Although not specific to any mechanism discussed, financial resources, institutional efficiencies and decentralisation were contributory factors to the ECZ and Zambian Government not fully implementing the reforms. In this case, there was a lack of these after the reforms were adopted and implementation commenced, this constrain hindered the full implementation of the new ECZ structure. These factors and how they contributed to the new structure not being implemented are explained.

First, for the ECZ, it is highly centralised with few offices at the district levels, explained B. Kasaro (personal communication, April 27, 2015), the new structure was therefore not in effect because ECZ was not decentralised, which is a requirement of the new structure. Decentralisation is an immense problem, which hinders the implementation of this project and other aspects of the Zambian Government functions. There is a decentralisation policy, but the Zambian Government has not implemented it yet according to D. Longwe and M. Namumba (personal communication, April 21, 2015) at LAGZ, which is responsible for the Decentralisation policy. Zambia is very centralised, LGAZ, amongst other goals, contributes to the Decentralisation Policy by advocating for decentralisation, in particular, taking governance further to the grassroots level (D. Longwe & M. Namumba, personal communication, April 21, 2015, para. 6-8).

Second, apart from the lack decentralisation, ECZ and UNDP officials explained that, the new structure was not fully functional due to lack of financial and human resources by the Zambian Government to ensure full implementation (C. Kaunda-Zambezi; personal communication, February 10, 2016; B. Kasaro, personal communication, April 27, 2015, para. 24). The EU and UNDP only funded the activities implemented; it was the responsibility of the Zambian Government to sustain the new structure. Grootings (2007) and Young (2007) researched pre-accession countries that sought to initiate comprehensive National Qualifications Frameworks (NQFs) to show their political commitment to European integration. They also found that the pre-accession countries faced an oversight on the financial and administrative costs of introducing such reforms. The ECZ and Zambian Government lack financial resources to fully implement and ensure that the new structure functions (B. Kasaro, personal communication, April 27, 2015). These fiscal and human resource restraints, which are also contextual factors, hindered the full implementation (Benson & Jordan, 200; De Jong, 2009) of the restructuring of the EMB.

Dr. E. Daka agreed and explained that 'Zambia lacks the resources, not only financial

resources but human capacity and sometimes ideas. Zambia sees the need to improve the social, economic, political situation' (personal communication, April 23, 2015, para. 15). Out of this need, the government is driven to accept certain conditions and policies' (Dr. E. Daka, personal communication, April 23, 2015). L. Habasonda also shared this assessment and asserted, 'we are a vulnerable country, and when we get a lot of aid it has got a bit of conditionality that is attached to it. We refuse them, we reject them when they come initially, but eventually, they do find their way in one form or another' (personal communication, February 18, 2016, para. 15). In other words, the lack of financial and human resources contribute to the Zambian Government to accept funding from international donors; however, this funding usually has conditionalities attached. The Zambian Government accepts these involuntarily because of the need for financial resources. Nevertheless, this need for resources is not deep enough for the Zambian Government as well as the GS and other national institutions to adopt and implement all conditionalities.

### **5.3. Summary**

The purpose of this study is to explore and analyse mechanisms of policy adoption to identify the factors that facilitate or hinder the adoption and implementation process in developing countries as well as explain the degrees of adoption and non-transfer. I achieved this in this chapter by discussing the findings of the adoption and implementation of electoral processes, through which the EU prescribed and promoted electoral processes and freedom of expression. The case went beyond explaining how transfer occurs by describing how reforms are adopted and implemented, in particular, how financial and administrative management systems, electoral processes and freedom of expression were implemented into the project and ECZ through conditionalities, incentives and multileveling. With the exception of the financial and administrative management systems and the Electoral Cycle Approach, the Zambian Government proposed the rest of the reforms implemented themselves. It is important to mention though that policy transfer entrepreneurs were more effective in implementing the activities to the Zambian citizens, while lesson drawing played a minor role. In this project, there was no pure case of lesson drawing considering the effective mechanisms through which the reforms were adopted.

This adoption and implementation led to, changes in the management of national elections, practices and arrangements of the project and the ECZ itself. It also indicated that electoral reforms are not necessarily accepted and implemented because of fear of consequences, thereby supporting the research purpose and argument that policy recipients are not passive; they exercise their agency by deciding which policies to copy, emulate, harmonise or oppose (see **Table 10** for a summary of the mechanisms, factors and degrees of adoption).

**Table 10: Electoral Reforms: Mechanisms, Factors and Degrees of Adoption Overview**

<b>Mechanisms</b>	<b>Factors</b>	<b>Degrees of Adoption</b>
1. Conditionalities (Agreements, Grant, Application process)	1. Ownership and Inclusion	1. Emulation
2. Incentives	2. Alignment	2. Copying
3. Multileveling (Grant Application Process, EU-UNDP Electoral Assistance Partnership, Technical Assistance and Capacity Building)	3. Nature of Partnership and Social Appropriateness	3. Harmonisation
	4. Decentralisation, Institutional Efficiencies and Financial Resources (Lack of)	

Note: A summary of the mechanisms through which the ECZ adopted implemented the transferred electoral reforms; the factors present within these mechanisms and the extent to which the adoption can be explained.

The ECZ copied and emulated financial and administrative management systems as well as electoral processes. To reiterate, agency refers to actors indicating a sense of free will, choice and autonomy in addition to political action or conduct (Hay, 2002, p. 94). Furthermore, internalisation of EU reforms is dependent on social, economic, political, institutional and policy factors present within mechanisms. In particular, ownership, inclusion, alignment, nature of the partnership/'trusted' partners (UNDP), appropriateness of election processes, decentralisation financial and technical resources were necessary factors within these mechanisms and led to copying and emulation of election reforms and freedom of expression into the project and ECZ. The table below summarises the mechanisms, factors and degrees of adoption in this case study.

## 6. Adopting and Resisting Judicial and Law Reforms

In the previous chapter, I presented an analysis of and the research findings from the adoption and implementation of electoral processes. Notably, the chapter discussed the adoption and implementation of electoral reforms by the ECZ. With the research findings, I demonstrate that ownership; social appropriateness, nature of the partnership and institutional capacities were important contractual and implementation factors. These were crucial in mechanisms like conditionalities, incentives and multileveling as they contributed towards the adoption and implementation of the electoral reforms. With the presence of such factors, the ECZ was restructured and financial and administrative management systems and electoral process reforms were copied and harmonised in the project and institution. However, the ECZ did not fully implement the new structure due to the lack of financial resources, decentralisation and institutional inefficiencies.

In this study, I set out to answer the following primary research question: *how and why does the Zambian government implement EU electoral process and judicial reform measures in a selective manner?* To reiterate, implementation in this study implies local bureaucrats, civil servants and other local actors applying in practice, electoral process and judicial and law enforcement reforms thus leading to changes in practices and arrangements of the programme and national institutions (Bevir, 2009; Brewer & DeLeon, 1983). To contribute towards answering this main research question, the purpose of this chapter is to analyse and present findings on the adoption and implementation of judicial and law enforcement in the Access to Justice programme, which is also funded by the EU. The chapter analyses how and why the GS adopted and implemented (or not) judicial and law enforcement in the programme through the five mechanisms outlined in chapter two. The added value of this case is an illustration of how the adoption and implementation process can be smooth but concurrently resisted and contested due to inappropriate policies and lack of ownership and inclusion during implementation.

Project documents were reviewed and interviews with relevant stakeholders were conducted and analysed. The findings of the adoption and implementation of Judicial and law enforcement in the Access to Justice programme are discussed and simultaneously linked to existing literature and theory. To achieve this, this chapter is structured as follows. In the first subchapter, I discuss mechanisms for adopting and implementing transferred policies. The second subchapter analyses and discusses factors present within the mechanisms, resulting in the GS to accept, implement or oppose EU promoted and prescribed governance reforms. Concurrently, degrees of adoption and non-transfer to describe the outcome are discussed.<sup>32</sup>

## **6.1. Adoption and Implementation Mechanisms of Judicial and Law Reforms**

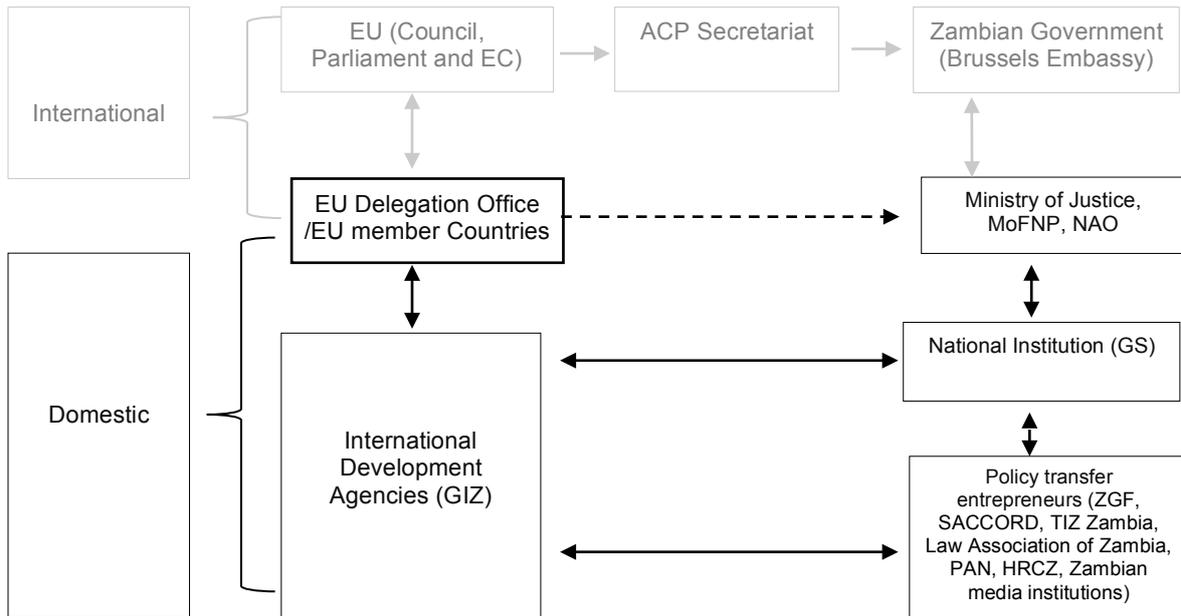
Before presenting and discussing the findings, the various actors in the programme are discussed to understand who implemented the reforms and their motivation for reforming at the domestic level. The purpose of the Access to Justice programme is crucial for identifying the actors involved in the adoption and implementation of judicial and law enforcement. D. Chikalanga (personal communication, April 22, 2015) asserted that the programme was created to improve the situation of women and children through access to justice. 'Later, the programme started focusing on ensuring access to justice for all' due to the increasing number of inefficiencies in the Zambian justice system faced by citizens (D. Chikalanga, personal communication, April 22, 2015, para. 7).

Additionally, the programme aimed to improve communication, coordination and cooperation amongst five key justice institutions, (M. Tmava, personal communication, April 15, 2015; V. Hampondela, personal communication, April 15, 2015). The five key justice institutions are Judiciary, National Prosecutions Authority (NPA), the Legal Aid Board (LAB), the Zambia Prison Services and the Zambia Police Service. This was the objective of the Zambian Government in the programme. For the EU, its objective for the programme was to improve justice delivery and promote human rights (European Commission, 2014, p. 18). The EU's objective is mentioned because during implementation, the EU emphasised human rights, which the GS did not address in the programme. This is discussed in detail later.

To achieve its purpose, the principal actors in the programme included EU (represented by the EU Delegation Office in Zambia), NAO, GS, GIZ and policy transfer entrepreneurs (e.g. ZGF, SACCORD, TIZ Zambia, Law Association of Zambia, PAN, HRCZ, Zambian media institutions). Other key institutions, which were also beneficiaries, comprised of the Judiciary, National Prosecutions Authority, the Legal Aid Board, the Zambia Prison Services and the Zambia Police Service. For an overview of the immediate actors in the programme, Figure 14 below illustrates these actors in the Access to Justice programme and their interactions.

In this chapter, I consider the GS as a programme implementer and policy recipient. Other immediate actors in the programme are the EU, GIZ, NAO and policy transfer entrepreneurs. The EU (represented by the European Commission and EU Delegation Office in this study) and NAO were introduced and discussed back in chapter four. GIZ and policy transfer entrepreneurs will be discussed in due course in the respective sections on multileveling and policy transfer entrepreneurs as mechanisms of adoption and implementation. In the following, the GS is introduced.

**Figure 14: Key Actors in the Implementation of Judicial and Law Enforcement Reforms**



Note. The diagram on the actors involved in the adoption and implementation of judicial and law enforcement reforms and how they interact indicated by the arrows. Source: Own diagram

**Governance Secretariat (GS)**

The GS is introduced to understand the following: the role and purpose of the GS in the Access to Justice programme and in Zambian governance sector; the influence it may or may not have on the governance sector; function of the GS in the adoption and implementation process of the promoted and prescribed judicial and law enforcement reforms at the domestic level. In the previous chapter, I characterised the ECZ, the national institution managing national and local electoral processes in Zambia, as a policy recipient and implementer at the domestic level. In the adoption and implementation of judicial and law enforcement reforms in this programme, the GS also acquires a similar role; it is the national institution implementing the Access to Justice programme, amongst other mandates.

To achieve the goals of the programme and other governance related activities in Zambia; the GS was established and approved by the Cabinet Office in 2006. The GS reports to the Permanent Secretary within the Ministry of Justice. The mandate of the GS is not just limited to executing the Access to Justice programme. The GS also facilitates, coordinates, monitors and evaluates initiatives related to improved political governance (legal and justice) in Zambia and assist and coordinates implementation of governance programmes and activities in NDPs, according to V. Hampondela (personal communication, April 15, 2015, para. 17).

In addition to this, the GS’s agenda is more comprehensive than the legal and justice sector. V. Hampondela (personal communication, April 15, 2015) emphasised that the GS is also responsible for the APRM, Constitutional Review, Governance Monitoring, Legal and Justice

Reforms, Case Flow Management, Parole System, Child Justice Forums, Continuous Voter Registration, PFM Improvement and Integrated Financial Management Information System. The GS is considered a policy recipient and programme implementer in this case because of its role in the Access to Justice programme. The financial management and responsibility for the day-to-day management and coordination of the Access to Justice programme are anchored within the GS.

### **Access to Justice Programme Management - Administrative Management Structure**

Despite being anchored in the GS, the Access to Justice programme is a separate entity with an office in the Ministry of Justice and within Planning Units in each of the five-partner institutions, explained V. Hampondela (personal communication, April 15, 2015). The programme has its structure within the GS, which is composed of a few staff members (V. Hampondela, personal communication, April 15, 2015; M. Tmava, personal communication, April 15, 2015). A Coordinator and an Access to Justice Specialist in addition to other specialised core staff are responsible for overseeing the direction, planning and implementation of the programme (D. Chikalanga, personal communication, April 22, 2015).

In addition to the core staff, 'there is a Troika at the top composed of the Chief Justice, Minister of Home Affairs and Minister of Justice,' explained M. Tmava (personal communication, April 15, 2015, para. 18). After the Troika, is 'the Steering Committee which is chaired by the Permanent Secretary from the Ministry of Justice and participants from management within the five key justice institutions. The Steering Committee is responsible for strategic policy setting and guidance of the programme. The committee also includes the Permanent Secretary of the Ministry of Home Affairs and Permanent Secretary of Ministry of Justice and the cooperative partners, EU and GIZ' (D. Chikalanga, personal communication, April 22, 2015, para. 22).

After the Steering Committee is the Technical Committee 'made up of two members of staff from the five-justice institutions' was established (D. Chikalanga, personal communication, April 22, 2015, para. 23). The Technical Committee is responsible for strategic planning, monitoring and supervision concerning the programme intervention (Ministry of Foreign Affairs of Denmark, 2012). The work of the committee also includes preparation of annual work plans and budgets, revised semi-annual plans and semi-annual requests for funds for approval by the Steering Committee (Ministry of Foreign Affairs of Denmark, 2012). Overall, the Technical Committee's role is to implement what was approved by the Steering Committee and heads of institutions, planning units, different institutions, trying to come up with concrete activities that can be addressed by the programme, explained D. Chikalanga (personal communication, April 22, 2015). Furthermore, 'there are Communication,

Cooperation and Coordination Initiatives (CCCI) at various levels. 'The programme brought these institutions together to identify common problems to address these together and ensure effective cooperation and communication. This was achieved through the CCCI concept' (D. Chikalanga, personal communication, April 22, 2015, para. 8).

