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Countries at the Crossroads

Countries at the Crossroads 2012: Zimbabwe

Introduction

Since 2009, Zimbabwe has experienced a period of relative calm, which may prove to be but a brief respite for the country. In 2008, disputed elections deepened political unrest in the country. In September 2008, a power-sharing deal, known as the Global Political Agreement (GPA), was signed between rivals President Robert Mugabe, leader of the Zimbabwe African National Union–Patriotic Front (ZANU–PF) party, and Morgan Tsvangirai, head of the Movement for Democratic Change (MDC) party. The agreement allocated power in the government between the two parties, increased the power of the political opposition, and ushered in an uneasy truce. Mugabe, who has been in power since 1980, retained his grip on the executive but lost power in the parliament to the MDC. International pressure, a deadlock between parties, and a free-falling economy pushed the two parties into an agreement. Maintaining this agreement has required constant negotiations on a host of issues, ushering in some relative positive changes for the time being but also creating tension that has the potential to increase violence and repression in coming years.

There have been some clear achievements in the unity government. The high levels of political violence associated with the contested and controversial 2008 presidential and parliamentary elections have subsided. The Zimbabwean parliament contains several parties that actively vie for power and policy influence. Political reform has begun to open up the political space to media and civil society. The abandonment of the Zimbabwean dollar for the American dollar has helped to stabilize the economy and end hyperinflation. After years of severe economic contraction, the economy grew about 6 percent in 2010. Investment, mostly from China, has grown significantly. The development of the Marange diamond mines threw an economic lifeline to the country. Despite these generally positive developments, the United States and the European Union have maintained sanctions due to the actions of ZANU-PF in earlier elections and as a means of continued leverage against the government. Zimbabwe remains suspended from the International Monetary Fund due to its debt arrears.

Signs of trouble in the agreement are also readily apparent. Mugabe has made no secret of his aversion to the unity government. He has tried to limit the influence of the MDC through political appointments and the assignment of ministerial responsibilities. These actions have been strenuously opposed by the MDC. Within the ZANU-PF fissures are emerging as factions and individuals jockey for positions in a post-Mugabe future. The eighty-seven-year-old Mugabe, reportedly in ill health, has made a number of visits abroad for medical treatment. The August 2011 house-fire death of Solomon Mujuru, a major ZANU-PF leader, added more uncertainty to possible succession scenarios. Divisions within the MDC continue between one faction led by Tsvangirai and a smaller one led by Welshman Ncube. These splits relate, in part, to leaders' personalities and Shona/Ndebele ethnic divisions, but also reflect philosophical differences on tactics in how best to challenge ZANU-PF rule.

The MDC and ZANU-PF have essentially lost confidence in the unity government to address their concerns. The MDC has been frustrated at being sidelined and ZANU-PF has yielded power with great reluctance. Mugabe's ZANU-PF has been pressing to hold new elections in 2012. Opposition parties, supported by South Africa, argue that provisions of the GPA relating to democratic reform need to be implemented prior to the election.¹ Elections

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would provide a fresh opportunity for both sides to test their respective electoral strength. A very real concern is that the country will return to levels of violence seen in 2008 as the MDC and ZANU-PF contest power in a manner that each views as zero-sum. Early signals are not positive. Levels of political violence are ticking up as the administration restricts the opposition. The dramatic political changes in North Africa, particularly the removal from power of long-serving African leaders Muammar Qaddafi of Libya and Hosni Mubarak of Egypt, have not gone unnoticed in Zimbabwe by either party.

Zimbabwe has entered a new period of uncertainty and possible danger. An ideal, but unlikely, outcome would be free and fair elections that allow Zimbabwean citizens to choose their leaders without restriction or intimidation. The unity government has proved useful as a transitional mechanism in allowing the MDC into the government and in forcing the parties to negotiate. However, the political will to maintain this formula for sharing power is waning. In earlier confrontations, neighboring states such as South Africa have been willing to mediate.

