Category I. Civil Society, Public Information and Media

I-1. Civil Society Organizations

1. Are anti-corruption/good governance CSOs legally protected?

67

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

YES | NO

Comments:
The Act governs the code of procedure for the registration and operations of non-governmental organizations in Zimbabwe. Registration is compulsory. The proposed NGO bill crafted in 2004 was passed by Parliament but the president did not sign it into law. The main issue in the proposed bill is that it prohibits local NGOs from receiving foreign funding to carry out activities related to governance and foreign NGOs from operating in the areas of good governance and human rights. The result would have been that many organizations that are critical of the government would have been forced to close down, as the majority of these organizations subsist mostly on foreign donor funding.

References:
A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

| YES | NO |

Comments:
There are no provisions against funding by foreign or domestic sources.

References:
Private and Voluntary Organizations Act

YES: A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

NO: A NO score is earned if there are any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

| YES | NO |

Comments:
No such provision is made in the Act.

References:
Private and Voluntary Organizations Act; Non-Governmental Organizations Bill

YES: A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

NO: A NO score is earned if no such public disclosure requirement exists.

2. Are good governance/anti-corruption CSOs able to operate freely?

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.
Comments:
The registration process is very slow and it has been said to take years. The PVO Board has not sat in years to consider new applications. Some applications are rejected on unclear grounds. There have been recommendations to review the PVO Act for trusts to register as PVOs but this has not been done yet.

References:
The Private and Voluntary Organizations Act (PVO Act)

National Association of Non-Governmental Organizations of Zimbabwe, NGOs reject ministerial plan to amend NGO/Trusts legislative framework" March 28, 2009
http://www.kubatana.net/090528nqngo.asp

100: CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

75:

50: CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

Comments:
Non-governmental organizations are active in political and policy making processes, however, they are not heeded by the government unless they tow the government rhetoric. An example is the National Constitutional Assembly (NCA), an organization that deals with the constitution making process, has been at loggerheads with the government on how the current constitution making process should be implemented. The NCA’s role is therefore limited to civic education and advocacy in a drive towards a people-driven constitution as opposed to a Parliamentary led process. However, women's rights NGOs have been consulted by the Women’s Parliamentary caucus to make an input in the constitution making process on issues relating to gender.

The president has made statements in different fora that views civil society as a disruptive influence, whose activities should be curbed. He has accused NGOs of being a government in the background of formal government therefore exceeding their terms of reference.

References:
National Association of Non-Governmental Organizations of Zimbabwe, NGOs reject ministerial plan to amend NGO/Trusts legislative framework" March 28, 2009
http://www.kubatana.net/090528nqngo.asp
100: Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

YES  |  NO

Comments:
There was a universal ban on the operations of NGOs in Zimbabwe, including anti-corruption, from June to August 2008. This was announced by the then minister of Public Service, Labor and Social Welfare, Hon. N.T. Goche, who ordered the closure of NGOs for breaching conditions of their registration as enshrined in the PVO Act. This is worrying because the minister has no legal mandate to shut down NGOs in this manner.

References:
Frontline
Protection of human rights defenders, Government order to suspend operations of PVOs and including CARE International, [http://www.frontlinedefenders.org/node/1461](http://www.frontlinedefenders.org/node/1461)

Zimbabwe Private and Voluntary Organizations Act

**YES**: A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

**NO**: A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.
3. Are civil society activists safe when working on corruption issues?

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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Comments:
There have been arrests of civil society activists since December 2008, with the most prominent being the arrest of activist Jestina Mukoko, the director of the Zimbabwe Peace Project. She and others were accused of training opposition militias. Mukoko of the Zimbabwe Peace Project were instrumental in documenting various cases of political violence and distributing this information.

References:
Zimbabwe National Association of Non-Governmental Organizations
Dec. 5, 2008
http://organiswww.nango.org.zw/campaigns/view.asp?id=8

Civil Society Watch
http://www.civicus.org/cswww

YES: A YES score is earned if there were no CSO activists imprisoned because of their work covering corruption. YES is a positive score.