After outlining the role of the GS in the Access to Justice programme as well as its administrative and management structure, in the following, I attempt to explain the interaction amongst the GS, GIZ and EU officials and how the judicial and law enforcement reforms were adopted, implemented, resisted and contested through adoption mechanisms. Thereafter, the contextual and implementation factors that contributed to the GS officials implementing and resisting some of the reforms are discussed, along with the extent of the adoption and implementation.

#### **6.1.1. Conditionalities**

In this section, I explain how the Zambian Government and GS adopted and implemented judicial and law reforms through conditionalities. The specific conditionalities adopted are outlined and the influence they had on the GS and programme is described.

The proposed assumption under conditionalities in the theoretical framework is that governance reforms in the form of conditionalities are negotiated into agreements thereby enabling adoption and implementation. The research findings suggest that the EU attached three main governance reforms as conditionalities in the Access to Justice programme. First, financial and administrative management processes were negotiated and therefore transferred and implemented in the programme. Second and third, other institutional weaknesses within the justice sector, improving access to justice and enhancing human rights were also negotiated and adopted.

#### **6.1.2. *Financial and Administrative Management Processes, a Precondition***

Financial and administrative management processes are rules and procedures for governing or managing a project and institution intended to establish efficiency, effectiveness, consistency, responsibility, and accountability (European Commission & UNDP, 2003). These were new standards from the EU and GIZ attached as conditions for receiving funding and further disbursements. As conditions to access funding, they are a means of assessing the institutional capacity of an institution before the commencement of a programme and during the implementation (M. Tmava, personal communication, April 15, 2015). While GIZ acts as a fund manager, it also ensures that the GS fulfils the conditionalities and requirements before receiving funding.

The financial and administrative management processes were prescribed in grant applications, these were copied and implemented in the programme. As indicated earlier in Figure 10, ECZ and GS submitted project reports to GIZ and UNDP before the development agencies and EU could disburse further funding. Through this process and during the implementation of the programmes, GIZ and UNDP ensured that the ECZ and GS fulfilled the conditions. M. Tmava concurred by explaining that before entering into a financing agreement with partners, GIZ assesses their financing eligibility. This is to ensure that the partners have proper, rigid financial management systems with governance structures to ensure sufficient oversight within the organisation and that the accounting system is good enough. For the partners under the Access to Justice programme, they had sufficient capacity. Furthermore, Ms. Tmava asserted that 'GIZ always has to consider what the organisation needs which include M&E systems, financial management systems, knowledge systems, different kinds of systems that help the organisation to deliver the results that they want to provide' (personal communication, April 15, 2015, para. 38).

By implementing these systems multiple facets of the programme and institution are influenced, as seen in the adoption and implementation of electoral processes in the previous chapter. In the adoption and implementation of judicial and law enforcement in the Access to Justice programme, the influence of the financial and administrative management processes was limited to the programme. D. Chikalanga asserted that there was some influence on the way in which EU and GIZ managed and implemented the programme since they came in (D. Chikalanga, (personal communication, April 22, 2015). Notably, the administrative aspects of the programme changed because before GIZ and EU started funding the programme, GS and Ministry of Justice managed the programme using their systems (personal communication, April 22, 2015, para. 15-19).

There was some dissatisfaction in the introduced financial and administrative management systems in the programme. For instance, D. Chikalanga clarified that Danida; the leading donor to the programme between 2006 and 2011 'had an inclusive approach and had little control of the programme as it was mainly in the hands of the GS' (personal communication, April 22, 2015, para. 11). There was more ownership of the programme at the time that Danida funded the programme according to D. Chikalanga (personal communication, April 22, 2015). When GIZ and EU began supporting the programme, the inclusion of the GS and other justice institutions into the programme management was not as strong, emphasised D. Chikalanga (personal communication, April 22, 2015). GIZ managed the programme funding, and overall implementation was shared between GS and GIZ (M. Tmava, personal communication, April 15, 2015; V. Hampondela, personal communication, April 15, 2015).

While discussing the transition from Danida to GIZ, D. Chikalanga (personal communication, April 22, 2015) further compared the approaches of the previous and present donors and highlighted some administrative challenges encountered. Danida fused into the programme approach, the heads of institutions were responsible for approving the project and projects reports were provided to Danida (D. Chikalanga, personal communication, April 22, 2015, para. 11-16). However, when ‘the EU and GIZ came in, there was internal conflict. The EU and GIZ introduced new conditions and an approach to the programme, which the Ministry and Access to Justice Programme implementers could not agree on’ (D. Chikalanga, personal communication, April 22, 2015, para. 11-16).

V. Hampondela agreed and shared, ‘before, the Secretariat was very involved in the financial management. The management systems of the Ministry of Justice and Governance Secretariat were mainly used, except when reporting to GIZ and EU. The GS also used their guidelines...’ (personal communication, April 15, 2015, para. 47). B. Kalaba was also of the same opinion as she shared that ‘with the different partners, there are different reporting formats, different requirements, schedules’ while discussing the challenges faced in the Parliamentary Reform Programme which is also funded by the EU (personal communication, April 28, 2015, para. 20).

Despite the dissatisfaction and challenges, V. Hampondela expressed understanding for why the EU uses its or the development agencies financial and administrative management systems. There is a certain standard and method of implementing projects and programmes that the EU aims to maintain. This standard method allows them to compare projects and programmes implemented in different countries with different situations (Hampondela, personal communication, February 11, 2016, para. 13).

In sum, this section illustrated that the GS adopted reporting and programme management procedures prescribed by the GIZ and EU through funding agreements and accessing further disbursements. The programme adhered to EU and GIZ standards. The financial and administrative management processes were implemented in the programme, but not in the GS as the GS follows the systems of the Ministry of Justice. Also, the GS was hesitant to introduce these systems in the Access to Justice programme because they differ from those of the Ministry of Justice, MoFNP and other donors. In the section, I also highlighted that under the Danida funding, there was more inclusion and ownership under Danida.

Introducing such systems contradicts the JASZ provisions, of which the EU is a signatory. The JASZ requests cooperating partners to collaborate in improving funding predictability and alignment with Zambia’s financial management systems (Cooperating Partners, 2007,

2011). The assessment of the findings from this case indicates that the EU and GIZ negotiated their financial and administrative management standards into the programme, which were adopted and used. However, the influence was limited to the programme where they [financial and administrative management system] were copied. In other words, the financial and administrative management systems were directly and completely adopted and implemented as is (Dolowitz & Marsh, 2000, p. 13; Rose, 1993, p. 30).

### **6.1.3. Judicial and Law Enforcement Reforms**

In addition to financial and administrative management systems, judicial and law enforcement reforms were also conditionalities prescribed and contextualised in the programme. These were however nothing new because the Zambian Government already identified these as areas of improvement. This section simultaneously discusses judicial and law enforcement and specific human rights elements attached as conditionalities in the programme and how some of these were adopted and rejected.

#### **6.1.3.1.1. Judicial and Law Enforcement**

Judicial and law enforcement reforms refers to promoting ‘the separation of powers, equal access to justice, the independence and external auditing of the judicial system, the effective access to legal redress and the submission of the state authorities to the law and a closer cooperation between the judiciary, including the prosecutor general, and the police as actors in the chain of justice’ (European Commission, 2006d, p. 5). The EU therefore expected the Zambian Government to reform these areas in its justice sector. The reforms were adopted by the Zambian Government due to the ECGIT process, described and discussed in chapter four. Similar to the Electoral Cycle Management, the Access to Justice programme and the judicial and law reforms, which addressed were included in the governance profile and governance action plan. In the following, I compare and analyse the weaknesses in the governance profile, commitments in the governance action plan and implementation in the Access to Justice programme.

#### **Weaknesses**

Challenges faced in the justice sector include lack of qualified staff; poor staff morale, poor working conditions, low salaries, poor working environment; lack of financial and administrative autonomy; inadequate and erratic funding; political interference; poor legal framework; poor record-keeping; poor institutional linkages and coordination between institutions in the justice system (Ministry of Foreign Affairs of Denmark, 2012). The EU identified similar weaknesses under political governance and rule of law (judicial and law enforcement) in the governance profile (Government of Zambia & European Commission,

2008, p. XLI), while the Zambian Government categorised these under constitutionalism, human rights and democratisation (Government of Zambia, 2006a, p. 277-278).

### ***Commitments***

Based on these weaknesses, the Zambian Government made many commitments. These were to secure the 'rights of every citizen as enshrined in the Constitution' while the specific Access to Justice programme commitments, which correlate to the identified weaknesses, was to use the programme 'to enhance the respect for citizens' rights' (Government of Zambia & European Commission, 2008, p. XLI). The commitments were based on those made in the FNDP and included: improving coordination and communication among justice institutions (CCCI); building the capacity of the Access to Justice programme personnel; developing Courts and other infrastructure; ensuring the autonomy, effectiveness and efficiency of the Administrator General, and Director of Public Prosecution (DPP); improving legislative process and policy framework affecting the administration of justice; decentralising the Judicial Complaint Committee and Administrator-General; increasing public awareness of human rights and criminal justice system; decentralising civil litigation, Administrator General and Official Receiver, Legal Aids and DPP; improving record management and information management; improving access to justice for the vulnerable, especially women and children; enhancing the capacity of personnel in gender issues (Government of Zambia, 2006a, p. 276-282; Government of Zambia & European Commission, 2008, p. XLI). The commitments intended to address the weaknesses were implemented in the programme by the GS or are on-going. The outcome of this implementation is discussed next.

### ***Implementation***

To start with, V. Hampondela (personal communication, April 15, 2015) and M. Tmava (personal communication, April 15, 2015) explained that, the Ministry of Justice through the Access to Justice programme established a Case Flow Management System that would expedite the process of handling cases in Zambian courts in order to reduce backlog. This system brings together the five criminal justice institutions (Zambia Police Service, the Judiciary, National Prosecutions Authority, Legal Aid Board and Zambia Prison Service) aimed at improving coordination in the delivery of justice for accused persons or inmates.

According to V. Hampondela (personal communication, April 15, 2015), harmonisation and coordination is key to efficient and effective implementation of good governance frameworks and institutions. Thus, M. Tmava (personal communication, April 15, 2015) explained that the government spearheaded the implementation of the CCCIs to improve collaboration amongst the five-justice institutions and other stakeholders. Approximately, 14 CCCIs had been launched by 2015, and these were particularly successful. M. Tmava (personal

communication, April 15, 2015). Moreover, the programme facilitated the introduction of the parole system (M. Tmava, personal communication, April 15, 2015). The programme introduced the parole system in 2009 with the purpose of releasing deserving prisoners and ultimately decongesting prisons and reintegrating the former into the society (V. Hampondela, personal communication, April 15, 2015).

V. Hampondela (personal communication, April 15, 2015) also indicated that a Legal and Justice Sector Reforms Commission was appointed with the mandate of undertaking a comprehensive public inquiry into the state of the legal and justice sector in Zambia. The commission also recommends appropriate reforms that would ensure a more efficient, affordable, accessible, accountable, fair and responsive legal and justice sector that meets the current and future needs of the Zambian citizens (V. Hampondela, personal communication, April 15, 2015). In addition to these implemented activities, there are others, which were implemented or are on-going such as establishing the Integrity Committees; conducting Child Justice Forums; Continuous Voter Registration; establishing Constituency Offices; Social Cash Transfer Scheme and House of chiefs (V. Hampondela, personal communication, April 15, 2015).

What this section has indicated is that judicial and law enforcement reforms were adopted and implemented because the Government of Zambia committed itself towards reforming these areas. Apart from this, the implemented activities reflected the commitments made which in turn were inline with the weaknesses addressed by the EU in the governance profile. Due to this ECGIT process, the prescribed EU reforms were harmonised with the weaknesses of the justice sector in Zambia and implemented in the Access to Justice programme. The factors that contributed to these being smoothly adopted and implemented as well as the extent of the adoption are discussed in subchapter 6.2 further.

#### **6.1.3.1.2. Human Rights Reforms**

In addition to financial and administrative management processes and reforming judicial and law enforcement, human rights reforms were also conditions to receiving funding. As mentioned, the EU's objective for the Access to Justice programme was to improve justice delivery and promote human rights (European Commission, 2014, p. 18). According to A. Biesebroek (personal communication, December 7, 2015) and A. Chikwese (personal communication, April 28, 2015), democracy, the rule of law and respect for human rights are common policies promoted in the EU's development cooperation as preconditions to receiving funding. Human rights are the most visible and promoted policy by the EU in comparison to others. Through this promotion of human rights, the EU sets norms that regulate internal and external political behaviour of countries explains Manners (2002; 2008).

For example, along with democracy and the rule of law, respect for human rights was made explicit in 1973 in a Copenhagen document on 'European identity' (Manners & Whitman, 1998, p. 236). By the 1990s, similar to democracy, human rights became prominent in the Treaty on EU and are promoted through conditionality clauses in enlargement and development aid (European Commission & High Representative of the European Union for Foreign Affairs and Security Policy, 2011; European Union, 2012; Council of the European Union, 2013; Manners & Whitman, 1998, p. 236). How did the GS adopt these human rights conditionalities? I found that the human rights components were attached in the grant application process. In the next section, I explain the grant application process as well as illustrate how the components were implemented through this process.

### **Grant Application Process**

The GS incorporated human rights policies into the programme through the grant application process. As explained in the previous chapter, when applying for funding, the EU and development agencies evaluate the projects against a specific criterion (European Commission, 2016b). With regards to human rights, each project is requested to provide information on the promotion of gender equality and equal opportunities, needs of disabled people, rights of minorities, freedom of expression and speech and rights of indigenous peoples (European Commission, 2016b). Based on this, there was nothing new being promoted by the EU, the Zambian Government identified these as areas of reforms.

It is imperative to mention here that a rights-based approach guides the human rights aspect in the EU development cooperation (European Commission & High Representative of the European Union for Foreign Affairs and Security Policy, 2011; European Union, 2012; Council of the European Union, 2013). Thus, by accepting funding, the GS and Zambian Government adhered to these reforms. Based on this, human rights were adopted and implemented through the application process because programmes accessing funding are required to outline how they include these aspects or how they plan to address them.

### **ECGIT Process**

In addition to the application process for funding, human rights reforms were also adopted as a consequence of the Zambian Government going through the ECGIT and in return for a tranche. This process is once again explained for the human rights reforms in order to compare the weaknesses to the commitments made by the Zambian Government and the actual activities implemented by the GS in the Access to Justice programme.

## **Weaknesses**

Zambia faces numerous human rights related challenges. In the governance profile of 2006, the EU assessed human rights (under democratic governance) to pinpoint the related problems. For the European Union (2012), improving human rights refers to ‘promoting the rights of women, children, minorities and displaced persons; opposing the death penalty, torture, human trafficking and discrimination; defending civil, political, economic, social and cultural rights and defending the universal and indivisible nature of human rights through full and active partnership with partner countries, international and regional organisations, and groups and associations at all levels of society’ (p. 5).<sup>71</sup>

An analysis of the Zambian human rights situation by the EU showed that the Zambian Government had yet to ratify and domesticate international/regional conventions on human rights. For example, the Second Optional Protocol to the Covenant on Civil and Political Rights, which aims at the abolition of the death penalty (Government of Zambia & European Commission, 2008). The Zambian Penal Code, section 43, states that courts can enforce the death penalty in cases regarding high treason, murder and armed robbery (Constitution of Zambia, 2016, Article 43). Abolition of the death penalty is a massive issue for the EU, which is rooted in the human rights discourses between the 1980s and 1990s (Manners, 2002, p. 246). During this period, the Council of Europe was adamant about ensuring that the death penalty had become a significant western norm in the 1980s (Manners, 2002, p. 246) and after the end of the cold war, it became a precondition for joining the EU and is now advocated in EU development cooperation as seen in the partnership with Zambia.