Accountability and Public Voice

Zimbabwe has a bicameral parliament and a semipresidential system. Zimbabwe's electoral framework provides for regular elections with equal suffrage and multiple parties. In practice, however, there have been severe deficiencies. The Zimbabwe African National Union-Patriotic Front (ZANU-PF) has held power since independence in 1980. Since the March 2002 elections, the European Union, Commonwealth, and United States have imposed sanctions on Zimbabwe for human rights violations.

The Movement for Democratic Change (MDC) won a parliamentary majority in the March 30, 2008 elections, undermining ZANU-PF's longstanding hegemony. MDC presidential candidate Morgan Tsvangirai subsequently withdrew from the run-off presidential election due to concerns about the safety of his supporters in the face of state-sponsored violence. Running unopposed, Mugabe secured a sixth term in office with 90.2 percent of the votes. In 2009, under mounting international pressure, Tsvangirai and Mugabe reached an agreement to form a unity government, with Mugabe as head of state and Tsvangirai as prime minister.

In July 2011 the MDC and ZANU-PF reached agreement on electoral reforms for new national elections in 2012. The two sides remained apart on two key reforms: the composition of the electoral commission and control of security forces. A few weeks prior to the agreement, a senior military official had denounced Tsvangirai as a security threat.² A human rights commission and electoral commission were established in April 2010.³ A leaked report by a South African institute indicated the country's voter roll had 2.6 million "phantom voter" names, a number sufficient to alter the outcome of any future election.⁴

President Mugabe maintains that the government abides by democratic guidelines established by the Southern African Development Community (SADC); however, there are a number of restrictions that limit opposition parties and public critics. There is public funding given to opposition political parties, but not equal campaigning opportunities. Legislation such as the Public Order and Security Act (POSA) makes it difficult for opposition parties to campaign. An "abusive or false" statement against the president is subject to prosecution. State-owned media limits opposition parties' ability to receive favorable coverage.

Zimbabwe has a centralized form of government. The president and prime minister are charged with jointly nominating the provincial governors. In October 2010 the MDC stated it did

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not recognize the governors because they had been appointed solely by Mugabe, in contravention of the power-sharing agreement.⁵

The 2008 power-sharing agreement, which formally established the executive position of prime minister for Tsvangirai, has created increasing opportunity for rotation of power in the parliament. However, fissures in the unity government are already apparent. The MDC briefly withdrew from the government in October 2009 over claims of breaches in the agreement by ZANU-PF. In particular, police raided an MDC office looking for weapons and, according to MDC official Tendai Biti, seized party material.⁶ In March 2010, President Mugabe—without consultation—stripped four MDC-controlled government ministries of all their essential functions and gave responsibility to ZANU-PF ministers.⁷ In October 2010, Tsvangirai notified foreign governments that the ambassadors from Zimbabwe were not properly accredited due to a lack of consultation with the MDC.⁸ In March 2011, police detained MDC founder and current Energy Minister Elton Mangoma on accusations of noncompliance with government tendering procedures. In response, Tsvangirai publicly stated that the unity government was “dysfunctional” and the political marriage was “irreconcilable.” He also called at that time for new elections before a new constitution was in place, representing a change from an earlier position.⁹

Government regulations to prevent the undue influence of economically privileged interests are inadequate in the face of the ZANU-PF-led government’s determined efforts to retain power. The civil service has been one way to reward political supporters. A World Bank-sponsored report stated that during the period of 2007-09, nearly half of the country’s civil servants did not have the required minimum qualifications. The subsequent establishment of the unity government has resulted in further hiring of civil servants.¹⁰

Civic groups are allowed to comment on pending legislation, and legislation is debated and broadcast in parliament. Nonetheless, obstacles exist for groups and individuals to participate in the legislative process. In 2010 the government initiated the Constitutional Outreach Program to obtain citizen input on a proposed new constitution. But in February 2010 police stopped preparatory constitutional reform meetings organized by the MDC, beat participants, and arrested a number of them. In September 2010, ZANU-PF supporters and uniformed police assaulted 11 residents and MDC supporters from Harare. Violence in Harare led the MDC to suspend 13 meetings.¹¹