NO: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person’s work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned* is defined here as detention by the government lasting more than 24 hours.

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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Comments:
Arrested civil society activists have been assaulted while in custody.

References:
http://www.zimbabwejournalists.com
http://www.kubatana.net

YES: A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist’s work.
YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

Comments:
No civil society activists have been killed during this period.

References:
http://www.kubatana.net

Human Rights Watch,
‘Bullets for each of you’ – State sponsored violence since Zimbabwe’s March 29 elections’
http://www.hrw.org/en/node/40483/section/8

YES: A YES score is earned if there were no documented cases of CSO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual’s history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

4. Can citizens organize into trade unions?

88

4a. In law, citizens have a right to organize into trade unions.

YES | NO

Comments:
Private sector workers have freedom of association and join unions without prior authorization. However, this excludes public sector workers who are governed under the Public Service Act, which does not provide them the right to form and belong to trade unions.

References:
Labor Relations Act

Public Service Act
YES: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
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<tbody>
<tr>
<td>100</td>
<td>Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.</td>
</tr>
<tr>
<td>75</td>
<td>Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.</td>
</tr>
<tr>
<td>50</td>
<td>Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.</td>
</tr>
<tr>
<td>25</td>
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</tbody>
</table>

Comments:
Citizens are able to organize into trade unions but members of the Zimbabwe Congress of Trade Unions (ZCTU) that gave rise to the opposition Movement for Democratic Change (MDC) have been targeted by the state. In 2003, Lovemore Matombo, president of the ZCTU, was dismissed from his job at Zimbabwe Post (Zimpost), a parastatal. He was further arrested in 2008 and stood trial.

References:
Afrol news,
Further wrongs of trade union rights in Zimbabwe*,
http://www.afrol.com/articles/11037
http://www.wearezctu.org

I-2. Media

5. Are media and free speech protected?
5a. In law, freedom of the media is guaranteed.

**YES | NO**

**Comments:**
There is no specific guarantee of freedom of the media in the constitution. Media laws are restrictive. The Access to Information and Protection of Privacy Act and the Broadcasting Services Act requires media organizations and practitioners to register. The Official Secrets Act places restrictions on divulging certain government information without permission.

**References:**
- Constitution of Zimbabwe
- Access to Information and Protection of Privacy Act (AIPPA)
- Broadcasting Services Act
- Official Secrets Act
- Criminal (Codification and Reform) Act

**YES:** A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

**NO:** A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

**YES | NO**

**Comments:**
Article 20 of the Constitution of Zimbabwe guarantees freedom of expression. This, however, has many qualifications on grounds of public safety, public order, public morality, public health, protecting reputations, rights and freedoms of other persons and a host of other prohibitions.

**References:**
- Constitution of Zimbabwe, Section 20
- Defamation Law
- Public Order and Security Act
YES: A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

NO: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form print media entities?

25

6a. In practice, the government does not create barriers to form a print media entity.

Comments:
The Access to Information and Protection of Privacy Act has been used to close print media entities. No new media entities have been licensed in the past year. However, the three main political parties signed an agreement to resolve the challenges facing Zimbabwe. Under this agreement, political parties agreed that the government would ensure immediate processing by the appropriate authorities of all applications for re-registration and registration of the media in terms of the Broadcast services Act and the Access to Information and Protection of Privacy Act (AIPPA). The Zimbabwe Media Commission replaced the Media and Information Commission in amendments to AIPPA in January 2008, which was responsible for shutting down newspapers in the country. Commissioners are to be appointed but no new media outlets will be licensed until the commission is in place.

References:
http://www.kubatana.net

Agreement between the Zimbabwe African National Union (ZANU-PF), The Movement for Democratic Change -T (MDC T) and the Movement for Democratic Change (MDC) on resolving the challenges facing Zimbabwe

Zimbabwe Constitutional Amendment No. 19

100: Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

6b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.
Comments:
An appeal can be made to the Supreme Court.

References:
Access to Information and Protection of Privacy Act

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

NO: A NO score is earned if there is no appeal process for print media licenses.