Furthermore, Zambia ratified its Convention on the Elimination of all forms of Discrimination against Women, but the Optional Protocol to this Convention has not yet been signed (OHCHR, 2017). Besides this, the Zambian Government has not yet ratified other protocols. For example, the Rights of the Child; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; Rights of All Migrant Workers (MWC); African Charter on Human; People’s Rights on the Rights of Women in Africa; and the African Charter on the Rights and Welfare of the Child (OHCHR, 2017). The Zambian Government has not ratified these because there are problems in the transposition into national legislation and due to lack of financial and human resources (M.F. Hamuyube, personal communication, April 22, 2015). In international fora, Zambia acknowledges these and other shortcomings and ascribes them to political will or inadequate financial and technical resources (OHCHR, 2017). In addition, the Government of Zambia and European Commission (2008) expressed the lack of capacities in watchdog institutions, improving minority rights and ensuring non

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<sup>71</sup> See also Manners (2008).

discrimination on the basis of 'sex, race, colour, language, religion, political or other opinions, national or social origin is enshrined in the law' (p. XXXII) were also identified as weaknesses under human rights.

### ***Commitments***

After the EU presented these challenge, the Zambian Government made commitments in response. These commitments mainly referenced actions already being implemented (Government of Zambia & European Commission, 2008); there was therefore nothing contentious. For example, with ratifying protocols, the Zambian Government referred to the National Plan of Action for Human Rights for the period 2000 to 2009 that they adopted in 1999 (Government of Zambia & European Commission, 2008). According to the FNDP, the Government was at the time committed to ensuring that this National Plan of Action continues to provide guidance and a framework for the active promotion and protection of human rights in Zambia (Government of Zambia, 2006a). The FNDP also outlined its perspective on Access to Justice and according to V. Hampondela (personal communication, April 15, 2015, para. 10); the Zambian Government established the GS through the FNDP.

The government moreover intended on domesticating seven international human rights conventions to which it is a party to (Government of Zambia & European Commission, 2008). The Zambian Government additionally made commitments toward accelerating adaptation of international treaties into national legislation; solving the remaining cases of abuse of power through criminal corporal punishment in places of detentions and ratifying some international conventions (Government of Zambia & European Commission, 2008).<sup>72</sup> Furthermore, the Zambian Government devoted itself to abolishing the death penalty, towards addressing gender issues, not only abolishing violence against women but also increasing the representation of women in decision making positions (Government of Zambia & European Commission, 2008, p. XXX-XXXIV).

### ***Implementation***

The implementation of the above commitments led to a number of outcomes in the Access to Justice programme. To start with, the rights of women, children and prisoners were addressed, in particular, education on the rights of these groups in both programmes (D. Chikalanga, personal communication, April 22, 2015; B. Kasaro, personal communication, April 27, 2015). However, as already mentioned, the various protocols have yet to be ratified due to problems in the transposition of international policies into national legislation as a

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<sup>72</sup> Zambia signed some treaties and non-treaties on electoral and human rights standards such as the International Covenant on Civil and Political Rights (ICCPR), the Constitutive Act of the African Union and the African Union Principles for Democratic Elections, amongst other international treaties.

result of a lack of financial and human resources according to M.F. Hamuyube (personal communication, April 22, 2015) and V. Hampondela (personal communication, April 15, 2015, para. 17). Abolishing the death penalty was addressed, but it is still included in the Zambia Amended Constitution (2016). With the findings, I indicate that the Access to Justice programme and other institutions such as the Prisons Services, Ministry of Gender and Child Development, Judiciary, HRCZ, civil society, etc. do address other human rights issues such as violence against women and torture by police in the programme. Section 6.2 will address the factors facilitated and hindered the implementation of these activities and reforms and the resistance of some of the proposed human rights components.

Based on the above, the conditionalities attached in the programme included introducing financial and administrative management processes, human rights and, judicial and law enforcement reforms. These conditionalities were adopted and implemented through the grant application process and the commitments made in the ECGIT. Through these processes, these conditionalities enhanced the institutional capacity of the programmes and ECZ. However, certain protocols, were not ratified due to a lack of resources. Subchapter 6.2 explains these further.

Based on the findings, financial and administrative management systems, and the respect of human rights are enshrined and attached in the grant application process. Judicial and law enforcement reforms were also negotiated in the ECGIT process. The ECGIT process enabled their adoption and implementation in the Access to Justice programme because the Zambian Government was able to identify its own responses to the weaknesses outlined by the EU. The outcome of the financial and administrative management systems was a change in the programmes systems; the systems of the GS remained the same. As for the judicial and law enforcement and human rights reforms, these were mainly adopted and implemented. However, some protocols were not ratified.

#### **6.1.4. Incentives**

In this section, I explain the role of incentives as a mechanism for adopting judicial and law reforms. As a reminder, the theoretical framework assumed that the Zambian Government and respective national institutions voluntarily accept and implement EU governance areas due to financial and trade incentives emanating from the cooperation with the EU. Incentives refer to rewards received by individuals for their actions or those of others (Gibson et al. 2005). Rewards in development cooperation come in different forms. Gibson et al. (2005, p. 6) explain that rewards come in the 'form of adding funds to government budgets so as to encourage more spending and activities in those domains that a donor perceives to be important. Additional training, supplemental technical assistance, overseas travel

opportunities are all incentives used in aid processes' (Gibson et al. 2005, p. 6). Incentives played a role in the adoption of governance reforms at the Zambia-EU level, Zambia received additional funding through the ECGIT, but this was insignificant. Furthermore, trade benefits or access to EU markets were incentives for signing the trade agreements and adhering to the conditions of the government.

Similar to the ECZ, the Zambian Government and GS lack financial and human resources to implement and achieve the objectives of the programme. The GS received funding for the programme, but there was no additional funding that could be considered as financial rewards. Technical assistance and capacity building did accompany the financial support; these are considered as incentives and are discussed further in section 6.1.6, as GIZ provided the financial support.

#### **6.1.5. Policy Transfer Entrepreneurs**

The assumption under the theoretical framework of this study is that policy transfer entrepreneurs are reinforced by the EU to directly/indirectly assist in legitimising EU reforms and thus lead the Zambian Government and national institutions to adopt and implement the governance reforms. Policy transfer entrepreneurs is an umbrella concept for knowledge actors, academics, think tanks, NSAs, national and international pressure groups, civil society, private voluntary and non-governmental organisations (Dolowitz & Marsh, 1996, p. 345; Stone, 2004, p. 556). The policy transfer entrepreneurs in the Access to Justice programme included, but are not limited to the Law Association of Zambia, PAN, Anti-Corruption Commission and media institutions. All these play a different role in the implementation of the programme. In this case, there was no evidence found supporting the proposition that the policy transfer entrepreneur contributed to the GS adopting the EU reforms or that these actors legitimised the reforms.

As I indicated in chapter four, the research results suggested that policy transfer entrepreneurs are seen by the Zambian Government as instruments to promote the values of the EU and other foreign donors. This influenced the role of the policy transfer entrepreneurs during the implementation of the judicial and law enforcement reforms in the Access to Justice programme. For instance, while acknowledging the critical role of policy transfer entrepreneurs in improving access to justice in Zambia, D. Chikalanga asserted that 'the EU and GIZ feel strongly about the role of these NSAs. The role of these actors is at times limited because it appears that the EU and GIZ utilise them to promote certain ideas' (personal communication, April 22, 2015, para. 9).

Despite this depiction, I found that policy transfer entrepreneurs are useful in implementing activities such as voter education on behalf of the ECZ, similar to the finding in the previous chapter. The policy transfer entrepreneurs were voluntarily used to assist in achieving the goals of the Access to Justice programme as well because the GS acknowledged the significant role of such actors. For example, the programme recognised that it was crucial to work with policy transfer entrepreneurs that advocate human rights and judicial and law enforcement issues to achieve the programme and institutional objectives (D. Chikalanga, personal communication, April 22, 2015). Hence, the GS implemented sensitisation campaigns targeting vulnerable groups with policy transfer entrepreneurs, and other relevant institutions in the programme (D. Chikalanga, personal communication, April 22, 2015).

Policy transfer entrepreneurs such as the Law Association of Zambia, media institutions and PAN, which are relevant in the dispensation of justice, also ensured equal legal and judicial outcomes in the programme due to their work at the district and local levels (Chikalanga, personal communication, April 22, 2015, para. 9). A few of the interviewees described some policy transfer entrepreneurs and their role in the Access to Justice programme. For instance, M. Tmava described PAN, which was an important partner in the implementation of the programme activities as having 'a network of paralegal institutions and coordinate them and provide training.

In the process of coming up with all, the networks strengthened the process of coming up with a legal aid policy because all these actors were involved in coming up with the participatory policy together with the Legal Aid Board and the Law Association of Zambia' (personal communication, April 15, 2015, para. 22). C. Chileshe also highlighted the role of ZGF in the Access to Justice programme '...we support work in prisons, work on child labour and a whole range of things' (personal communication, April 14, 2015, para. 38). Apart from implementing certain activities in behalf of the GS in the Access to justice programme, the policy transfer entrepreneurs were beneficiaries of the programme; some activities also involved supporting the Victim Support Unit and Legal Aid Board to ensure their efficiency and effectiveness in improving access to justice.

In sum, the premise was that policy transfer entrepreneurs are reinforced by the EU to directly/indirectly assist in legitimising and thus leading the Zambian Government and national institutions to adopt and implement judicial and law enforcement reforms. I found no evidence to support the theory on the adoption of EU policies by the GS and programme through policy transfer entrepreneurs. Policy transfer entrepreneurs played more of a complementary role in realising the objectives of the GS and programmes by implementing supporting activities. For example, policy transfer entrepreneurs such as PAN assisted in

introducing paralegals in prisons and courts to improve the case flow management, which was an objective of the programme (M. Tmava, personal communication, April 15, 2015). There was no instance found in which the policy transfer entrepreneurs promoted and prescribed EU judicial and law enforcement reforms to the GS and in the programme. The government considers policy transfer entrepreneurs as actors of foreign donors promoting the donors foreign policy (L. Habasonda, personal communication, April 23, 2015, para. 10; Dr. A. Ng'oma, personal communication, April 20, 2015, para. 13). Despite this, the policy transfer entrepreneurs play a critical role, which the GS and Access to Justice programme acknowledge and use to their advantage in implementing activities on their behalf.

#### **6.1.6. Multilevelling**

The assumption outlined in the theoretical framework is that development agencies legitimise judicial reforms and thus facilitate the adoption and implementation of EU governance areas and policies. The EU interacts with a plethora of actors through a multi-level system (Evans & Davies, 1999). GIZ is one of these actors, it is an essential partner in the implementation of the Access to Justice programme, and it co-financed and implemented the programme on behalf of the EU. GIZ, the development agency in this case study, ensured that the agreed on objectives were achieved and conditionalities such as human rights, fundamental freedoms and financial and administrative management processes were fulfilled and implemented in the programme. For instance, M. Tmava indicated that GIZ assessed whether partners 'have proper, rigid financial management systems...' before entering into financing agreements responsibilities (personal communication, April 15, 2015, para. 38).

#### **GIZ Funding Mechanisms**

Apart from being the fund manager, GIZ also supports the EU in achieving policy objectives by providing expert advice and implementing projects (V. Hampondela, personal communication, April 15, 2015; M. Perino, personal communication, April 15, 2015; M. Tmava, personal communication, April 15, 2015). The basis of this EU and GIZ cooperation is on different contractual mechanisms. GIZ is contracted to either administer funding on behalf of the EU within the framework of delegated cooperation arrangements, or to manage the direct financial support or to implement EU contracts (GIZ, 2017). M. Tmava explained GIZs approach and the three funding methods. First, financing agreements 'give a lot of power to the partner organisations to implement and allocate money as they wish. They [GIZ] do the financial accounting and financial management of the grants,' (personal communication, April 15, 2015, para. 36).

Second, local subsidies where 'GIZ remains with the management of the finances. If the recipient has vouchers, they send the original vouchers to GIZ, and the GIZ does the

financial management' elaborated M. Tmava (personal communication, April 15, 2015, para. 36). Third, direct procurement where GIZ would 'procure certain services or goods on behalf of the partner organisation and then just hand it over to them or they have a direct contract with the consultancy firm' (M. Tmava, personal communication, April 15, 2015, para. 36). For instance, to develop an M&E system for the recipient institution, the contract would be with GIZ, but the consultant would deliver directly to the partner country (GIZ, 2017).

As for the Access to Justice programme, 'in the past, they usually opted for the first financing agreement', asserted M. Tmava (personal communication, April 15, 2015, para. 38). However, D. Chikalanga (personal communication, April 22, 2015), M. Tmava (personal communication, April 15, 2015) and M. Perino (personal communication, April 15, 2015, para. 16) pointed out that in the case of this programme, GIZ takes on all roles as it administers the funding on behalf of the EU, manages the programme funding and is involved in implementing the programme.

The findings suggest that the GS adopted and implemented financial and administrative management systems through the GIZ, which ensured that the GS adhered to the EU and its conditionalities/requirements during the grant application process for funding and throughout the implementation of the programme, as discussed in the previous chapter. In addition to being able to influence through the grant application process, the findings show that the influence was also achieved through technical assistance and capacity building, which GIZ provided. These are discussed next.

### **Technical Assistance and Capacity Building**

The findings on the role of technical assistance and capacity building in the adoption and implementation of judicial and law enforcement reforms are similar to those of the previous chapter. GIZ consultants providing assistance assisted in implementing the reforms in the programme. This was because 'their work is based on the contracting partner' according to Dr. B. Boetius (personal communication, June 21, 2017). These findings are supported by Börzel et al. (2008), technical and financial assistance were the most prominent instruments in the promotion of human rights. Technical assistance and support for capacity building are used as instruments to build material or immaterial capacities to improve good governance policies, thus, in most instances, the assistance geared toward capacity building is for institutionalising good governance (Börzel et al. 2008, pp. 9-10). They are also considered as incentives for the recipients to commit and implement policy measures (Gibson et al. 2005).

M. Tmava explained, 'in most of the funding cases, technical advice accompanies GIZ support' (personal communication, April 15, 2015, para. 36). V. Hampondela concurred and

also explained 'GIZ managed the funding, provided capacity building and contributed to the implementation of the programme' (personal communication, April 15, 2015, para. 47). GIZ considers its technical assistance as a change project approach used in many GIZ projects (M. Tmava, personal communication, April 15, 2015). Through this approach, ideas are developed 'together with the partner that aims at bringing about change and to really think through what the partners want to see when the project ends as opposed to having nationwide symposiums or workshops with different actors and all talk about Access to Justice. That is not what the GIZ or EU would do' explained M. Tmava (personal communication, April 15, 2015, para. 33). This approach appears to be similar to the NEX approach of the UNDP as it also focuses on the partner and how they can achieve their goals and maintain ownership.

Local or international specialists/consultants provided the capacity building, and technical assistance explained M. Tmava (personal communication, April 15, 2015). GIZ technical assistance can take the form of sharing information, expertise, instruction, skills training, transmission of working knowledge and consulting services (GIZ, 2017). GIZ technical assistance has three different components; GIZ provides it on three levels; namely, person, organisations & societies (society is broken down into policy element and networks) explained M. Tmava (personal communication, April 15, 2015). On the 'person' level, GIZ provides basic and advanced training for the individual working in GIZs partner organisations. In the this programme, GIZ provided technical assistance in addition to funding 'because there were outcomes directly related to the effectiveness and efficiency of the people in the institutions, so they were sent for different types of training in sub-Saharan Africa and abroad' according to M. Tmava (personal communication, April 15, 2015).

In sum, multileveling was effective. Based on the above, GIZ was outsourced by the EU to implementation the programme. As a consequence, GIZ acted as a transmitter or 'transfer agent' thereby contributing to the adoption of EU rules and standards by the GS (Stone, 2004, p. 561). Financial and administrative management systems and various judicial and law enforcement reforms were adopted and enforced. The GS changed the financial and administrative management processes of the programme because GS and the Access to Justice programme pursued GIZ and EU's reporting standards, thus leading to the influence of the reporting standards of the Access to Justice programme. GIZ also ensured the implementation of the committed reforms into the programme. For example, access to justice for women, children and prisoners were addressed through the various activities such as improving the case flow management systems, improving cooperation and communication amongst the five-justice systems etc. amongst the multiple activities of the programme identified throughout this chapter. However, not all were implemented though because

specific human rights components were opposed as explained in chapter four. In comparison to the Support to the Electoral Cycle Management project, there were challenges when implementing the programme with GIZ relating to lack of inclusion and ownership. These are discussed in subchapter 6.2.