The government has placed legal impediments on nongovernmental organizations (NGOs). Both the POSA and the Access to Information and Protection of Privacy Act (AIPPA) place limits on the abilities of individuals within NGOs to speak, associate, and assemble.¹² The Private Voluntary Organizations Act of 1996 requires government registration of all NGOs that provide welfare services or treatment.¹³ In the weeks before the 2008 presidential elections and in the midst of a severe corn production shortfall, Mugabe briefly banned all NGOs, claiming that many of them supported the opposition.¹⁴ In a July 2009 speech, President Mugabe threatened to ban NGOs working in Zimbabwe on the grounds that they functioned as a parallel government.¹⁵

The state-owned Zimbabwe Broadcasting Corporation (ZBC) controls all domestic radio and television stations, and the government daily *The Herald* is pro-Mugabe. Legislation such as POSA and AIPPA further restrict the media. The POSA criminalizes false reporting and statements that “incite or promote public disorder or public violence.” The AIPPA restricts access to information held by public bodies, regulates independent media through a government controlled Media and Information Commission (MIC), requires the accreditation of journalists

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and media organizations, and criminalizes publication of false information, whether intentional or not.

There has been some liberalization of the media environment since 2008. Article XIX of the power-sharing agreement emphasizes the importance of an “open media environment” and encourages the development of Zimbabwean-based radio broadcasting that is “balanced and fair” to all political parties.¹⁶ In 2009 the Zimbabwe Media Commission (ZMC) was established to reform the media regulatory environment, including licensing for new private press, radio and TV companies. In October 2009 the government lifted its ban on foreign reporters and, in July 2009, following the power-sharing agreement, the Zimbabwe government announced it would allow the British Broadcasting Corporation (BBC) and U.S.-based CNN to report freely from Zimbabwe after an eight-year absence.¹⁷ In 2010 the government issued four new print licenses, including the previously banned private periodicals *News Day* and *The Daily News*.¹⁸

In May 2009, the new Deputy Minister of Media, Information, and Publicity stated publicly that both POSA and AIPPA ought to be reviewed to ensure that freedom of expression not be curtailed by the government.¹⁹ In July 2009, the African Commission determined that the AIPPA violates freedom of expression rights guaranteed in the African Charter. The African Commission stated Zimbabwe should amend AIPPA by deleting sections requiring government registration of journalists and media organizations.²⁰ In 2010 Prime Minister Tsvangirai stated his interest in legislation that would bring Zimbabwe’s media regulatory environment “in line with SADC [Southern Africa Development Community] regional best practices.”²¹

Despite the progress made in the media environment, some trends point in a different direction with respect to media freedoms.²² In 2011, ZANU-PF leaders who had supported restrictive media legislation were appointed to key positions. A Mugabe spokesman also stated that before issuing any new radio broadcasting licenses, the government required more radio monitoring and regulation policies.²³

The Zimbabwean government does not protect journalists from extra-legal intimidation, arbitrary arrest and detention, or physical violence at the hands of state authorities or any other actor, and does not investigate adequately when cases occur.²⁴ In May 2009 two editors of the *Zimbabwe Independent* newspaper were arrested for publishing an article alleging a tie between the abduction of MDC supporters, human rights activist Jestina Mukoko, and government security forces.²⁵ In June 2011 Jameson Timba, the Deputy Minister of Media, Information, and Publicity was arrested on the charge of insulting the president, which is against the law. The Harare High Court soon ordered his release on the grounds Timba had not been informed of the charges against him.²⁶ A Zimbabwean newspaper reported in December 2010 on a WikiLeaks story that Grace Mugabe, the president’s wife, had benefited from illegal diamond sales. The government denied this charge and Grace Mugabe filed a lawsuit against the newspaper for US\$ 15 million, potentially bankrupting the company.²⁷ Reporters Without Borders ranked Zimbabwe 123rd out of 178 in its 2010 Press Freedom Index. This was an improvement from 2008 that placed Zimbabwe 151st out of 173 states.²⁸

While the government owns both print and broadcast media, it does not directly censor the media. The Interception of Communications Bill, however, allows the government to access mail, telephone and internet communication. In early 2011 Vikas Mavhudzi, a Zimbabwean citizen, was arrested and detained for a month in jail before being granted bail. The government charged him with subversion after he allegedly posted a message on the Facebook page of Prime Minister Tsvangirai praising the revolution in Egypt that removed from power former president