6c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100  |  75  |  50  |  25  |  0

Comments:
No new private print media entities have been licensed yet, as they have been asked to wait for the creation of the Zimbabwe Media Commission, which is yet to be constituted. The government launched a new tabloid H-Metro on Sept. 7, with claims that government media do not need to be licensed. No private publishers have been awarded licenses. For example, ZimInd Publishers are said to have been waiting more than six months for a license. Others awaiting licenses are the Daily Gazette and the Daily News.

References:
Media Institute of Southern Africa,
Zimbabwe appeal letter to SADC chairman on recently gazetted registration fees”,
Jan. 8, 2009

Mudzwiti Moses,
“Zimbabwe media slam new state daily”,
http://www.zwnews.com/issuefull.cfm?ArticleID=21500

MISA, MISA-
Zimbabwe statement on the launch of Zimpapers’ Harare-Metro tabloid,

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.
6d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

Comments:
No new print media licenses have been awarded. However, the Media and Information Commission which used to license the print media outlets had gazetted new prices requiring foreign media entities to pay registration fees in US$. Local media organizations and local journalists were required to pay in Zimbabwe dollars, but the Zimbabwe currency is not in use at the moment.

References:
- Media Institute of southern Africa, Zimbabwe appeal letter to SADC Chairman on recently gazetted application and registration fees,” MISA, http://www.misa.org

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are citizens able to form broadcast (radio and TV) media entities?

25

7a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

Comments:
Broadcasting legislation makes stringent requirements for issuing of broadcasting licenses, so to date no new media licenses have been awarded. Under Constitutional amendment no.19, however, the Broadcasting Authority of Zimbabwe is being reconstituted to allow it to license broadcasters, as required under the Global Political agreement. In June, however, the Zimbabwe Broadcasting Holdings, the government controlled broadcaster indicated that it would open a new channel but indicated they had not applied for a license as they could not afford it. The channel is yet to be launched.
### References:
ZimEye,
Zimbabwe Broadcasting Holdings to open a new TV channel”,
Media Network,
http://blogs.rnw.nl/medianetwork/zimbabwe-broadcasting-holdings-to-open-new-tv-channel

Agreement between the Zimbabwe African National Union – Patriotic Front (ZANU PF), and the two Movement for Democratic Change (MDC) Formations, on resolving the challenges facing Zimbabwe

Constitution of Zimbabwe, Amendment No. 19 Act, 2009

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
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<tbody>
<tr>
<td>100:</td>
<td>Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.</td>
</tr>
<tr>
<td>75:</td>
<td>Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.</td>
</tr>
<tr>
<td>50:</td>
<td>Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.</td>
</tr>
<tr>
<td>25:</td>
<td>Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.</td>
</tr>
</tbody>
</table>

7b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

**YES** | **NO**

**Comments:**
An appeal can be made to the Administrative Court. The president of the Administrative Court is assisted by two assessors.

**References:**
Zimbabwe Broadcasting Services Act 2001, Section 43

**YES:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

**NO:** A NO score is earned if there is no appeal process for broadcast media licenses.

7c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.
Comments:
No new broadcasters have been awarded licenses to date.

References:
Zimye,
Zimbabwe Broadcasting Holdings to open new TV channel,
Media Network, June 25, 2009,
http://blogs.mw.nl/medianetwork/zimbabwe-broadcasting-holdings-open-new-tv-channel

Broadcasting Authority of Zimbabwe,
Sept. 15, 2009, Harare (Spoke with a commissioner but she declined to be quoted)

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

7d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

Comments:
No new broadcast media licenses have been issued. The cost of applying for a new license is yet to be determined.

References:
Broadcasting Authority of Zimbabwe official, Sept. 15, 2009, Harare

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.
8. Can citizens freely use the Internet?

75

8a. In practice, the government does not prevent citizens from accessing content published on-line.

Comments:
The government does no block or filter internet content. However, regulation focuses on usage of emails and filters emails that are considered offensive and dangerous.