#### **6.1.7. Lesson Drawing**

In the theoretical framework adopted in this study, the assumption is that the Zambian Government and national institutions drew judicial and law enforcement reform lessons from the EU. Thus, lesson drawing enhances the validity of the specific EU governance areas drawn and therefore conducive to the expansion of the policies to developing countries (Rose, 1993). The adoption and implementation of reforms in this programme were not due to a pure case of learning where persuasion or incentives were not involved. For example, the Zambian Government did rely on their national development plans to develop the governance action plan; the commitments were therefore based on the past experience. In other words, Zambia drew lessons from its own past experiences (Rose, 1991, p. 7). Such an instance would be a case of lesson drawing, however, this was done in order to receive an incentive. As already shown, there were promises made and consequences to not fulfilling these by the EU and GIZ since it began funding the programme.

Nonetheless, the Access to Justice programme was involved in a learning tour. In September 2011, some delegates from the GS visited Uganda to learn about Uganda's experience concerning establishing and developing the Justice Law and Order Sector (Ministry of Foreign Affairs of Denmark, 2012). The purpose of the tour was to identify opportunities for applying ideas and initiatives in the Zambian Access to Justice context (Ministry of Foreign Affairs of Denmark, 2012). During the learning tour, meetings were held amongst the Access to Justice institutions from Zambia and the JLOS secretariat, criminal justice institutions, relevant project offices and cooperating partners in Uganda (Ministry of Foreign Affairs of Denmark, 2012). The Uganda JLOS experience provided useful inspiration regarding the justice sector composition, management structures and operational set-up (Ministry of Foreign Affairs of Denmark, 2012). However, the Zambian Government has so far not pursued these ideas (D. Chikalanga, personal communication, April 22, 2015). In this case, GS sought lessons from nearby countries and not the EU. Nonetheless, not much came out of this learning tour. No reforms were adopted due to lesson drawing.

#### **6.2. Factors and Degrees of Adoption and Non-Transfer**

In this study, I go beyond claiming that transfer occurred and policies are automatically internalised. I argue that the policy transfer and adoption process is not self-perpetuating as recipients can either decide to accept and enforce policies or oppose them based on social,

economic, political and cultural factors amongst others, present in the adoption mechanisms. Therefore, financial incentives may ensure that countries adopt and commit, but financial incentives alone and fear of consequences due to refusing the positive and negative conditionalities do not guarantee that a policy recipient like Zambia reforms the prescribed governance areas it committed to. Thus, the main research question addressed is: how and why does the Zambian government implement EU electoral process and judicial reform measures in a selective manner? The policy transfer and adoption framework with a social constructivist worldview outlined in chapter two is used to analyse and discuss the findings. In the first subchapter, I just indicated that the reforms were mainly adopted through conditionalities, incentives and multileveling. What factors encouraged or discouraged the GS to adopt the reforms in these pathways?

In this second subchapter, I identify and discuss factors present within the mechanisms. While discussing the factors, I also deliberate on the gradation of adoption and explain non-transfer in this subchapter. This subchapter aims to demonstrate that the adoption and implementation process is not a self-perpetuating process nor does the fear of conditionality ensure the implementation of policies. The added value of this case study on the adoption and implementation of judicial and law enforcement reforms is it indicates, as Dolowitz and Marsh (2000) rightly explain, that 'policy transfer is not an all-or-nothing process' (p. 13). In other words, the GS did not adopt or adapt all policies promoted and prescribed; there was also non-transfer (Benson & Jordan, 2011; Dolowitz & Marsh, 2000). Furthermore, since recipients are active, the subchapter shows that the GS selected and harmonised certain reforms but opposed specific human rights policies.

### **6.2.1. Ownership and Inclusion**

With the research results, I indicate that ownership and inclusion when the EU and GIZ began funding the programme led the GS to harmonise the priorities and plans of Zambia to the priorities of the EU and GIZ. This was mainly achieved through the ECGIT as I already indicated in chapter four. During implementation, ownership and inclusion was not as strong and led to challenges. Ownership and inclusion are discussed at two levels, first, when the EU and GIZ began funding the programme back in 2011 and later during implementation to show how these led the GS to adopt or oppose judicial and law enforcement reforms.

### **6.2.2. Ownership and Inclusion in the Programme Initiation Stage**

To reiterate, ownership is understood as the Zambian government and national institutions 'exercising effective leadership over their development policies, and strategies and coordinate development actions' (OECD, 2005, p. 3) while inclusion refers to the GIZ and EU

including all actors (bilateral and multilateral donors, global funds, CSOs, and the private sector) during negotiation and implementation of programmes (OECD, 2005, p. 17).

Various interviewees pointed to the JASZ and Paris Declaration as guidelines to ensuing ownership in the development cooperation. A. Chikwese (personal communication, April 28, 2015) and B. Kalaba (personal communication, April 28, 2015, para. 18) noted that donors buy into priorities and programmes of the Zambian Government; various frameworks like the Paris Declaration and JASZ ensure that donors accept the priorities and programmes of the government. M. Perino also pointed out that the Zambian Government sets priorities and the EU supplements the priorities and goals made (personal communication, April 15, 2015, para. 7). The programmes and projects therefore remain government-owned or owned by locals (M. Perino, personal communication, April 15, 2015). Particularly, when funding and implementing, 'we remember the principles set out in international and documents and agreements, in particular, the Paris Declaration as a basis for ownership and interactions on a daily basis. We also refer to the External Assistance Management Report (EAMR)' explained M. Perino (personal communication, April 15, 2015, para. 18).

In theory, this is standard practice. All donors, with the exception of China, India and Japan, in Zambia follow the JASZ, which they all signed (Cooperating Partners, 2007, 2011; Rakner, 2012, p. 10). For instance, P. Seppänen (personal communication, April 29, 2015), a Programme Officer for Human Rights and Democracy at the Embassy of Finland in Zambia agreed and also confirmed that the Finish Embassy in Zambia also aligns its strategy with Zambia's priorities and programmes. The Finish Embassy in Zambia has a country strategy, which is aligned with Zambia's social, economic and political priorities. With regards to the civil society, 'the Embassy has broad objectives related to promoting accountability, public participation and human rights, anything under these areas are funded by the Embassy. Furthermore, the civil society provided with technical advice to strengthen them when implementing their priorities into programmes and projects' (P. Seppänen, personal communication, April 29, 2015, para. 8).

With the Access to Justice programme, V. Hampondela also concurred and pointed out that the programme is 'government-owned', it was initiated by the Zambian Government in 2006 and supported by Danida (personal communication, April 15, 2015, para. 45). Similar to the Support to the Electoral Cycle Management project, the idea of the Access to Justice programme was there before the EU came in with funding. The concept of the Access to Justice programme started in 2006 and was enshrined in a chapter on governance, in particular, administration of justice, in the FNDP (Chikalanga, personal communication, April 22, 2015, para. 6). M. Tmava explained that 'at the beginning of the programme there was a

lot of ownership by the government as the government drew up the plans and technical assistance from different institutions and Danida and GIZ at that point funded the programme' (personal communication, April 15, 2015, para. 11).

Furthermore, before funding from Danida came to an end, plenty of actors requested for the new Access to Justice component and the Ministry of Justice were interested in continuing what they had been doing with Danida (M. Tmava, personal communication, April 15, 2015).<sup>73</sup> For example, policy transfer entrepreneurs such as PAN also requested for the new programme because 'in the previous component of the programmes, PAN and other paralegal service providers felt a little bit left out and they felt that the Zambian Government and GS could have done more could on the subnational level and even on the national level' explained M. Tmava (personal communication, April 15, 2015).

Based on the above, ownership and inclusion was present when the EU came into the programme because the full effect of the transition from Danida funding had not taken place yet. Furthermore, when the EU came in with funding, it appears that the JASZ was a factor in ensuring that the EU and other donors align their priorities with those of the GS and Zambian Government. In addition to this, the programme implementers at the GS and GIZ also pursued the principles set out in the Paris Declaration and EMAR on a daily basis. As a result, inclusion and ownership when the EU and GIZ came into the programme allowed for the EU, GIZ and GS to contextualise and harmonise priorities, objectives and activities addressed in the Access to Justice programme. This however changed during the implementation of the programme; there was a lack of ownership and inclusion, thus resulting in difficulties during the implementation process. This is elaborated next.

### **6.2.3. Exclusion and Lack of Ownership during Implementation**

The research findings show that there was a lack of ownership and inclusion during the implementation of the programme. For example, D. Chikalanga (personal communication, April 22, 2015, para. 15) and V. Hampondela (personal communication, April 15, 2015, para. 45) affirmed that when Danida funding came to an end, the programme remained government-owned; however, when EU came on board, GIZ managed and implemented the programme. D. Chikalanga compared the EU and GIZ's approach to that of Danida to justify how the GS along with its elaborate programme management structure were excluded in the

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<sup>73</sup> Danida funded the project between 2006 and 2011. Influence of Danida is not studied because, when EU came in, there were some changes in the programme made. GS was not happy about these. Besides this, D. Chikalanga (personal communication, April 22, 2015) explained that the GS managed the programme according to how the Zambian Government intended. There was not much interference in the project management and decision-making process.

programme management during implementation. In the interview, D. Chikalanga (personal communication, April 22, 2015) recalled Danida's approach stating that Danida, the primary donor to the programme at the time had an inclusive approach; Danida also had little control of the programme as it was mainly in the hands of the GS. To be specific, D. Chikalanga stated '...DANIDA fused into the government functions. What DANIDA did was accept how the government wanted the programme to be like and provided the money and reports on the project had to be given to DANIDA' (personal communication, April 22, 2015, para. 15).

### **Change of the Programme Implementation Approach**

It is imperative to emphasise that the objectives of the programme were not changed when the EU came as a donor. What changed was the implementation approach. The approach referred to here is that of the GIZ, which was explained earlier under multileveling, it was privileged over the previous GS and Danida approach and the management structure set up for the programme less relied on.

M. Tmava (personal communication, April 15, 2015) provided three reasons why GIZ changed the implementation approach. First, the current approach was based on an evaluation of the previous Access to Justice component in which specific stakeholders such as PAN felt that 'a lot of access to justice money was not wasted, but in the previous programme a lot of money went into things that were not having an immediate impact' (Tmava, personal communication, April 15, 2015, para. 30). Second, the GS used the funding for solutions that addressed immediate problems. Instead, the GS should use the funding for long-term solutions (Tmava, personal communication, April 15, 2015).

Third, using the case of the CCCI, M. Tmava asserted the '...there is a misconception that the CCCI can only work if there is a lot of funding because they wanted to address problems immediately. For example, they went into prisons and saw few beds, so they bought more' (personal communication, April 15, 2015). For the new component of the Access to Justice programme, 'they have now allocated a bit more additional funding for the continuation of those initiatives because a little bit of funding is necessary, for example transport to the different sites. A little bit of funding is necessary, but I think this bulk of the money that the GS pushed into the CCCI was not always necessary' added M. Tmava (personal communication, April 15, 2015, para. 15).

Fourth, attending workshops halfway around the country was not cost effective as there are similar workshops in neighbouring countries (Tmava, personal communication, April 15, 2015). Thus, to ensure the impact of the programme, guarantee access to justice as well as recommendations from an evaluation and dialogue with partners, it was decided by EU and

GIZ to provide the Ministry of Justice less funding at regular intervals over a specified period (Tmava, personal communication, April 15, 2015, para. 32). While discussing GIZ managing funds and reporting to taxpayers, M. Tmava concluded that in future, lesser amounts over a longer period of time might be availed to the Ministry of Justice so that there is more of oversight of what GIZ finances (Tmava, personal communication, April 15, 2015, para. 43).

Based on the above reasons, GIZ appears to manage the finances to ensure that the funds are utilised efficiently and effectiveness by all partners in order to achieve the objectives of the programme. This, however, led to a number of difficulties in the programme. These challenges are discussed next.

### **Challenges during Implementation**

In comparison to implementing electoral processes, implementing the adoption and implementation of judicial and law enforcement reforms was not smooth. For instance, the control of finances by GIZ caused some tension in the programme. To reiterate, D. Chikalanga stated, 'there was, I am sure, an element of mistrust, that is my view, that maybe money was being misused. And that to a considerable extent affected the moral of the people in the programme' (personal communication, April 22, 2015, para. 17). The reasons just provided on why the management and implementation approach was changed, to some extent also explain this 'mistrust'. D. Chikalanga furthermore detailed a situation to indicate the extent of the control/mistrust. He alluded to a situation where GIZ contacted all 'participants to see how many people took tea in the morning etc. and one time they visited and came to check. Once they called the director of prosecutions who is now a Judge...' to confirm if he attended a workshop or not (personal communication, April 22, 2015, para. 17).

Weeks et al. (2002) can provide some explanations to this finding. Weeks et al. (2002, p. 59) explained that 'institutional constraints such as corruption and maladministration in a country are key factors that hinder the strengthening of national and local ownership. In the case of Kenya and the fear of corruption and maladministration undermined trust between the donor and recipient.' These institutional constraints or the fear of the institutional constraints would determine the approach taken by the donor and that of the recipient during the implementation of the project, as in the case of the Access to Justice programme.

In addition to this, D. Chikalanga clarified, 'the government have certain preferences to say where to hold workshops, training, conferences etc., but GIZ would say we cannot pay for this place, sometimes even if it is cheaper, GIZ says that they cannot pay for such a place' (personal communication, April 22, 2015, para. 18). At the same time, he added that 'from an administrative point of view, I know there are certain things that recipients are supposed to

follow here and there, but sometimes, if you use a system which keeps our work very much useful, it does wonders' stated D. Chikalanga (personal communication, April 22, 2015, para. 19). D. Chikalanga expressed understanding of the EU and GIZ's approach, but indicated that it might be inefficient in this case when he stated, '...that is fine, but sometimes some of those decisions were more expensive...' (D. Chikalanga, personal communication, April 22, 2015, para. 19). Based on this, there was too much oversight, and this led to some minor issues during implementation.

The implementation of new financial and administrative management processes also caused challenges because the introduced financial and administrative management processes were not consistent/harmonised with existing administrative and management systems of the government. D. Chikalanga pointed out 'it is a challenge because of harmonising the old system to the new approach' (personal communication, April 22, 2015). Despite the reservations, the GS implemented financial and administrative management processes in the Access to Justice programme and not in the GS thus limiting the influence of this conditionality to the programme. V. Hampondela pointed out, 'the management systems of the Ministry of Justice and Governance Secretariat were mainly used, but when reporting to GIZ and EU, their guidelines were used' (personal communication, April 15, 2015, para. 47).

This section showed that the JASZ and Paris Declaration ensured that the programme was government owned when the EU and GIZ came as donors. Nonetheless, inclusion and ownership was not maintained during implementation because the programme implementation approach changed, resulting in less financial management responsibilities for the GS. The approach changed to ensure efficiency and effectiveness, but this led to some challenges during implementation such as mistrust and incompatibility between the adopted financial and administrative management systems and the existing systems of the GS.

#### **6.2.4. Social Appropriateness**

Strengthening judicial and law enforcement was relevant for both the GS and EU. The relevance of these reforms to both actors led the GS to implement most of the reforms. In addition, there was compatibility and relevance with most reforms, there was therefore alignment and coherence of the priorities and policies of the Zambian Government, EU and GIZ. There were some human rights components that were inappropriate and thus resisted. These factors and how they contributed towards the implementation and resistance are discussed next.

## **Compatibility and Relevance**

This compatibility in and relevance of the reforms can be illustrated by the weaknesses faced in Zambia in these areas, the EU's human rights approach which addresses these and the activities implemented in the Access to Justice programme and by the GS. For example, the identified weaknesses in the EU governance profile indicated that Zambia faced challenges with equal participation and representation of women in the society; prisoners' rights are weak; justice institutions various inefficiencies, Zambia had yet to ratify many international protocols, amongst other weaknesses (Government of Zambia & European Commission, 2008). Thus, there was a need for the programme to address these and other challenges.