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Hosni Mubarak. After eight months a judge ended the case due to lack of evidence of the message on Tsvangirai's Facebook wall.²⁹

Civil Liberties

Zimbabwe's constitution was established at independence in 1979. The Declaration of Rights (Chapter III) includes in section 15 (1) that: "No person shall be subjected to torture or to inhuman or degrading punishment or other such treatment." Constitutional provisions also guarantee protection from arbitrary search or entry, and protection of the law. Later amendments, however, qualify these rights as subject to "the interests of defense, public safety, public order, and public morality." In addition, "state of emergency" laws that further limit civil rights and liberties in these areas were retained from the Colonial era and are employed by the new government. Zimbabwe has also signed the International Covenant on Civil and Political Rights, which imposes a responsibility on Zimbabwe to enforce constitutional provisions that prohibit arbitrary arrest or detention (Article 9).

There are reports of physical abuse of individuals by agents of the state. In February 2011 the European Union renewed its sanctions against Zimbabwe over human rights abuses and the lack of progress of the unity government.³⁰ Human rights group Global Witness claimed in January 2010 that the military had committed abuses of the population engaged in mining diamond in Marange.³¹ In August 2011, the BBC alleged, on a program entitled "Mugabe's Blood Diamonds," that a torture camp named Diamond Base existed near Zengezi in the Marange diamond fields.³² The government stated the allegations were "nonsense" and "ridiculous."³³

In February 2011 police raided an academic lecture by a former MDC leader entitled "Revolt in Egypt and Tunisia: What lessons can be learned by Zimbabwe and Africa?" The government charged the group with treason. Some of the activists claimed that they were beaten by police.³⁴

Prison conditions in Zimbabwe have been repeatedly condemned by outside observers. The International Committee of the Red Cross began distributing food, blankets, and soap to some 6,300 prison inmates in June 2009. Justice Minister Patrick Chinamasa stated in an interview that his ministry had received only \$327,000 of the allocated \$17.1 million, insufficient to cover the food needs of prisoners.³⁵ In April 2009 the South African documentary *Hell Hole* described living conditions in Zimbabwean prisons, stating that dozens of inmates die every day due to starvation and disease brought on by overcrowding and unclean living conditions.³⁶

There are no effective protections against arbitrary arrest and long-term detention without legal trial of political opponents. The Criminal Procedure and Evidence Bill allows detention for 21 days for individuals arrested for corruption or violating security laws. Beginning in December 2008, human rights campaigner Jestina Mukoko was held for three months on charges of terrorism.³⁷ In September 2009 the Zimbabwean Supreme Court granted a permanent stay of criminal prosecution after it accepted testimony that she had been tortured to force a confession that she planned to overthrow the Mugabe government.³⁸

The government has limited means to protect citizens against crime. The full extent of human trafficking in Zimbabwe and Southern Africa is difficult to assess, but reports indicate that Zimbabwe is used as a transfer site, source, and destination for forced and sexual labor.³⁹ There was also reportedly a large influx of Zimbabwean prostitutes into South Africa during the

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2010 World Cup.⁴⁰ Citizens also lack effective means of petition and redress when their rights are violated by the Zimbabwean government. Farm invasions by ZANU-PF partisans have continued, even in the face of court injunctions and favorable rulings by the Southern African Development Community Tribunal.⁴¹ Terrorism has not been an issue in the country.

Zimbabwe's constitution Chapter III (11) states that citizens are entitled to the fundamental rights and freedoms of the individual, "whatever his race, tribe, place of origin, colour, creed, or sex." A 2005 amendment makes permissible discrimination in favor of persons or classes of persons who have been disadvantaged by unfair discrimination and also makes impermissible discrimination based on physical disability.⁴² Zimbabwe has also ratified the International Convention on the Elimination of All Forms of Discrimination Against Women.⁴³ Zimbabwe signed the Protocol on Gender and Development that sought to eliminate discrimination and achieve gender equality for women. Nevertheless, groups such as the Women's Coalition of Zimbabwe have alleged that many women were gang raped by ZANU-PF militia, particularly during the violence after the first round of presidential voting.⁴⁴