References:
Newzimbabwe.com,
Zimbabwe given net censorship all clear*,
Jan. 12, 2008
http://www.newzimbabwe.com/pages/email17.16431.html

Open Net Initiative (ONI), Zimbabwe,
http://www.opennet.net/research/profiles/zimbabwe

100: The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

75:

50: Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

8b. In practice, the government does not censor citizens creating content on-line.

Comments:
Government censorship is limited to control of email communications through the Interception of Communications Act (2007), which allows the government to intercept emails that are considered subversive.
100: The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

75:

50: In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

25:

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

9. Are the media able to report on corruption?

67

9a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | NO

Comments:
It is legal to report accurately even if it damages the reputation of a public figure. It is, however, argued that the law of defamation weighs too heavily in favor of protecting the reputation of public figures.

References:
Section 20(1)(b)(i) of the Constitution of Zimbabwe

Feltoe G and Biti T, Zimbabwe,
http://www.fxi.org.za/pages/Publications/Medialaw/zim-fina.htm

YES: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

NO: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.
9b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

Comments:
Sometimes because of political concerns, journalists in the public media are reluctant to get their articles published so they may send stories to independent papers under a pseudonym. However, usually with enough evidence, newspapers do publish stories of corruption. There is some intimidation when there is reporting of such articles — for example, editor Brezhnev Malaba and reporter Nduduzo Tsuma of the government controlled Sunday News' newspaper were arrested for publishing a story that implicated the police in a corruption scam involving grain in 2008.

References:
Kizito Sikuka, reporter, Zimbabwe Inter-Africa News Agency (ZIANA), Sept. 18, 2009, Harare

Anna Chibamu, former reporter with the Daily Mirror, Sept. 18, 2009, Harare

Muronzi Chris,
Journalists' arrest affront to freedom of expression*,
Zimbabwe Independent, May 14, 2009

100: The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

75:

50: The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

9c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

Comments:
There have been rumors of copy going to the Ministry of Information before publication in the public media, but this is not openly acknowledged.

References:
Kizito Sikuka, reporter, Zimbabwe Inter-Africa News Agency (ZIANA), Sept. 18, 2009, Harare

Personal experience from working at the government-controlled 'Sunday Mail' newspaper
100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10. Are the media credible sources of information?

45

10a. In law, print media companies are required to publicly disclose their ownership.

**YES | NO**

**Comments:**
On application, print media entities are required to disclose owners.

**References:**
Access to Information and Protection of Privacy Act (AIPPA)

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**YES:** A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

**NO:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

**YES | NO**

**Comments:**
The law requires the licensee to submit details of persons who were in a position to control the licensee and provide the names and addresses of all directors every six months. This information is available to the public.

**References:**
Zimbabwe Broadcasting Services Act, Section 23
YES: A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

| 100 | 75 | 50 | 25 | 0 |

Comments: There are no laws or codes of conduct agreed upon for either the government or privately controlled media. The Zimbabwe Media Commission however, created under Constitutional Amendment No.19, will among other things enforce good practice and ethics in the press, print and electronic media and broadcasting.

References:

Zimbabwe Constitutional Amendment No.19

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

75:

50: Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

25:

0: Editors and journalists are widely known to sell favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

| 100 | 75 | 50 | 25 | 0 |

Comments: Media monitoring of the media during the 2008 elections found that coverage by government controlled media was strongly biased towards ZANU-PF, with limited and often negative coverage of the opposition MDC. The Zimbabwe Electoral Commission failed to ensure fair and balanced coverage of all political parties and independent candidates.

Public and private media are divided along the political lines. The government controls the only daily newspaper with the widest coverage. Ideas disseminated therefore disadvantage the opposition.
Electoral Laws Amendment Act, Section 16

100: All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

50: Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

0: The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

Comments:
State media outlets favors ZANU PF – the ruling party — in elections coverage. During the last elections, seven reporters and Zimbabwe Broadcasting Holdings CEO Henry Muradzikwa were fired for being sympathetic to the opposition Movement for Democratic Change (MDC T).