The EU's development cooperation follows a human rights-based approach (European Union, 2012, p. 5), which 'strengthens its efforts to assist partner countries in implementing their international human rights obligations' according to the European Union (2012, p. 5). As outlined by the European Union (2012), human rights in this framework refer to 'promoting the rights of women, children, minorities and displaced persons; opposing the death penalty, torture, human trafficking and discrimination; defending civil, political, economic, social and cultural rights and defending the universal and indivisible nature of human rights through full and active partnership with partner countries, international and regional organisations, and groups and associations at all levels of society' (p. 5). The EU promoted all these aspects in Zambia through the development cooperation. Looking at the human rights weaknesses of Zambia and the EU's human rights approach, the priorities were harmonised, but not completely contextualised.

Based on the implemented activities, access to justice for women, children and improving the situation for prisoners not only in terms of the prisons, but also with the court system were all addressed and continue to be tackled, explained D. Chikalanga (personal communication, April 22, 2015) and V. Hampondela (personal communication, April 15, 2015). In addition to improving the effectiveness of five-justice institutions in Zambia, the programme also addressed the promotion and improvement of women and children rights as explained by M. Tmava (personal communication, April 15, 2015) and V. Hampondela (personal communication, April 15, 2015). Specifically, through this programme, activities like improving case flow management; parole system, CCCI and child justice reforms are being implemented (V. Hampondela, personal communication, April 15, 2015).

As pointed out, the programme is under the GS, which is active in implementing these and various activities. To reiterate, the Constitutional Review Process, Legal and Justice Reform, monitoring of Governance, APRM, Continuous Voter Registration, improvement of Public Financial Management, Integrated Financial Management Information System, establishment

of Constituency Offices and Social Cash Transfer Schemes are addressed in the programme and by the GS (V. Hampondela, personal communication, April 15, 2015). What is argued is the activities and implemented reforms were socially, culturally and economically fitting; thus the Zambian Government and GS implemented them through this programme.

### **Socially Inappropriate Reforms**

T. Chihana (personal communication, April 28, 2015, para. 56), however, indicated that the EU forced specific human rights components onto the programme and GS. The findings suggest that GIZ and EU negotiated and imposed specific human rights components, but the GS refused. The Zambian society may need more time for some issues. As a result, under the Access to Justice programme, the NAO did resist and clearly stated that they were not ready to implement or that it was un-Zambian or due to cultural issues (Chihana, personal communication, April 28, 2015, para. 56).

Reforming the rights of the LGBTI community falls under the Access to Justice programme, the Ministry of Justice and Ministry of Gender and Development. Addressing these rights also falls under responsibilities of the Human Rights Commission of Zambia (HRCZ) as well as other justice institutions in Zambia. Moreover, various groups are represented in the Access to Justice programme except for the LGBTI community, whom the Zambian Government does not recognise (Van Klinken, 2017). Addressing this in the programme was denied, and to date, the programme has not addressed this. This can be explained by the following. As mentioned, engaging in same-sex relations is against the law in Zambia as stated in the Constitution of Zambia (2016).

Furthermore, Zambian officials contested the LGBTI and their rights at a higher level within the government. What does existing literature say about such an observation? Bunce (1981) pointed to difficulties in transferring ideas or policy irrespective of its merit or how many other countries are pursuing it if crucial members of a government reject the ideas and policy. As reported, Frederick Chiluba and Edgar Lungu spoke out strongly against reforming the rights of the LGBTI. As a result, they set boundaries of unacceptable policy (Dolowitz, 2000, p. 17) thus making it impossible to transfer (Bunce, 1981) or even openly discussing in Zambia.

### **6.3. Summary**

This chapter analysed mechanisms through which GS adopted and implemented prescribed judicial and law enforcement reforms. I found that conditionalities were useful because reforms were attached, as conditionalities in the programme. Most reforms were not new to the GS but financial and administrative management systems were new and based on GIZ and EU standards. These were adopted because they were a prerequisite to receive funding.

GIZ ensured that GS incorporated or used these systems. Nevertheless, these only influenced the programme because GS uses systems similar to Ministry of Justice and MoFNP. Harmonising these to existing systems was a challenge.

Incentives like technical assistance and capacity building discussed under multileveling contributed to the implementation of reforms. Multileveling was effective. The GS acknowledged the importance of policy transfer entrepreneurs and were relied on to implement the activities of the programme. I did not find a case of any direct or indirect promotion of EU reforms by policy transfer entrepreneurs to the GS and Zambian Government. The table below summarises the mechanisms, factors and extent of the adoption and non-transfer for the judicial and law enforcement reforms.

**Table 11: Judicial Reforms: Mechanisms, Factors and Degrees of Adoption Overview**

<b>Mechanisms</b>	<b>Factors</b>	<b>Degrees</b>
1. Conditionalities (Agreements, Application process)	1. Ownership and Inclusion	1. Harmonisation
2. Incentives (Technical Assistance and Capacity Building)	2. Social Appropriateness	2. Contestation
3. Multileveling (Grant Application Process, Technical Assistance and Capacity Building)		3. Reluctance

Note: A summary of the mechanisms through which the GS adopted, implemented and rejected the transferred human rights and judicial and law enforcement reforms; the factors present within these mechanisms and the extent the adoption.

Factors present in these mechanisms were ownership and inclusion, and social appropriateness of reforms promoted. In comparison to the Support to the Electoral Cycle Management project, implementing the Access to Justice programme was not easy. The EU and GIZ priorities were contextualised and cohered to those of the GS and Zambian Government. However, during implementation, there was a lack of ownership and inclusion in the financial management and implementation. For the GS, GIZ was over controlling with finances and decision-making was one-sided. Most policies were appropriate and harmonised, while financial and administrative management systems were copied into the programme practices and arrangements. However, EU imposed LGBTI rights, these were contested, this policy remained unchanged, GS did not address the rights in the programme.

All in all, the chapter showed that the GS was an active agent as it did not accept and implement all proposed reforms, despite the positive and negative conditionalities. GS selected and picked elements that fitted the pre-existing normative and institutional structure. Despite the GS implementing most reforms, the less inclusive approach led to challenges during the implementation process amongst the actors.

## 7. Key Findings and Outlook

I set out to explore and explain the interactions between the EU and Zambian national institutions during the policy implementation process from the policy recipients' perspective. Interpreting and clarifying these interactions was motivated by gaps within existing literature on the implementation of transferred policies from the perspective of the developing countries and the limitations in the EU development cooperation. I highlighted the gaps in chapters one and two. To address these gaps and achieve the research purpose, the findings of this study provided answers to the following primary research question: *how and why does the Zambian government implement EU electoral process and judicial reform measures in a selective manner?* I answered this question step-by-step by responding to the following sub questions: through which mechanisms are reforms implemented? What factors facilitate or hinder the implementation process? How can the degree of adoption and non-transfer be described? Discussing the typology on the degrees of adoption and non-transfer was exploratory and served cognitive purposes that allowed me to describe and differentiate the extent of policy implementation, adoption and non-transfer.

I used insights from the policy transfer and adoption framework underpinned by social constructivism to analyse and discuss the findings. Adoption referred to a process through which the Zambian Government and national institutions internalise EU governance reforms into the development and implementation of programmes, national institutions or policies by copying, harmonising, contextualising, using in combination or used as inspiration (Dolowitz, 2003; Dolowitz & Marsh, 2000). Because I adopt a social constructivist perspective (presented in chapter two), I consider the transfer and adoption process as a multiply scaled, power-laden, relational and emergent social process in this study (McCann and Ward, 2012, p. 328). Through the theoretical framework, I accounted for the various actors, policies, mechanism and degrees of adoption and provided a framework to explain how adoption can still result into non-transfer of reforms.

Apart from analysing the adoption process at the Zambia-EU level (international), I also scrutinized two case studies through which the ECZ and GS, adopted electoral processes and, judicial and law enforcement reforms, to achieve the purpose of the study. The period of analysis is between 2006 and 2016. I used qualitative methods and relied on data compiled from document review and semi-structured interviews with Zambian civil servants, bureaucrats, policy analysts, practitioners, academics, civil society, EU officials (in Brussels and Zambia), ACP Secretariat officials and European based researchers. A qualitative content analysis approach was used to analyse and interpret this data.

In this final chapter, I summarise the key findings and describe the theoretical and empirical contributions of this study to existing literature, future literature, development programmes and the Zambia and EU partnership. Finally, I also outline the future outlook for research.

## 7.1. A Synthesis of the Key Findings

This subchapter summarises the findings on the mechanisms used to adopt the reforms, the factors in these mechanisms that contributed to the adoption and implementation of the reforms and simultaneously explain the extent of adoption and non-transfer. The findings are summarised in the table below and discussed thereafter.

**Table 12: Overview of Mechanisms, Factors and Extent of Adoption and Non-Transfer**

	Zambia-EU Level	ECZ	GS
<b>Mechanisms</b>	<ul style="list-style-type: none"> <li>• Conditionality</li> <li>• Incentives</li> </ul>	<ul style="list-style-type: none"> <li>• Conditionality</li> <li>• Incentives</li> <li>• Multileveling</li> </ul>	<ul style="list-style-type: none"> <li>• Conditionality</li> <li>• Incentives</li> <li>• Multileveling</li> </ul>
<b>Enabling Factors</b>	<ul style="list-style-type: none"> <li>• Financial and Trade Benefits</li> <li>• Social Appropriateness</li> <li>• Political Will</li> <li>• Alignment</li> </ul>	<ul style="list-style-type: none"> <li>• Ownership and Inclusion</li> <li>• Alignment</li> <li>• Social Appropriateness</li> <li>• Nature of Partnership</li> </ul>	<ul style="list-style-type: none"> <li>• Ownership and Inclusion</li> <li>• Social Appropriateness</li> </ul>
<b>Constraining Factors</b>	<ul style="list-style-type: none"> <li>• Social Inappropriateness</li> <li>• Financial Resources</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of Financial and Human Resources</li> <li>• Lack of Decentralisation</li> </ul>	<ul style="list-style-type: none"> <li>• Social Inappropriateness</li> <li>• Lack of Decentralisation</li> <li>• Lack of Political Will</li> <li>• Exclusion and Nature of Partnership</li> </ul>
<b>Degrees of Adoption</b>	<ul style="list-style-type: none"> <li>• Harmonisation, Resistance and Contestation</li> </ul>	<ul style="list-style-type: none"> <li>• Emulation, Copying and Harmonisation</li> </ul>	<ul style="list-style-type: none"> <li>• Harmonisation, Non-Transfer</li> </ul>
<b>Proposed 'New' EU Reforms implemented or opposed</b>	<ul style="list-style-type: none"> <li>• LGBTI</li> </ul>	<ul style="list-style-type: none"> <li>• Financial and Administrative Management Systems</li> <li>• Electoral Cycle Approach</li> </ul>	<ul style="list-style-type: none"> <li>• Financial and Administrative Management Systems</li> <li>• LGBTI</li> </ul>

Note: The table summarises the mechanisms, factors and degrees of adoption and non-transfer. Because the Zambian Government opposed various reforms, there were a few new reforms proposed by the EU, which were resisted and contested. Source: Own compilation.

### 7.1.1. Mechanisms Facilitating Adoption and Implementation

The findings to the first sub-question on the mechanisms used to adopt and implement the reforms are summarised here. For this study, I selected and analysed five mechanisms (conditionality, incentives, policy transfer entrepreneurs, multileveling and lesson drawing). These mechanisms can be categorised under the three policy transfer and adoption framework mechanisms (coercion, voluntary and lesson drawing). I deduced the five mechanisms from revised literature and the EU's methods of development aid delivery and implementation in Zambia. The findings indicated that conditionality, incentives and multileveling were most effective in ensuring the enforcement of EU governance reforms at the Zambia-EU level and in both programmes, with one exception. GIZ facilitated and

legitimised the implementation but at the same time, the approach of GIZ and EU resulted in challenges during implementation. This is explained under multileveling.

#### **7.1.1.1. Conditionalities**

The research findings reinforced the premise that the Zambian Government and national institutions negotiate governance reforms in the form of conditionalities into the EU-Zambia agreements thereby facilitating the adoption and implementation of the several governance reforms. The findings indicated that the EU governance reforms were attached as conditionalities in (i) agreements (ii) EU's governance approach (EDF rounds and respective CSP and NIP) and, (iii) application process for funding. The findings are briefly summarised.

##### **(i) Agreements**

Human rights, democracy and the rule of law were attached to trade agreements as a clause and the Cotonou Agreement, which frames the Zambia and EU partnership. The Zambian Government therefore involuntarily adopted these policies. The Cotonou Agreement frames the trade agreements, thus trade agreements have similar clauses. Countries that fail to adhere to these face suspended development cooperation or trade agreements are impacted negatively. As a result, trade agreements led the Zambian Government to accept policies attached at the Zambia-EU level. Furthermore, Zambia is also a signatory of the EBA, which includes a human rights clause to ensure that Zambia and other members adopt human rights in their programming and institutions. Those that violate human and labour rights can be stripped of EBA preferences (European Union, 2012, Chapter V, Article 19, p. 10, Holland, 2002). In other words, 'access to the worlds largest internal market' was a powerful tool to induce adoption of EU reforms (Björkdahl, 2015, p. 249).

##### **(ii) EU Governance Approach, EDF Rounds and CSP and NIP**

The EU's governance approach proposed and prescribed nine governance areas for reform in return for increased funding. The nine governance areas were adopted when Zambia went through the ECGIT process as commitments were made to reform the areas. The reforms were negotiated into programmes and outlined in the CSP and NIP of the 10<sup>th</sup> and 11<sup>th</sup> EDF rounds. For going through the process and Zambia making commitments, the government received a tranche but this financial reward was insignificant (European Commission, 2009). Amongst the governance areas committed to was electoral process, human rights and judicial and law enforcement reforms. This study analysed the internalisation of these reforms in the two cases at the domestic level.

### **(iii) Application Process and Further Disbursements**

Conditionalities were attached to the grant application process. To receive funding, the ECZ and GS went through an application process with governance related issues attached. The standard conditions in the application process and application for further disbursements include financial and administrative management systems, governance and human rights. GIZ and UNDP ensured that the financial and administrative management processes were in place and the respective governance areas were adhered to before the ECZ and GS could access further funding. If the ECZ and GS did not adhere to the preconditions, funding to these national institutions could be halted or lost.

By adopting these conditions, there were changes to the financial and administrative management systems of the programmes. In the Support to the Electoral Cycle Management project, the project and ECZ management systems were influenced because of the restructuring of the ECT during the implementation of the project (B. Kasaro, personal communication, April 27, 2015). In the Access to Justice programme, D. Chikalanga noted that the influence was limited to the programme because GIZ conducted the financial management of the programme, the financial and administrative management processes were not compatible with GS systems, thus not implemented in the institution (personal communication, April 22, 2015).

#### **7.1.1.2. Incentives and Benefits**

The Zambian Government and respective national institutions voluntarily accept and implement EU governance areas due to financial and trade incentives. In the two cases, the Zambian Government accepted electoral and judicial and law enforcement reforms in return for rewards such as financial, trade and technical assistance and capacity building at the Zambia-EU level and domestic level. Financial and trade benefits played a significant role at the Zambia-EU level during negotiations of agreements. At the domestic level or during implementation, financial resources to be able to enforce its activities, technical assistance and capacity building was an additional reward that was conducted through UNDP and GIZ. The funding from the EU was therefore voluntarily accepted. The role of incentives suggests that the Zambian Government assessed the benefits of accepting and implementing the governance reforms (Schimmelfennig & Sedelmeier, 2004, p. 671). The voluntary aspect of incentives also reflects a horizontal and participatory communication. However, this aspect is not as voluntary because the Zambian Government adopted the specific governance reforms in return for incentives. For instance, accepting human rights reforms to access EU markets or increased development cooperation.

### **7.1.1.3. Policy Transfer Entrepreneurs**

In the two cases, there was no indication that policy transfer entrepreneurs directly legitimised EU reforms and enabled the adoption of these reforms by the Zambian Government and national institutions. This limited role of policy transfer entrepreneurs in the two cases was unexpected considering that the Zambian Government acknowledged the critical role that policy transfer entrepreneurs play in achieving the nations development goals (Government of Zambia, 2006a, 2006b). Policy transfer entrepreneurs can transfer policy by taking control of the knowledge production, and in this process, they can guide decision-maker learning (Dunlop, 2009, p. 290; Stone, 2012, p. 488).