Traditional African customs are not always consistent with Western social and legal traditions. While the government has made some traditional practices unlawful, others such as polygamy remain legal.⁴⁵ Homosexual acts are illegal in Zimbabwe. In 2010 the government arrested two men associated with a Zimbabwean gay rights organization, charging them with possessing pornography and insulting the president.⁴⁶ In October 2011 Prime Minister Tsvangirai stated that he would support enshrining gay rights in the constitution. At the same time, Zimbabwe's Justice Minister Patrick Chinamasa responded that Zimbabweans would not support such a change in a new constitution.⁴⁷

Zimbabwe is a multilingual state and English is the official language.⁴⁸ Tensions after independence between the majority Shona ethnolinguistic group and the minority Ndebele speakers sparked a low-level civil war. Mugabe, a Shona speaker, cites this as a reason to maintain colonial era state of emergency laws that allow detention without charge. Many Ndebele argue that the government discriminates against them in law and employment because of perceived sympathy with the MDC. A number of groups, including religious organizations, white farmers, teachers and trade unions, are also actively discriminated against due to purported allegiances to the MDC.⁴⁹

The constitution provides for freedom of religion. Overall, the Zimbabwean government protects the rights of nonbelievers and believers of religious faiths. Christians operate schools and hospitals. POSA also has a religious exemption related to church meetings. The majority of the Zimbabwean population is Christian. The Muslim population is less than 2 percent. Around one quarter of the population follow traditional African religious practices. The Witchcraft Suppression Act provides criminal penalties for those who practice witchcraft with intent to harm an individual, but prosecutions have been rare.⁵⁰

Relations have become increasingly strained between the government and churches. In a meeting in Harare in October 2011, the Archbishop of Canterbury Rowan Williams claimed that Anglican church members had experienced "serious harassment and violence" due to their support for the opposition. President Mugabe, who is Roman Catholic, in response, questioned the church's stance on homosexual conduct.⁵¹

The constitution guarantees freedom of assembly and association. Several clauses, however, limit this freedom in the interests of safety, order, and morality. The MDC recently introduced a bill to amend sections of the POSA that have been used to restrict peaceful assembly and freedom of association.⁵² The Labor Relations Act allows private sector workers to

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form and operate unions. The ZANU-PF government views the Zimbabwe Congress of Trade Unions (ZCTU) as being aligned with the opposition MDC. In February 2010 Gertrude Hambira, a union leader, was questioned by security officials about a union report and video describing the difficulty of agricultural work and the continuing violence on farms. Police later raided union offices in Harare.⁵³

The government views the activities of many civic society organizations that organize for peaceful purposes as threatening. In September 2010, an estimated six hundred demonstrators from the Women of Zimbabwe Arise (WOZA) and the Men of Zimbabwe Arise (MOZA) marched on Parliament in Harare in protest against police abuses and for community safety. Police broke up the peaceful demonstration and detained approximately eighty protesters at Harare Central police station for two nights without charge. They were later charged with “criminal nuisance” and released on bail.⁵⁴ In October 2010, the BBC published reports of physical attacks against citizens at public meetings.⁵⁵

Zimbabwean law restricts the activities of civic organizations by prohibiting foreign NGOs from engaging in the “promotion and protection of human rights and political governance issues.” The government appoints the NGO Council, which decides on which NGOs are registered. Zimbabweans are not compelled by the state to belong to any association.

Rule of Law

The constitution provides for an independent judiciary. Judges must have legal training and experience with Roman-Dutch law, be fluent in English, and not be subject to religious authorities. Judges receive relatively low pay, heightening vulnerability to bribes. Since 2002, for example, all but one of the Supreme Court judges received formerly white-owned farms for free. The one judge who ruled against the legality of the land seizure refused a farm. Judges who received such farms have refused to recuse themselves from cases involving land seizures.⁵⁶