References:

Kwenda S,
Heads Roll at ZBC – CEO fired over election outcome",
The Financial Gazette (Zimbabwe), May 17 2008,
http://www.kubatana.net/html/archive/media/080517fingaz.asp?sector=HR&year=0&range_start=1

100: The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

75:

50: The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:
11. Are journalists safe when investigating corruption?

67

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | NO

Comments:
The editor of the government controlled Sunday News and reporter Nduduzo Tshuma face criminal defamation charges for publishing in 2008 a story that implicated the police in a corruption scam involving grain. The two were arrested on March 17, 2009, in Bulawayo, Zimbabwe, where they signed a warned and cautioned statement by the police.

A second case is the arrest of Zimbabwe Independent editors Vincent Kahiya and Constantine Chimakure for publication of an article listing Central Intelligence officers and police officers involved in the abductions of human rights activists and political activists. The two presented themselves at the Law and Order Section of the Harare Central Police Station. The two were made to sign warned and cautioned police statements and were later released.

References:
Zimbabwe Online Press,
MISA condemns defamation charges against Malaba”, April 8, 2009,

Media Institute of Southern Africa,
“Newspaper editors face charges, arrested and released on bail”, May 14, 2009
http://www.ifex.org/zimbabwe/2009/05/14/zimind_editors_arrested/.

YES: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

NO: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned” is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | NO

Comments:
There have been no such documented cases of journalists investigating corruption who were physically harmed.
### References:

Media Monitoring Project Zimbabwe


Reporters Without Borders, [http://www.rsf.org/Three-journalists-arrested-held.html](http://www.rsf.org/Three-journalists-arrested-held.html)

---

**YES:** A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

**NO:** A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

---

**11c. In practice, in the past year, no journalists investigating corruption have been killed.**

| YES | NO |

---

**Comments:**

There have been no reported cases of journalists killed for reporting corruption.

---

**References:**

Human Rights Watch 2009 Report Zimbabwe

Reporters Sans Frontiers, [http://www.rsf.org](http://www.rsf.org)

---

**YES:** A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

**NO:** A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

---

43

**I-3. Public Access to Information**

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12. Do citizens have a legal right of access to information?
12a. In law, citizens have a right of access to government information and basic government records.

YES | NO

Comments:
AIPPA sets out rights of access to information but sets limits to access to information by unregistered media or a foreign government.

References:
Access to Information and Protection of Privacy Act (AIPPA)
Official Secrets Act
Constitution of Zimbabwe

YES: A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

NO: A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | NO

Comments:
The public could request the Media and Information Commission to review the decisions of an agency on access to information. However, the Media and Information Commission has recently been replaced by a new media commission that is more independent. Appeals can be made to an administrative court.

References:
Access to Information and Protection of Privacy Act

YES: A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

NO: A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.
Comments:
The Zimbabwe Media Commission is supposed to ensure that citizens have equitable and wide access to information. Although the Official Secrets Act does provide some limitations, the ZMC will be expected to serve as this mechanism and provide citizens with access to information.

References:
Constitution of Zimbabwe, Amendment Number 19

Access to Information and Protection of Privacy Act AIPPA, (Amended in January 2008)

Official Secrets Act

YES: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

NO: A NO score is earned if there is no such formal mechanism or institution.

13. Is the right of access to information effective?

33

13a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Information requests need to be responded to within 30 days. With the exception of specific records specified in law, information is available upon request. The time involved often depends on the nature of the information requested.

References:
MISA Zimbabwe,
The Access to information and Protection of Privacy Act: 2 years on*, September 2004,

David Banisar,

Official Secrets Act

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.
Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the access to information mechanism at a reasonable cost.

Comments:
Only a limited amount of information is available online from government websites or by mail from different government departments.

References:
Access to Information and Protection of Privacy Act
Various Government websites

Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

Comments:
Some sensitive information is censored, especially if it is perceived to be of a sensitive political nature.