The role of the policy transfer entrepreneurs to legitimise and facilitate the adoption of EU reforms was hampered by their advocacy role, interaction with domestic and international actors, criticising the government and financial limits, which result in the relying on donors (M. Mutupa, personal communication, April 23, 2015, para. 22; Dr. N. Simutanyi, personal communication, April 24, 2015, para. 13; personal communication, April 29, 2015, para. 19). Furthermore, because policy transfer entrepreneurs change their programmes to suit the needs of the donors, they may accept and advocate for policies considered incompatible or 'western' by the Zambian Government, thereby delegitimising specific policies instead of legitimising them (Acharya, 2004, pp. 269-270). The Zambian Government is debating introducing a revised NGO act to monitor policy transfer entrepreneurs, thus limiting their role further. Policy transfer entrepreneurs were only crucial in achieving some objectives and activities. For example, they were credited for ensuring the success of the 2011 elections, according to G. Lungu (personal communication, April 16, 2015), as the elections saw a high turnout of voters due to the work of the NGOs in voter education.

### **7.1.1.4. Multilevelling**

National institutions implemented projects and programmes through development agencies such as GIZ and UNDP because the EU outsources the implementation of development programmes in partner countries to such agencies (C. Kaunda-Zambezi, personal communication, April 15, 2015, February 10, 2016; M. Perino, personal communication, April 15, 2015; M. Tmava, personal communication, April 15, 2015). The EU outsourced the implementation of the Electoral Cycle Management to UNDP and implementation of the Access to Justice programme to GIZ.

The findings are in support of the premise that development agencies legitimise EU reforms and thus facilitate the adoption and implementation of EU policies at the domestic level. The Zambian Government and national institutions adopted and implemented the governance reforms through multileveling due to the EC-UNDP electoral assistance project through

which a standardised and international model towards managing elections and is implemented in various countries worldwide (ACE the Electoral Knowledge Network, 1998; Bargiacchi et al. 2011; Government of Zambia & UNDP, 2009; UNDP, 2017); Ownership and inclusion during the initiation and implementation of the programme; GIZ and UNDP ensured that the GS and ECZ fulfilled the agreement requirements; and GIZ and UNDP used technical assistance and capacity building as rewards and instruments through which electoral and judicial and law enforcement reforms were internalised in the two cases.

All in all, GIZ and UNDP reinforced the EU's influence during the implementation stage of the transferred reforms. To this observation, Lavenex (2015) concluded that EU is actively mobilising other IOs and international rules in the promotion of its internal policies. The findings suggest that UNDP and GIZ act as subcontractors for the EU as they complement EU policies. Categorising these two as counterweights would imply that they criticise, correct or balance the political orientation of the EU (Pécoud, 2018, p. 1629), which was not the case. For instance, Lavenex (2016, p. 555) found that IOs act as counterweights, seeking to complement and correct EU policies where they perceive deficiencies concerning their migration policy mandate in the case of United Nations High Commissioner for Refugees and International Organisation for Migration.

In this case study, UNDP, GIZ and EU complement each other by sharing scarce resources, as GIZ and UNDP also provide financial resources, in order to achieve collective and individual goals. UNDP and GIZ act as subcontractors, whereby the EU outsources the implementation of related projects to these agencies, and through this, they legitimise, transfer and influence Zambian national institutions. Similarly, Lavenex (2016, p. 555) found that IOs do act as subcontractors, whereby the EU outsources the implementation of projects to these organisations and through this, they transmit and diffuse EU policies.

#### **7.1.1.5. Lesson Drawing**

There were elements of learning, but simple lesson drawing was absent, incentives and conditionalities played a big role in the adoption and implementation process. The GS, under the Access to Justice programme, participated in a learning tour to Uganda. However, little came out of this learning tour. The learning tour took place when Danida was still funding the programme in 2011. At the same time, the findings suggested that knowledge was also transferred to UNDP and EU according to C. Kaunda-Zambezi (personal communication, February 10, 2016, para. 24). C. Kaunda-Zambezi (personal communication, February 10, 2016, para. 24) further explained that the ECZ provided knowledge regarding lessons learned to inform UNDP and EU programming going forward or how programmes are developed, designed and implemented by the government. In both cases, there were

elements of learning, and there was inspiration (and copying in the case of the ECZ) from the past, from the EU and Uganda, but there was no pure case of lesson drawing that is, voluntarily taking up policies without persuasion or motivation from the EU or external actors.

### **General Conclusions**

The following general conclusions are made on the mechanisms facilitating adoption and implementation of reforms. First, Carbone (2010, p. 23) argued that the EU pursues its interests in its good governance promotion. Based on the actual policies transferred and implemented through the mechanisms they are in the interest of the Zambian citizens and the EU. Zambia identified these as weaknesses and had projects or programmes in place long before the EU came with its governance approach. The EU's governance approach and ECGIT resulted in the harmonisation of Zambian Government priorities to those of the EU because Zambia already identified electoral process and, judicial and law enforcement reforms as challenges in various policy documents such as Vision 2030 and FNDP (Government of Zambia, 2006a, 2006b).

The EU brought nothing new as the Zambian Government already identified the weaknesses and had plans to address these weaknesses. There are two exceptions though: the Electoral Cycle Approach implemented through the EU-UNDP electoral assistance project, which was mimicked and the rights of the LGBTI, which were opposed by high-ranking government officials. Second, the findings indicated that the EU's asymmetric practice continues to exist because conditionalities are a prominent feature of the EU's partnership agreements and during the implementation of programmes. Thus the EU governance approach is nothing 'new', it is similar to previous conditionality approaches. A report by Concord (2006) also argued that the approach and instrument was a 'clear attempt by the European Union to push new conditionalities on partner countries'.

#### **7.1.2. Factors and Degrees of adoption and Non-transfer**

Essential insights into the Zambian civil servants and bureaucrats adopting or opposing EU policies during implementation were revealed in the empirical findings, thus answering two sub-questions: what factors facilitate or hinder the implementation process? Moreover, how can the degree of adoption and non-transfer be described? The findings established that despite the asymmetric relations, the ECZ and GS are not passive actors in their interactions with all other actors. The ECZ and GS determined whether to adopt or deepen EU prescribed electoral and, judicial and law enforcement reforms. Both national institutions contextualised copied and harmonised policies or rejected some. The factors aiding and limiting adoption and implementation are summarised as follows.

First, the level of ownership, inclusion and alignment facilitated or restricted the adoption and implementation of the respective governance reform. Leiderer (2015, p. 1440) supported this finding in his study on the implementation of the Paris Declaration/Accra Agenda in Zambia. Leiderer (2015) found that ownership and alignment assisted in empowering the Zambian government to formulate and implement effective health and basic education policies and produce significant development results (p. 1440).

Looking at the communication on 'Governance in the European Consensus on Development: Towards a harmonised approach within the European Union', the EU acknowledged that it cannot impose governance reforms from outside, instead, ownership by the partner country during the reform process should be respected (European Commission, 2006b, p. 7). By using conditionalities, the EU contradicts itself as it set governance as a conditionality to receiving development cooperation and attached in trade agreements. Considering the nature of the EU's conditionalities, inclusion and ownership was absent. However, during implementation, the UNDP used an approach that ensured ownership and inclusion of the project from inception to implementation. In the Access to Justice programme, GIZ took a central role in the financial and administrative management of the programme, leaving the GS officials to argue that there was mistrust and lack of ownership in the programme (D. Chikalanga, personal communication, April 22, 2015; V. Hampondela, personal communication, April 15, 2015).

Second, the Zambian Government did not implement policies that went against the Zambian ideology, normative stance and cultural beliefs, or were considered inappropriate for the Zambian society, even if they were conditionalities. The ECZ and GS most likely implemented policies that followed the logic of appropriateness (March & Olsen, 1998). Most electoral and judicial and law enforcement reforms were considered socially appropriate. For instance, strengthening the electoral process was not only a necessity for Zambia, but it is also an international policy and standard and thus considered appropriate by the Zambian Government. Specifically, under the UNDP-EU election assistance programme, the Electoral Cycle Approach was applied in many African countries, thus gaining legitimacy. As justified by Hopkins and McNeil (2015), developing countries are, therefore 'likely to become a party to these rules if they resonate with their existing standards and the system is receptive to the ideas being promulgated' (p. 126).

The reform of the rights of the LGBTI proposed by the EU were resisted and contested, therefore not transferred. From a social constructivist perspective, there was a mismatch between the EU policy and those of Zambia, resulting in contestation, as there is a difference in the beliefs and meanings embodied in the understanding of human rights. In other words,

this policy failed to cohere and did not become part of Zambia's normative context, institutions and practices (Björkdahl et al. 2015, p. 253). This finding nonetheless supports Acharya's (2004, p. 258) argument that norms are most likely adopted if they are congruent with the pre-existing local normative order.

Third, a lack of political will contributed to policies not being implemented. Lack of political will was prominent at the Zambia-EU level. Political will was lacking in the abolishment of the death penalty. The EU is known for promoting the abolishment of the death penalty. Zambian presidents have openly stated their view on the death penalty; however, the Zambian Government still included the death penalty in the 2016 Zambia amended Constitution (Constitution of Zambia, 2016). There is some political will to abolish the death sentence, but there is hesitation or a lack of initiative to legally abolish the death sentence.

Fourth, the nature of the partnership between ECZ and EU and ECZ and UNDP as well as between GS and EZU and GS and GIZ are crucial for the adoption and implementation process. The research findings suggested that UNDP is a trusted partner of the ECZ and many other Zambian Governmental institutions (C. Kaunda-Zambezi, personal communication, February 10, 2016, para. 22). UNDP's programme implementation approach played a crucial role in the adoption and implementation process of electoral reforms. UNDP used the NEX approach, which ensures that ownership is critical and that UNDP and EU includes the local partners in the whole project design and implementation process. In contrast to the Support to the Electoral Cycle Management project, the effectiveness of multileveling in the Access to Justice programme was moderate.

The findings showed that some factors present in the adoption and implementation of the electoral process lacked in the adoption and implementation of judicial and law enforcement reforms. The partnership between GS and GIZ seemed uneasy at times because GIZ excluded GS in the financial management and other aspects of the decision-making process (D. Chikalanga, personal communication, April 22, 2015). There was also some pressure on the types of activities to introduce and how national institution could implement these in the programmes. Although the Zambian Government and EU share the value in judicial and law enforcement, the GS and Zambian society are not ready to reform certain human rights. Cramer et al. (2006, p. 419) explained the role of shared value by stating that with a lack of shared value in a policy, there would be no or little public support, shared values such as the commitment to reducing poverty has gained prominence in development cooperation due to the shared value by all actors involved for instance (Cramer et al. 2006).

Answering these sub-questions contributed towards explaining the main research question how and why does the Zambian government implement EU electoral process and judicial reform measures in a selective manner? The Zambian Government and national institutions mainly adopted and implemented EU governance reforms through conditionalities, incentives and multileveling. The inherent factors in these mechanisms were ownership and inclusion, incentives (trade, financial, technical assistance and capacity building), alignment, and the lack of financial and technical resources. These factors emphasised and illustrated that the Zambian Government and national institutions are not passive actors. Furthermore, the Zambian government and national institutions copied and harmonised some priorities and reforms, but they resisted others. The findings thus indicated that the EU is not a main source changes in the partner country and especially at the domestic level (Bulmer & Burch, 2005; Radaelli & Pasquier, 2006).

Through this analysis, I was able to argue that, the policy adoption and implementation process is not self-perpetuating as recipients of policy are not passive actors. While the EU transfers policies, the developing country and locals can decide to either internalise the reforms into the programmes and national institutions or oppose them based on contextual and implementation factors present in the adoption mechanisms. Thus, positive and negative conditionalities do not guarantee that the Zambian Government and national institutions reform the governance areas they committed themselves. Through this, I was beyond claiming that transfer from the EU to the Z Zambian Government occurred and that the Zambian Government adopted the policies, but explored implementation of transferred policies at the domestic level as well.

## **7.2. Theoretical and Empirical Contributions**

By conducting this research, I advance the debate on policy adoption and implementation of EU governance areas in developing countries through this study's theoretical and empirical contributions. These contributions are outlined next.

### **7.2.1. Theoretical Contributions**

First, the main theoretical contribution to the existing and future literature in IR studies is indicating how an existing interactive framework such as the policy transfer and adoption framework can adequately explain how a developing country adopts and implements (or not) EU transferred policies and the necessary factors, which developing countries consider to adopt or oppose the transferred reforms. To achieve this, this study adopted a social constructivist perspective to the policy transfer and adoption framework. Scholars have studied policy transfer from various perspectives, but few studies attempted to analyse it from a social constructivist perspective. Policy transfer explains the processes of policy

change at any level, accounts for various actors, mechanisms and degrees of adoption and non-transfer while social constructivism helps explain the behaviour of Zambia and the EU in transferring and accepting reforms. Social constructivism allowed this study and the policy transfer and adoption framework to underline 'the fundamental social (practical, interpersonal and procedural) character of policy-making in general and in social practices of incentivising and persuasion that characterises the transfer' (McCann & Ward (2012, p. 326) and implementation processes of EU policy to Zambia.

By approaching policy transfer from a social constructivist perspective, I was able to reveal that implementation and influence are likely when the promoted governance reforms were per Zambia's normative framework and needs, the ECZ and GS took part in the decision making, management and implementation process of the programmes. The Zambian Government was able to resist the EU's structural and institutional power far beyond expectation in cases where the policies promoted did not fit the context of the country or where the EU did not include ownership and inclusion. There is therefore a limit to the EU's financial incentives and threats and in how far it can ensure that Zambia implements its demands and preferences. Although not studied here, these findings challenge the theory of the EU as a Normative Power.

I also achieved this first contribution towards existing and future literature in IR studies by strengthening the explanatory power of the policy transfer and adoption framework in the following ways. Analysing policy transfer from a social constructive perspective shows how interactive the policy transfer and adoption framework can be. The framework indicates the interactions between the EU and Zambian partners and how the governance reforms are translated, in other words, enforced at the domestic level by the Zambian actors. Furthermore, this study showed that failure to adopt also results from reluctance which can be identified through a lack of initiative, delaying and flip-flopping (hesitation) as well as a lack of responsiveness towards the demands made by others (recalcitrance) (Destradi, 2015). Reluctance was therefore included to the non-transfer typology.<sup>74</sup> Moreover, by adopting a social constructivist perspective, the policy transfer and adoption framework was able to better elaborate inappropriate transfer, which various existing literature have failed to fully accomplish. To further explain policy failure, particularly, non-transfer due to inappropriate transfers, I included contestation and resistance to the typology in this study.

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<sup>74</sup> The outcome of this policy transfer can be adoption or non-transfer. The policy transfer and adoption framework just includes uninformed, incomplete and inappropriate transfer (Dolowitz & Marsh, 2000).

Thus, I found that policy transfer and a social constructivist approach as a conceptual and theoretical worldview offers a plausible cooperative explanation for the adoption and implementation process involving EU and Zambia beyond what the conventional IR theories on the EU can do. This policy transfer and adoption framework and social constructivist perspective open new avenues as an alternative approach to localisation, socialisation, lesson drawing and other 'new' notions in the exploration of the developing countries in internalising policies. It has an overarching framework capable of explaining the dynamics of policy transfer, which is applicable across developing countries and local, national, regional and international levels.

Second, I offer some theoretical explanations by analysing the research from the Zambian actors perspective. This study took the perspective of the Zambian civil servants, bureaucrats, academics and practitioners to understand and explain how and why the Zambian Government implements EU electoral and judicial and law reforms selectively. The theoretical framework brings the agency role of these actors to the fore and; the empirical cases reflected this agency. For example, through conditionalities, Zambian national institutions adopted the prescribed reforms; however, the Zambian Government and national institutions contested those reforms that were incompatible with the normative framework of Zambia. There was, therefore, logic of appropriateness (March & Olsen, 1998) and choice in the selection of policies adopted and implemented (Stone, 2012, p. 485). In other words, Zambian actors promoted the transfer of EU policy by actively selecting policies that were per 'their pre-constructed normative beliefs and practices' (Acharya, 2004, p. 269). These allowed me to explain the intentional and unintentional adoption and implementation of EU policies, thereby contributing to the policy transfer and internalisation literature, which tends to have a top-down perspective and assumptions that all transferred reforms are adopted. As indicated in chapters one and two, few existing studies adopt a policy recipient's perspective.