Growing conflict in Zimbabwe has led to the increasing politicization of the judiciary, particularly in the selection and appointment of judges. The constitution authorizes the president to appoint judges to the Supreme Court and the High Court, subject to consultation with the Judicial Service Commission. The president is also able to appoint individuals to this commission. The executive branch reserves the right to ignore adverse court decisions. Judges have resigned after the government stated it could not defend them. Nonetheless, the judiciary has, at times, demonstrated acts of independence from the executive. In a number of cases the judiciary has ordered the release of political detainees and the government has complied. In a high-profile case in March 2011, the Supreme Court dropped a treason charge against MDC leader Roy Bennett, signaling a possible movement toward greater judicial independence.⁵⁷

The constitution states clearly that every person charged with a criminal offence is presumed to be innocent until proven guilty or has pled guilty. It is possible that an accused citizen may receive a fair and public hearing by a competent, independent, and impartial tribunal. For example, in November 2010, the Supreme Court ruled that the 2008 arrest and detention of Women of Zimbabwe Arise (WOZA) leaders Jenni Williams and Magodonga Mahlangu after a peaceful demonstration was unlawful and that their constitutional rights had been violated. On due process grounds, the court also ruled that the state had failed to protect the two women from abuse.⁵⁸

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Citizens have a right to independent counsel. In practice, however, this right is often denied. Likewise, while indigent defendants in criminal cases may request legal assistance, it is rarely granted, except, at times, for those charged with serious felonies.⁵⁹ For example, death row inmate George Mantoya reportedly has not seen his lawyer in thirteen years. After his conviction, he prepared his own appeal papers due to his inability to afford a lawyer. The Attorney General of Zimbabwe acknowledged the difficulties the poor in accessing legal representation, but pointed out that lawyers expect to be paid for their services.⁶⁰

In theory, prosecutors are free from political direction and control, but this is undermined by executive actions on judicial independence. Public officials and ruling party leaders are not prosecuted from wrongdoing unless they run afoul of Mugabe. Overall, security and military forces owe their positions to Mugabe and are rewarded for their loyalty. In general, allegations of human rights violations by these forces have not been investigated.⁶¹ The unity government committed to reform by setting up a National Security Council to exercise civilian oversight over security forces. Despite this commitment, the National Security Council meets rarely and the ZANU-PF publicly rejected any security sector reform that involved replacing security force leaders.⁶² The Joint Operations Command, an opaque group that has long overseen Zimbabwe's security strategy and allegedly excludes the MDC, continues to convene regularly, in spite of the unity government's intention to replace it with the National Security Council.⁶³

Levels of political violence apparently dropped in 2010 from pre-election highs in 2008. Despite the decrease, members of the police, military, and internal security services do not respect human rights in what has been described as a culture of impunity. The security forces have been accused of torture and illegal detention.⁶⁴ The discovery of diamonds in Chiadzwa led to a military deployment in late 2008 to evict miners, generating allegations of violence. There are also charges by the MDC that ZANU-PF government officials have acquired multiple farms seized from white farmers, in contravention of Mugabe's "one man, one farm" policy.⁶⁵

Zimbabwe allows for the private ownership of property, either by individuals or corporations. In 2008 the SADC court ruled against government seizures of farms owned by white Zimbabweans. Shortly thereafter, in January 2010, Zimbabwe's High Court rejected the SADC decision on the grounds that it was inconsistent with government policies.⁶⁶ In March 2010 the government approved an "indigenous law" that requires companies worth more than \$500,000 to sell a 51 percent share to indigenous (defined as people disadvantaged before independence in 1980) Zimbabwean citizens.⁶⁷ This law extends the use of government power to seize economic assets of white Zimbabweans seen earlier in the land seizures. In 2010 MDC Finance Minister Tendai Biti allocated funds for a government audit of the land seizures to ensure compliance with the "one man, one farm" policy. This audit would review each farm to guarantee that multiple farms had not been allocated to one individual. Several white-owned farms were attacked after the audit was announced, delaying the audit's implementation. In one case, a white Zimbabwean farmer was forced off his land by an armed mob even though the court had just ruled a stay against a central bank employee claiming the land.⁶⁸