References:
Access to Information and Protection of Privacy Act and Amendment
Information requests to various government departments

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<tr>
<td>100</td>
<td>Responses to information requests typically address the requestor’s questions in full and are not redacted or edited to remove sensitive information.</td>
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<tr>
<td>50</td>
<td>Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.</td>
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<tr>
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<tr>
<td>0</td>
<td>The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.</td>
</tr>
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13d. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

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Comments:
Where an information request has been denied appeals were by law handled by the Media and Information Commission, but there have been no documented of successful appeals. The MIC has been reconstituted to be the Zimbabwe Media Commission, a body that is more independent. The ZMC has not yet been physically constituted since its creation through Constitutional Amendment No. 19.

References:
Access to information and Protection of Privacy Act and Amendments
Constitution of Zimbabwe, Amendment No. 19

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<th>Score</th>
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<td>100</td>
<td>The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.</td>
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<tr>
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</tr>
<tr>
<td>50</td>
<td>The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.</td>
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<tr>
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<tr>
<td>0</td>
<td>The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.</td>
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13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.

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</table>
Comments:
There will be new regulations under the Zimbabwe Media Commission which will replace the Media and Information Commission. At the moment there is a vacuum with the MIC not constitutional and the ZMC yet to be formally announced.

References:
Access to Information and Protection of Privacy Act
Veritas Bill Watch 28/09, Media Commission Update

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

25:

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13f. In practice, the government gives reasons for denying an information request.

100  |  75  |  50  |  25  |  0

Comments:
Reasons should be given for denying an information request.

References:
Access to Information and Protection of Privacy Act and amendments

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.
14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

Comments: There is universal suffrage for any person who has attained 18 years of age and is a citizen of Zimbabwe. Disqualifications are for people with mental disorders and those convicted of a crime and sentenced to more than six months imprisonment, for the duration of the imprisonment.

References:
Constitution of Zimbabwe, Schedule 13

YES: A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

NO: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

Comments: Elections are held every five years. However, after the controversial elections held in 2008, there has been a power-sharing agreement between the three main political parties under the Global Political agreement. There have been calls for holding fresh elections, but the dates are yet to be set.

References:
Constitution of Zimbabwe

Electoral Laws Amendment Act No. 17 of 2007

Global Political Agreement (Agreement between the Zimbabwe African National Union – Patriotic Front (ZANU PF) and the two Movement for Democratic Chang (MDC) formations, on resolving the challenges facing Zimbabwe)
YES: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

NO: A NO score is earned if no such framework exists.

15. Can all citizens exercise their right to vote?

67

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

Comments:
Zimbabweans in the diaspora cannot vote. The rights of disabled people including visually impaired people is not guaranteed — for example there are no ballot papers in Braille. Their rights are violated in that the Electoral Law says that disabled people can be assisted by officers presiding and election who marks the ballot for them in the presence of two other officers. This violates their rights. The Electoral Act also imposes a mandatory ward voting system, whereby voters can only vote in the ward they are registered as voters even for a presidential election. This means that voters will not be able to vote if they are not in their ward at the time of the polls.

References:
Magaisa Alex (Dr), Zimbabwe’s disenfranchised voters”, Sept. 18, 2009
Zimbabwe Electoral Act Section 110(3)
The National, “Disability activists in Zimbabwe push for the right to vote”, June 08 2009

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.
Comments:
In theory the ballot in Zimbabwe is secret. However, Section the Electoral Act requires the voter to hold up the ballot paper for the presiding officer to see the mark he would have earlier placed on the paper, which may disadvantage the voter. Provisions for illiterate voters and physically disabled voters requires them to be assisted by the presiding officer and two other election officers, therefore violating the concept of a secret ballot.

References:
Magaisa Alex (Dr),
Fallacy of the Secret Ballot”,
http://www.newzimbabwe.com

Zimbabwe Electoral Act

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

Comments:
From 1980 to 2008, elections have been held regularly. However after the 2008 elections, when results were contested between the two main political parties, a power-sharing agreement was made and an agreement made that elections would be held after conditions of the agreement were met. The dates of the new elections are yet to be announced.

References:
Constitution of Zimbabwe

Constitutional Amendment No. 17

Global Political Agreement (Agreement between the Zimbabwe African National Union (ZANU PF and the two MDC formations on the challenges facing Zimbabwe)

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:
Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

16. Are citizens able to participate equally in the political process?

95

16a. In law, all citizens have a right to form political parties.