Third, this theoretical framework complements the localisation framework and simultaneously offers itself as an alternative to localisation. Localisation focuses on the 'selection, borrowing and modification in accordance with a pre-existing normative framework to build congruence between that and emerging global norms' (Acharya, 2004, p. 269) by local actors. As indicated in chapter two, localisation is a capable framework, but not used in this study because it only focuses on local actors and is heavily rooted in constructivism. Dolowitz and Marsh (1996; 2000) developed the policy transfer and adoption framework in an institutionalist perspective; thereby offering institutionalist accounts and explanations for how and why policy recipients accept and implement EU transferred policies. Additionally, localisation considers all international norms as useful and desirable and each outcome 'between rejection and adoption' is typified as localisation (Zimmermann, 2016, p. 105).

This study does not look into the interpretation of norms during their transfer nor does the theoretical framework employed consider all policies promoted and prescribed as 'good and desirable'. In this study, I am interested in how and why the policies are adopted and implemented at the domestic level, not the modification of policies during this process. In addition, there were reforms that the Zambian Government already rejected at the Zambia-EU level and this resistance and contestation continued at the domestic level, thus leading to failure to transfer. In other words, these policies stayed the same. Furthermore, the theoretical framework used in this study distinguishes transfer and non-transfer, adoption and non-adoption and implementation from non-implementation. The point that I make here is, if a policy is not adopted nor reconstructed into local practices, the EU has not succeeded in transferring the policy at the domestic level.

Finally, I highlighted some factors leading to the implementation of policies at the domestic level. Seeing that the approach taken in this study is very similar to the localisation framework and the limited conditions that make localisation probable (2016, p. 105), this study contends that similar conditions can be applied in the localisation framework, thereby expanding onto the explanatory power of localisation. For instance, Acharya (2004) discussed three conditions: 'if the norm takers come to believe that the new external norms could enhance the legitimacy and authority of the local actors; strength of the prior local norms; availability of credible local actors with sufficient influence to match the norm exporter' (p. 248). This study proposes ownership, political will and transaction cost of institutional adjustments, amongst other factors, as further factors during the localisation of policies. By studying factors relevant for adoption and implementation, the approach employed in this study bridges the gap about how and why certain factors bring certain types of adoption and implementation outcomes (Zimmermann, 2016, p. 111) and some do not.

To conclude this section, the usefulness of the employed theoretical framework in this study to explain Zambian national institutions adoption and implementation of EU policy suggest that the policy transfer and social constructivist perspective are conceptually and theoretically appropriate and relevant in the field of EU-Zambia relations, IR and political science in general. Furthermore, it can provide guidance in framing research questions and how to pursue these questions empirically, as opposed to what Page (2000) criticised. Page (2000) argued that the framework lacks an appropriate theoretical perspective and methodology for studying policy processes and thus not able to frame research questions or how to pursue these questions empirically.

### **7.2.2. Empirical Contributions**

Empirical contributions of this study to existing and future literature in IR studies are as follows. First, material factors were not the driving force for adopting and implementing policies in both case studies. The cases indicated that factors such as ownership and inclusion, alignment, trade benefits, nature of the partnership/trusted partnership and political will seemed to be motivating factors for internalising reforms. Similarly, in the study on the accession of Bulgaria and Romania, Spendzharova (2003) found that benefits on EU members drove domestic elites to accept the norms. However, this study showed that despite the dependence on development aid, developing countries could still reject specific policies. Specifically, national institutions will not implement those considered socially inappropriate and those that require high fiscal restraints (Benson & Jordan, 2011; De Jong, 2009; Dolowitz, 2000, p. 27), to be exact, the transaction costs of institutional adjustment (Benson & Jordan, 2011). The case of the Support to the Electoral Cycle Management project indicated that the Zambian Government and ECZ could not ensure implementation of the new ECZ structure due to a lack of financial and human resources. All in all, the empirical question contributes to understanding why and how certain policy adoption and implementation occur in one context and not another (Benson & Jordan, 2011).

By identifying the factors, the results showed that the EU financially incentivising the Zambian Government is not necessary. Lack of resources and willingness to improve the economic, political and social situation in the country is alone incentive and motivation enough for the Zambian Government to reform governance. Besides this, the additional financial rewards in the form of the ECGIT were very low to motivate a country to implement reforms. Furthermore, conditionalities and financial encouragement from the EU are not always necessary and useful as they are dependent on the types of policies prescribed. As a consequence, I indicate that the policy adoption and implementation process is not always smooth, uncontested and automatic (see Björkdahl & Elgström, 2015, p. 134).

EU policy transfer and adoption by the Zambian Government is not a straightforward import-export metaphor (McCann & Ward, 2012, p. 327). Support to the Electoral Cycle Management project case indicated that the process could be smooth and uncontested if ownership, inclusion, appropriateness of the policy and initiative to reform are present during the implementation of the reforms. In contrast, the Access to Justice programme showed how the absence of most of these factors led to difficulties during implementation and impacted the partnership. Thus, this study contributed to the deficit in the documentation of transplantation; specifically, it contributed to success stories as well as providing an example of imperfect, incomplete and partial internalisation of policies (Stone, 2012, p. 488).

Second, scholars have not studied the transfer of policies to ACP countries through the EU governance approach to its entirety. The findings contribute to the understanding of EC's agenda, instruments and the implementation of these in Zambia. Such findings contribute to the practitioners and policy analysts understanding of the EU's instruments, norms, and policies promoted in the name of good governance and the role they play in policies and or policy-making in developing countries such as Zambia. I focus on the implementation of the EU's governance approach introduced in 2006 and pursued since. The ECGIT was introduced as an instrument to implement this approach. Based on the study findings, the ECGIT is not much different from old approaches because it does not take some essential principles of aid effectiveness into account (Molenaers & Nijs, 2008). In particular, ownership was lacking because the Zambian Government was not involved in the crucial steps of the process, i.e. drafting of the governance profile. The research findings also point to the lack of social and cultural filter in the programme implementation process.

Nonetheless, the findings suggested that the ECGIT was useful in harmonising the goals of the EU to the weaknesses and commitments in the respective countries. Most of the promoted reforms appear to be in the interest of Zambia and the EU seeing that most were contextualised, copied and harmonised as opposed to what Carbone (2010) and Molenaers and Nijs (2010) argued. Those that Zambia considered inappropriate were of course not implemented. Harmonisation was achieved because the Zambian Government based some commitments on previously identified solutions such as those stated in the FNDP and Vision 2030, some of which were in the end not followed through.

The ECGIT in Zambia was therefore a mechanism for promoting governance, good governance and democratic governance (Del Biondo & Orbie, 2014) and did not result in actual reforms as intended. Additionally, Zambia did not implement all the reforms as indicated. Nonetheless, the EU did come with its idea and model of governance, which in turn defined what governance, should look like (Björkdahl et al. 2015) Zambia and pushed further conditionalities (Concord, 2006) onto Zambia.

Third, studying the EU development cooperation instrument contributes to existing aid industry literature by underlining what EU development cooperation fails to do and what it could do better. I indicated that the EU could align the EU development cooperation better and ensure that development partners take ownership. Furthermore, development cooperation can succeed if the political, institutional, social and cultural factors are seriously taken into consideration and planned. Due to a lack of planning of some of these factors into the programmes, in particular, social appropriateness of reforms, institutional capacities

(decentralisation), sustainability and political will, the programmes faced challenges not only during implementation but also at the international level.

Fourth, I identified wide-ranging influences that affected programmes and Zambia's national institutions during implementation. The influence included that of the EU, the development agencies (and their similar approaches), politics, social and institutional factors as well as other actors such as the policy transfer entrepreneurs who are crucial during the implementation of the programmes. As a result, this study also contributes to the literature on the dynamics between NGOs and the government and the use of development agencies by international donors in legitimising and facilitating the transfer and adoption of policies.

### **7.3. General Contributions**

This study highlights other issues, which contribute to the improvement of EU development cooperation in Zambia as well as the political, institutional, economic and social challenges. Firstly, policy transfer entrepreneurs play a critical role. However, the Zambian Government at times limits their capacity and work. I thus highlight the need for the Zambian Government to reconsider the strict and oppressive aspects of the NGO act. Policy transfer entrepreneurs are crucial in achieving development goals, however, for as long as the Zambian Government considers them as agents of the international donors, their effectiveness is limited. The Zambian Government could introduce a revised and fair NGO Act considering that many NGOs are not against the regulation of NGOs, but they are against the aspects of the act that limit the NGOs from acquiring funding to conduct advocacy and administrative functions. The Zambian Government, policy transfer entrepreneurs and the EU could foster a better-regulated partnership, which can be based on for instance the JASZ considering that the JASZ accounts for Zambia and Cooperating Partners and Cooperating Partners and Non-State Actor partnerships, however, this should be the initiative of the government

Secondly, the research also shows that the Zambian Government should focus more on areas such as the redistribution of power and resources. According to Erdmann and Simutanyi (2003), even though multi-party politics became the new order in Zambia, the formal institutional set up is a continuation of the second regime, that is Dr. Kenneth Kaunda's unitary system, 'with its in-built elements and tendency towards authoritarianism' (p. 71). As a consequence, the continuation of the institutional set-up hampered the democratisation process in Zambia. Because the Zambian Government was still amending the Constitution, not much changed regarding the role and power of the president, Cabinet and parliament. As a consequence of this, development cooperation aimed at assisting institutions such as the ECZ and the electoral process could function better if the President's power was limited in elections and the rule of law improved in general. For instance,

internalising the Electoral Cycle Approach is relevant, however, when the ECZ lacks autonomy and authority or the President, and leading political parties could intimidate opposition parties or the media, the new structure and new Electoral Cycle Approach cannot be efficient and effective.

Third, it appears that there is a slight unspoken expectation from the Zambian Government's side that development cooperation will solve most of the country's problems and that development cooperation will continue indefinitely. The Zambian Government and the national institutions can question and plan for the sustainability of the programmes and institutions once EU or other donor funding ends. For instance, due to a lack of financial resources, the new ECZ structure was not in full operation at the time of writing. Furthermore, the Zambian Government funds the Access to Justice programme, however, the majority of the funding is from the EU and GIZ. The Zambian Government initiated the programme with Danida funding in 2000, and the funding came to an end in 2011. EU began funding the programme in 2011 and will most likely fund the programme until 2020. The point here is, for how long can international donors fund national programmes and national institutions? Especially since the government should finance and manage such programmes.

The added value of the two cases is that they indicate the extent to which the Zambian Government requires funding. The Zambian Government requires funding not only to implement and resolve complex institutional inefficiencies at high levels like the National Assembly of Zambia, but it also requires support at the lowest level. For instance, it includes introducing case flow management systems in the courts or introducing a parole system. Zambia has deep-rooted economic, institutional and political challenges, thus solving these problems will take time. The Zambian Government could seek alternative development paths to mitigate such challenges instead of the over reliance on development cooperation.

Fourthly, I also highlight issues, which could improve the delivery and implementation of EU development cooperation. For example, the implication of this study for the EU's development cooperation and policy-making include the EU changing its approach to a more recipient driven approach to achieve development cooperation goals. In other words, the EU could invest in a practice that supports empowering individuals working in governments to find solutions to the challenges they face (Andrews, Pritchett & Woolcock, 2017). As argued, national institutions at the domestic level play a crucial role in implementing policies. Thus, when the policy recipients, EU and development agencies do not consider ownership and inclusion and other factors at this level, policy implementation will not be as effective even with an approach like that of the Agenda for Change (European Commission, 2011; IAG & ECDPM, 2011) because of the element of conditionalities.

Fifthly, EU development aid in Zambia and the two cases are doing what development cooperation is supposed to be doing, 'assisting' in improving the efficiency and effectiveness of the domestic national institutions. This study highlights how in practice, there is an expectation from the EU that development cooperation will change the behaviour of the leaders and citizens in the promoted and prescribed areas. There is a need for development aid officials to overcome this expectation. As illustrated in this study, leaders will do what they want to do. This argument is also supported by Sen (1995) who explained that, 'people have to be seen [...] as being actively involved (given the opportunity) in shaping their own destiny and not just as passive recipients of fruits cunning development programs'. From this perspective, development relies on people's freedom to make decisions and advance key objectives. In other words, people themselves decide what kind of development they would like for themselves (Deneulin, 2009).

Sixthly, I show that the policies promoted and programmes implemented do not always fit the context of the country. On the one hand, in the case of the Electoral Cycle Management, reforming the electoral process was very relevant for Zambia and thus contextualised. On the other hand, the ECZ was restructured; however, this structure is not fully functional due to a lack of resources (financial and human resources). Besides this, Zambia is highly centralised making implementation of the new structure a challenge. Such limitations by the institution and the government can be considered during the initiation and project implementation to counter or find solutions to the challenges.

Furthermore, I demonstrated that by enforcing specific reforms and practices, which partners are not yet ready for could adversely impact the partnership and programme implementation. It would be efficient for the EU to discuss the proposed reforms as equals with partners to ensure the success of development programmes. The EU could focus on topics, which it knows best such as regional integration, government effectiveness, and social governance. Contested issues are very relevant, however; EU member countries also struggled with and continue to struggle with these and other issues.

#### **7.4. Future Research Outlook**

This study consequently paves the way for further research in four main areas. First, future research can consider medium N cases. This future research could analyse the implementation of EU transferred policies to offer a complete picture of the factors under which developing countries implement EU governance areas and the most effective mechanisms through which adoption occurs. For instance, future research could consider a cross-country comparative study on the mechanisms and factors under which developing

countries implemented the EC-IDEA Electoral Cycle Approach seeing that many developing countries implemented the approach.

Second, as seen in this study, the advocacy work of policy transfer entrepreneurs are limited by the Zambian Government. Seeing that the NGO act is still not in effect, this raises a question for future research: how effective could the Zambian Government be in restricting policy transfer entrepreneurs? Recently, a body of literature emerged examining the restrictions that civil society faces by governments. Research on how NGOs respond to state restrictions and how the partnerships between policy transfer entrepreneurs and government could be improved are interesting research areas for consideration.

Third, trade plays a critical role in the partnership between Zambia and EU, analysing the impact of trade deals on the EU's direction in programmes and the implementation is compelling but was beyond the scope of the study. Future research could, therefore, aim to fill this deficit. Fourth, China plays a crucial role in Zambia and many other developing countries. The role of China and its influence on EU and its policies in ACP countries and programming approach would prove exciting research, considering that this has recently become an area for further research (see Grimm & Hackenesch, 2017). Zambia offers a compelling case considering the long history of the Zambia-China relations as well as China's role in land acquisition and large-scale farming (Nolte, 2014).

To conclude, the Zambian Government, in particular, civil servants and bureaucrats in national institutions selectively implemented reforms. Subjective factors such as the nature and appropriateness of the reforms transferred; ownership and inclusion in the decision-making and implementation process: political will; alignment of policies as well as the availability of fiscal, human and institutional capacities present within the mechanisms of adoption facilitate and hinder the implementation of the electoral and judicial and law enforcement reforms. Therefore, negative and positive conditionalities do not ensure that policies are enforced at the domestic level. Furthermore, the policy adoption and implementation process is not self-perpetuating, the Zambian Government, and the respective national institutions actively select which reforms to internalise.