Anticorruption and Transparency

After independence, Mugabe's government generally followed free market policies, but over time increasingly regulated the economy to create opportunities for patronage. Economic mismanagement in the period prior to the 2008 elections led to hyperinflation, greatly undermining the country's economic stability.⁶⁹ In early 2009, the government officially

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abandoned the Zimbabwe dollar and adopted a multicurrency policy of using the U.S. dollar, South African Rand, and Botswana Pula. This action stabilized prices and provided greater transparency in monetary policy and some imposition of fiscal policy discipline.⁷⁰

In February 2009 the International Monetary Fund (IMF) restored Zimbabwe's voting rights. Zimbabwe had been suspended for seven years due to nonpayment of loans. In restoring the country's voting rights, the IMF noted that the economy had improved. At the same time, the IMF refused to advance new loans until Zimbabwe had paid off US\$1.3 billion it owed.⁷¹

The Kimberley Process, a multi-government scheme to stop the trade of "conflict diamonds," banned the export of diamonds from Zimbabwean mines in 2009. The ban was imposed following allegations that the Zimbabwean military had financial interests in the mining industry and that these funds were then directed to President Mugabe's ZANU-PF party. One report indicated that as much as 80 percent of the sale of 300,000 carat of diamonds would go to government coffers.⁷² The three Marange diamond mines reportedly earn more than US\$3 billion per year. In 2011, the ban was lifted followed negotiations that demonstrated a renewed Zimbabwean commitment to address areas of "noncompliance."⁷³

A 2010 report indicates that most of the white-owned farms seized through Zimbabwe's controversial land reform program were distributed to low-income Zimbabweans.⁷⁴ Another 2010 report, however, states that approximately 40 percent of the 4,000-5,000 white-owned farms seized are now in the hands of about 2,200 senior government officials.⁷⁵

President Mugabe oversees a conglomerate of businesses and the government actively supports patronage networks. The president's party owns two companies: M & S Syndicate and Zidco Holdings. Collectively, these two companies own a wide range of businesses in Zimbabwe, allowing party elites to share in its profits.⁷⁶ Financial details are not released publicly. Both companies are currently included under targeted sanctions by the United States government,⁷⁷ however the lack of transparency for these companies fosters the ability to circumvent sanctions.

Transparency International placed Zimbabwe 134th out of 178 countries in its 2010 International Corruption Perceptions Index (CPI). Out of ten possible points, with 10 representing the least corrupt and 0 representing the most corrupt, Zimbabwe received a score of 2.4, a significant rise from its score of 1.8 in 2008.⁷⁸ Zimbabwe has slid precipitously in the rankings in the past decade as Mugabe increased his grip on the country. For example, in 1998, Zimbabwe ranked 43 out of 113 countries. The 2010 score was a return to its general range prior to the political strife surrounding the elections that year.

The World Bank's 2011 "Doing Business" report ranked Zimbabwe 157th out of 183 countries in the world,⁷⁹ representing a slightly improvement from its rank of 159th in 2009.⁸⁰ The report examines the role of the government in facilitating business in a country. The World Bank noted that low rankings reflect a poor business investment climate resulting from policies of excessive government interference in the economy.

There are no effective legislative or administrative mechanisms to promote integrity in public officials or punish corruption. The control of parliament by the MDC since 2008 and the subsequent awarding of the Finance Ministry to the MDC as part of the power-sharing agreement, however, increase on paper at least the likelihood of investigation of executive corruption.

Investigative and auditing bodies do exist, but they are hampered by political pressure. Furthermore, the details of the investigative process are not always transparent. An audit of a program designed to provide farmers with inputs such as fertilizer needed for agricultural

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production uncovered evidence of corruption. The MDC expressed doubt at the time there would be prosecution of individuals.⁸¹ Since then there has not been any subsequent formal investigation.