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## Appendices

### Appendix A: List of Interviewees

	Interviewee		Position	Institution	Academic or Practical Expert	Date
1.	Boetius	Birgit	Senior Consultant, Africa Department, (Good) Governance Portfolio	GFA Consulting	PE	21. Jun 17
2.	Biesebroek	Arend	Head of Cooperation	EU Delegation to Zambia and to COMESA	PE	07. Dez 15
3.	Chembe	Boniface	Executive Director	Southern African Centre for Conflict Resolution and Dispute (SACCORD)	PE	21. Apr 15
4.	Chigunta	Francis	Policy Adviser (President Rupiah Banda), Development Studies Lecturer	University of Zambia (UNZA)	AE	27. Apr 15
5.	Chihana	Temwani	EDF Coordinator, The National Authorising Office of the European Development Fund, Ministry of Finance	Ministry of Finance and National Planning	PE	28. Apr 15
6.	Chikalanga	Davies	Access to Justice Expert	Governance Secretariat, Ministry of Justice	PE	22. Apr 15
7.	Chikwese	Alex	NAO Support Officer Governance and Social Sector	Ministry of Finance and National Planning	PE	28. Apr 15
8.	Chileshe	Chilufya	Senior Programme Specialist for Monitoring and Evaluation	Zambian Governance Foundation (ZGF)	PE	14. Apr 15
9.	Chilimboyi	Lawrence	Expert on Parliamentary Institutions	African Caribbean and Pacific Countries Secretariat, Brussels	PE	10. Nov 14
10.	Cisse	Mahamane	ACP Expert of Political Dialogue and Relations with International Organisations	African Caribbean and Pacific Countries Secretariat	PE	10. Nov 14
11.	Daka	Evans	Lecturer Department of Political and Administrative Studies	University of Zambia (UNZA)	AE	23. Apr 15
12.	Elischer	Helmut	Country Director	Friedrich-Ebert-Stiftung Lusaka, Zambia	PE	16. Apr 15
13.	Habasonda	Lee	Lecturer and Board Member of TIZ Zambia etc.	University of Zambia (UNZA)	AE	23. Apr 15
14.	Hampondela	Vanny	Monitoring and Evaluation Specialist	Governance Department, Ministry of Justice	PE	15. Apr 15

15.	Hamuyube	Mulilwa F.	Chief Research and Planning	Human Rights Commission Zambia (HRC Zambia)	PE/AE	22. Apr 15
16.	Jules	Seitz	International Relations Officer - ACP	European Commission	PE	10. Nov 14
17.	Kalaba	Bridget M	Programme Officer	National Assembly of Zambia	PE	28. Apr 15
18.	Kasaro	Brown	Acting Director and Head of IT Division)	Electoral Commission of Zambia	PE	27. Apr 15
19.	Kaunda	Salim	Researcher and Head of Monitoring and Research Centre	Policy Monitoring and Research Centre	PE	29. Apr 15
20.	Kaunda-Zambezi	Chana	Project Officer	United Nations Development Programme (UNDP)	PE	16. Apr 15
21.	Longwe	Dan	Programme Officer	Local Government Association of Zambia (LGAZ)	PE	21. Apr 15
22.	Lungu	Goodwell	Executive Director	Transparency International Zambia	PE	16. Apr 15
23.	Mate	Njekwa	Head of Department/Lecturer and Vice-President of Zambian Society for Public Administration (ZSPA)	University of Zambia (UNZA)	AE	20. Apr 15
24.	Milapo	Nalukui	Research Fellow, Governance Programme	The Institute for Economic and Social Research (INESOR), University of Zambia	AE	29. Apr 15
25.	Mutupa	Mary	Governance Programme Officer	Action Aid	PE	23. Apr 15
26.	Mvanba	Justin	Administration	Foundation for Democratic Process (FODEP) National Secretariat	PE	20. Apr 15
27.	Mweenge	Camfwembe	Programme Manager	Foundation for Democratic Process (FODEP) National Secretariat	PE	20. Apr 15
28.	Mzyece	Makani	Acting Executive Director/ Programmes Manager	Civil Society for Poverty Reduction in Zambia (CSPR)	PE	13. Apr 15
29.	Namumba	Mpatanji	Executive Secretary (CEO)	Local Government Association of Zambia (LGAZ)	PE	21. Apr 15
30.	Ng'oma	Alex	Lecturer and Political Analyst	Department of Political and Administrative Studies, University of Zambia (UNZA)	AE	20. Apr 15
31.	Perino	Martina	Programme Manager	European Union Delegation office to the Republic of Zambia and COMESA	PE	15. Apr 15
32.	Simutanyi	Neo	Political analyst, Executive Director and Researcher	Center for Policy Dialogue (CPD)	AE	24. Apr 15

33.	Tmava	Milena	Policy Advisor - CSSP/Governance team at the GIZ Lubu Road office	Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH	PE	15. Apr 15
34.	Trappe-Willms	Katja	Portfolio-Manager Governance, Africa-Department	GFA Consulting	PE	21. Jun 17
35.	Vanheukelom	Jan	Senior Adviser Political Economy and Governance	European Centre for Development Policy Management (ECDPM)	PE	24. Aug 17

## **Appendix B: Interview Questionnaire Guide for Zambian Government, ECZ, GS, EU Delegation Office, UNDP, GIZ, ACP Secretariat and European Commission in Brussels**

Brief Introductory Background: In the 2006 Communication: 'Governance in the European Consensus on Development – towards a harmonized approach within the European Union', a new governance approach was proposed. As per the communication, partner countries were expected to adopt governance reforms and measures. To implement this governance approach, the European Commission Governance Incentive Tranche (ECGIT), was introduced. The GIT consists of additional funding to ACP countries that credibly commit to governance reforms. The process of this tranche was criticized by a number of institutions and researchers, citing that it provides grounds for transfer and promotion of EU norms/policies as the EU necessitates its governance models and other priorities under the rubric of promoting good governance. Considering this brief background,

### Governance Reforms

1. How does this governance approach impact your work?
2. Which governance reforms were proposed for Zambia?
  - 2.1. Why were these reforms proposed?
  - 2.2. In retrospect, which reforms have been implemented?
  - 2.3. To what extent are local views/needs reflected in the reform proposals?
  - 2.4. How have they influenced or impacted the governance process of programmes and national institutions in Zambia?
  - 2.5. To what extent has the EU influenced Zambian national institutions?
  - 2.6. Why were the standards accepted or rejected?
  - 2.7. How was the EU able to have this much influence?
3. What are some of the main challenges of the governance reform process?
4. What lessons can be drawn about the process of implementing these reforms?
5. What is the operational relationship between the government and the EU? / How do you interact with the government/EU on policy matters?

### Zambian Priority Areas

1. Can you elaborate on how priority areas materialise into projects?
2. Who is involved in the process?
3. How does the EC/Government ensure ownership of the projects?
4. Regarding implemented projects, how often is feedback given to EC in Brussels?

### Governance Incentive Tranche

1. Can you elaborate on how the GIT works/ the GIT implementation process?
2. Will the GIT continue in the 11th EDF? If yes, have there been changes made?

### Concepts

1. How are concepts harmonized between Zambia and the EU?
2. Have there been any changes made to 'governance', 'democracy' and 'good governance' concepts from the 9th, 10th and 11th EDF? If yes, how?
3. Any view on the understanding and implementation of the EU and Zambia's concepts of 'governance', 'democracy' and 'good governance' concepts?

## **Appendix C: Interview Questionnaire Guide for Policy Transfer Entrepreneurs in Lusaka and Other Stakeholders**

### **Brief Introductory Background**

In the 2006 Communication: 'Governance in the European Consensus on Development – towards a harmonized approach within the European Union', a new governance approach was proposed. As per the communication, partner countries were expected to adopt governance reforms and measures.

### **Governance Approach**

1. How has the institute been involved in the implementation of reforms?
2. Have the reforms influenced/impacted the institute's governance process? If yes, how?
3. How have the EU influenced/impacted the governance process of institutions/national policies in Zambia?
4. To what extent has the EU influenced Zambian national institutions?
5. Why were the standards accepted or rejected?
6. How was the EU able to have this much influence?

### **Priority Areas and Implemented Programmes**

1. In which EU programmes is the institute involved?
2. Can you elaborate on the programmes governance process?
3. What is the operational relationship between the institute and GRN/EU?
4. How does the institute ensure ownership of the programmes?
5. Has the EU influenced the governance standards of the institution?
6. How was the EU able to have this much influence?
7. Why would EU transfer governance standards?
8. Why were the standards accepted or rejected?

### **Governance, Democracy and Good governance Concepts**

1. What is your view on the implementation of these concepts, the EU and Zambia's concepts of 'governance', 'democracy' and 'good governance' concepts?

### **Follow-up Questions**

1. Has the EU influenced the governance standards of the institution?
2. What was the extent/degree of influence/transfer?
3. How do you measure this influence?
4. How would you explain this transfer or promotion of EU norms/governance standards?
5. Why would EU transfer governance standards? Why were the standards accepted or rejected?
6. How was the EU able to have this much influence?
7. Do you think I forgot anything? Or is there something else that mattered?

## Appendix D: Documents shaping EU Governance Initiative

Year	Legally Binding Agreements, Policy Statement, Strategic Plans, Development Plans
1957	The Treaty of Rome
1959	1st EDF (1959 – 1964) <sup>1</sup>
Ca. 1964	Zambia Transitional Development Plan (1964-1966)
	1 <sup>st</sup> Yaoundé Convention and 2 <sup>nd</sup> EDF (1964 – 1970)
Ca. 1966	Zambia First National Development Plan (1966-1971)
1970	2 <sup>nd</sup> Yaoundé Convention and 3 <sup>rd</sup> EDF (1970 – 1975)
Ca. 1972	Zambia Second National Development Plan (1972-1976)
1975	Georgetown Agreement and Lomé Convention
	4 <sup>th</sup> EDF (Lomé I, 1975 – 1980)
Ca. 1978	Zambia Third National Development Plan (1978-1983)
1980	5 <sup>th</sup> EDF (Lomé II, 1980 – 1985)
1985	6 <sup>th</sup> EDF (Lomé III, 1985 - 1990)
Ca. 1989	Zambia Fourth National Development Plan (1989-1993)
1990	7 <sup>th</sup> EDF (Lomé IV 1990 – 1995)
1991	Council of the European Communities 'Democracy and development: Resolution of the Council and of the Member States meeting in the Council on human rights, democracy and development'
1995	8 <sup>th</sup> EDF (Revised Lomé IV Convention, 1995-2000)
2000	EU Development Cooperation Policy assessment April 2000
	Millennium Declaration and Millennium Development Goals (MDGs)
	Cotonou Agreement (Came into effect in 2003)
	Communication From The Commission On EU Election Assistance And Observation
Ca. 2001	New Partnership For Africa's Development (NEPAD)
	European Governance: A White Paper
Ca. 2002	EC Communication from the Commission to the Council and the European Parliament: The European Community's Development Policy (April 26)
	Poverty Reduction Strategy Paper (2002-2004)
	Transitional National Development Plan (2002-2005)
	African Peer Review Mechanism
2003	EC Communication on Governance and Development August 2003
2004	Strategy and Action Plan for Public Service Management and Capacity Building (2004-2008)
	Medium Term Expenditure Framework (MTEF) (2004-2006)
	Zambia: National Governance Survey
	Memorandum of Understanding Concerning the establishment of a strategic partnership between The European Commission and the United Nations Development Programme
2005	- Paris Declaration on Aid Effectiveness March 2005
	European Consensus on Development August 2005
	Revised Cotonou Agreement and 9 <sup>th</sup> EDF (2001 – 2007)

<sup>1</sup> Convention on OCTs annexed to Treaty of Rome.

	EU Strategy for Africa: Towards a Euro-African Pact to Accelerate Africa's Development October 2005
2006	EU Communication on 'Governance in the European Consensus on Development: towards a harmonised approach within the European Union' August 2006
	Council Conclusions - Governance in the European Consensus on Development: Towards a harmonised approach within the European Union - October 2006
	The Conclusions officially launched the GI
	Vision 2030
	Zambia Fifth National Development Plan (2006-2010)
2007	Joint Africa Strategy for Zambia - JASZ (2007-2010)
	Treaty of Lisbon (Reform Treaty)
	Joint EU-Africa Strategy (December 2007)
2008	Revised Cotonou Agreement and 10 <sup>th</sup> EDF (2008 – 2013)
2009	Policy Coherence for Development <sup>2</sup>
2010	EC Communication from the Commission - Europe 2020: A strategy for smart, sustainable and inclusive growth (March 3, 2010)
2011	Agenda for Change
	Sixth National Development Plan (2011-2015)
	Busan Partnership for Effective Development Co-operation
2012	Global Partnership for Effective Development Cooperation
2013	Joint Assistance Strategy for Zambia - JASZ II November 2011 (2011-2015)
	Revised Sixth National Development Plan (2013-2016)
	Strategic Plan of the Access to Justice programme (2013-2016)
	Seventh National Development Plan (2017 to 2021)
	Post-2015 Development Agenda <sup>3</sup>
	Zambia African Peer Review Country Report
2014	11 <sup>th</sup> EDF (Revised Cotonou Agreement, 2014 – 2020)
2015	Transforming our world: the 2030 Agenda for Sustainable Development
2016	Amended Constitution Of The Republic Of Zambia
	Joint Communication on A renewed partnership with the countries of Africa, Caribbean and Pacific - Tuesday, 22 November, 2016

Note: This compilation is a list of legally binding agreements, policy statement, strategic plans, development plans, amongst other relevant documents that contributed to the governance debate and shaped the EU's governance initiative and governance sector in Zambia. Source: Own Compilation.

<sup>2</sup> First integrated in EU fundamental law in 1992, reinforced in Treaty of Lisbon. It is embedded in European Consensus on Development (European Commission, 2006b, p. 279) and was reaffirmed in the Agenda for Change (European Commission, 2011).

<sup>3</sup> Post-2015 Development Agenda, a process led by United Nations that aims to help define the future global development framework that will succeed the Millennium Development Goals.

## Appendix E: Cooperating Partners Division of Labour Matrix, JASZ II - 2012-2015

SNDP Cluster		Lead Ministry	AfDB	EU	UN System	World Bank	Canada	Denmark	Finland	Germany	Ireland	Japan	Netherlands	Norway	Sweden*	UK	USA	Total lead/active
Infrastructure	Energy	MEWD	A	B	B	L						L	B/P	B/N	L			3L/1A
	Transport	MWS/MCT	L	L		L		A/P		A/P		A				B		3L/3A
Human Development	Education & Skills Development	MOE/MSTVT	A		L	A		A/P		B	L	A	L/P	B/P			A	3L/5A
	Health	MOH		A	L	A	A					B			A	L	L	3L/4A
	HIV & AIDS	MOH		B	L	A	B/P	A/P		B	L	A/P	P	B/P	A	A	L	3L/5A
	Water & Sanitation	MEWD/MLGH	L	B	A	L		A/P		L		A				B/N	A/N	3L/4A
Growth	Agriculture, Livestock & Fisheries	MACO	L	L	A	A			L			A		A	A		A	3L/6A
	Manufacturing, Commerce & Trade (PSD)	MCT/CO-DSC	A	B	A	A			L			A	P			L	A	2L/6A
	Tourism	MTENR	B			L												1L/0A
Support	Environment & Natural Resources	MTENR	A		L	L		A/P	L					A			A/N	3L/4A
	Governance	MOJ		L	L	A		A/P	B	A	A		P	A	B	L	A	3L/6A
	Local Government & Decentralisation	MLGH		B	A	B				L	A	A/P						1L/3A
	Science, Technology & Innovation	MSTVT	A		B				A	B/N								0L/2A
Crosscutting	Gender	CO-GIDD		B	L				B	B	L		A/P	A	B	L	A	3L/3A
	Housing	MLGH/MOL			B/N										B/P			0L/0A
	Macroeconomics	MOFNP	A	L	A	L			A	A	B		A/P	A	A	L	A	3L/8A
	Social Protection	MCDSS			L				B/N		A			A/N		L		2L/2A
<b>Total Lead Responsibilities</b>			<b>3</b>	<b>4</b>	<b>7</b>	<b>6</b>	<b>-</b>	<b>-</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>-</b>	<b>1</b>	<b>6</b>	<b>2</b>	
<b>LEGEND: DOL MAIN CLASS: L – Lead, A - Active, B – Background/Silent. SUB-CLASS: N – New Entrant, P – Phasing Out</b>																		

\*Sweden will develop new country strategy during 2012 and will revise participation in sector groups end 2012

Note. Each donor in Zambia funds or priorities a certain area. The table above summarises the donors and their priority areas in Zambia. Source: Cooperating Partners (2012).

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