Allegations of corruption are given attention in the news media. In November 2010 the government arrested directors at diamond mining companies Zimbabwe Mining Development Corporation and Canadile Miners. Six high-level officials were charged with illegally obtaining licenses that stated they could fund mining in the Marange diamond fields.⁸² Detecting cases of procurement corruption, bribes, and kickbacks through state controlled media is difficult. In late 2010 the Standard newspaper was sued by Grace Mugabe, wife of President Mugabe, after the weekly newspaper published excerpts from WikiLeaks. In one leak, the former U.S. ambassador to Zimbabwe stated in a diplomatic cable that Grace Mugabe, Gideon Gono of the Central Bank, and other ZANU-PF political party members and military officials “have been extracting tremendous diamond profits...”⁸³

Although there is anti-corruption legislation and mechanisms through the Prevention of Corruption Act, the legal environment is generally not supportive of investigators seeking to report cases of bribery and corruption. Cases of alleged corruption have often not been pursued by the police. A March 2010 report uncovered widespread corruption in the provision of life-prolonging antiretroviral (ARV) drugs and other HIV services. In particular, 73 percent of HIV-positive respondents stated health care workers had asked for bribes and most patients who were unable or unwilling to pay received substandard or no service. Corruption was reported as uncommon at mission hospitals.⁸⁴ The health minister stated that his ministry would investigate these allegations and urged individuals to report any corruption to the police.⁸⁵

The dire and worsening economic situation has made more difficult the operation of higher education in Zimbabwe. Zimbabweans are often unable to afford school fees, and government pay for lecturers has lagged, increasing the opportunities for corruption and graft, including the taking of bribes for instruction.⁸⁶

There is some degree of legal, regulatory, and judicial transparency. Every fall, the government presents to the parliament budget details for the next year. However, the Defense Procurement Act [Chapter 11:03] section 10(4) allows the minister to withhold important financial records from the legislature if it appears that disclosure would not be in the public interest. Moreover, no independent parliamentary audit body exists to analyze the budget figures and assumptions from the executive. AIPPA includes provisions on access and privacy, including that “[A]ll records in the custody or under the control of a public body” (s.4(1)) are subject to request, and “every person shall have a right of access to any record ... that is in the custody or under the control of a public body”(s.5(1)). The act also provides the government more powers by restricting access to information held by public bodies and criminalizing the publication of false information, whether international or not.⁸⁷ Government officials expressed interest in future participation in the Extractive Industry Transparency Initiative (EITI).⁸⁸ This initiative would have implications in public enterprises and the diamond mining industry by providing greater accountability by the government to the public on issues related to resource extraction.⁸⁹

A 2011 report by the International Monetary Fund stated that data collection procedures by the Zimbabwe National Statistics Agency (ZIMSTAT) included “serious shortcomings that significantly hamper surveillance” on macroeconomic statistics that in turn makes it more difficult to evaluate central government policies. The Ministry of Finance publishes data and

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budget reports on revenue and expenditures twice a year, but government financial reporting does not conform to the Government Finance Statistics Manual 2011.⁹⁰

The Procurement Act makes collusion among government contractors and providers of goods or services illegal. The president can, however, limit the Act at his discretion. Zimbabwe is not a signatory to the WTO Agreement on Government Procurement. The government's State Procurement Board is required to invite bids from both local and international entities. Foreign firms and governments, including the United States, have complained of an alleged lack of transparency and fairness in the process. In late 2011 the European Union announced a US\$8 million grant for projects in support of orphans and at-risk children, but bypassed the government in the disbursement.⁹¹ In March 2011 China agreed to lend US\$687 million to Zimbabwe, primarily for the agricultural and health sectors. Just prior to this, Zimbabwe had exempted Chinese owned diamond mine company Anjin from its nationalization policy that requires a majority black stake in all firms.⁹²

Recommendations

- The Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA) provisions must be amended to bring them into accord with constitutional guarantees of freedom of speech and association.
- The government must strengthen the independence of the judiciary through guarantees of security, increased pay, and appointment of qualified judges who are not politically biased in favor of ZANU–PF.
- Legal recourse must be provided for loss of property. This includes conducting, as per the September 2008 power-sharing agreement, an audit of land confiscated since 2003 to permit compensation.
- The government must cease using “war veterans,” youth militia, police, and security forces to intimidate, beat, and detain civilians.
- The House of Assembly should create a dedicated and independent accounting and investigative body with the competence to evaluate executive budget and spending as part of legislative oversight.
- The government must fund and ensure the political autonomy of the electoral commission in preparation for future elections.

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