YES | NO

References:
Constitution of Zimbabwe
Political Parties Finance Act

YES: A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

NO: A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

YES | NO

Comments:
Restrictions are on the basis of age. One has to be a registered voter in order to contest for an MP position.

References:
Constitution of Zimbabwe

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

NO: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.
16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

Comments:
Citizens are free to form political parties. There are no barriers towards this.

References:
Constitution of Zimbabwe

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

Comments:
All citizens can run for political office although there are some financial barriers towards doing this. State funding is only afforded to parties according to a percentage of votes in the previous elections. This disadvantages new political parties and candidates. Women are also disproportionately disadvantaged as they have limited financial resources to hold campaigns as compared to men.

References:
Constitution of Zimbabwe

Political Parties Finance Act

ZWRCN and SARDC WIDSA, Beyond Inequalities 2005: Women in Zimbabwe", SARDC, Harare, 2005

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable
and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

Comments:
The two Movement for Democratic Change (MDC) formations and the Zimbabwe African national Union (ZANU PF) both have representation in Parliament, with the MDC which was the opposition party now with a majority in parliament. The three parties have now formed an inclusive government, following a power-sharing agreement.

References:
Parliament of Zimbabwe documents
Agreement between the Zimbabwe African National Union, (ZANU PF) and the two MDC formations on resolving the challenges facing Zimbabwe (Global Political Agreement)

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75:

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

25:

0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

II-2. Election Integrity

18. Is the election monitoring agency effective?
18a. In law, the agency or set of agencies/entities is protected from political interference.

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**Comments:**
The Constitution states that The ZEC shall not, in terms of its function... be subject to the direction or control of any person or authority."

**References:**
Constitution of Zimbabwe, Section 61(5)

**YES:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

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**Comments:**
In theory, appointments made support the independence of the commission. The ZEC chairperson and committee members are all appointed by the president from among nominees submitted by the Parliamentary Committee on Standing Rules and Orders. However, in 2007, five of the nine appointments were of former government employees, therefore there were allegations of lack of independence of the commission as they would serve ruling party interests.

**References:**
Constitution of Zimbabwe, Section 61 (1)(a)

Zimbabwe Election Watch,
MDC cries foul over ZEC appointments",
Nov. 18, 2007
http://www.sokwanele.com

| 100: Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations. |

| 75: |

| 50: Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties. |
Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

In practice, the agency or set of agencies/entities has a professional, full-time staff.

Comments:
The Zimbabwe Electoral Commission has full time staff but also depends on personnel from other government departments, such as teachers, to carry out electoral processes on polling day.

References:

The reports are presented but are usually delayed. The report of elections ending June 2008 was only made available in May 2009, though the law outlines that the ZEC should present reports no later than six months after the announcement of election results.

In response to the violence and allegations of vote rigging in the 2008 election, the ZEC ordered recounts of some of the constituencies. The MDC challenged some of these results in the Electoral Court. Other than this, the ZEC did not take any other action.

References:
Electoral Laws Amendment Act No. 17 of 2007
Zimbabwe Electoral Commission (ZEC),
Report on the 2008 General Elections*,
13 May 2009,
http://www.kubatana.net

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100  |  75  |  50  |  25  |  0

Comments:
The Zimbabwe Electoral Commission by law can impose penalties. However, although there were complaints of election violence and intimidation during the 2008 elections by political parties, especially the Movement for Democratic Change, the ZEC did not take action against offenders or impose penalties. The ZEC seems to have more of an advisory function and did not impose penalties on offenders, except to issue warnings when violations occurred.

References:
Zimbabwe Electoral Commission Act

Electoral Laws Amendment Act

Zimbabwe Electoral Commission,
Report on the 2008 General Elections*, ZEC,
May 13, 2009,
http://www.kubatana.net

ZESN,
“Post-election update July – September 2008”,
Sept. 15, 2009,

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments.
against offenders. The agency may be partisan in its application of power.

19. Are elections systems transparent and effective?

63

19a. In practice, there is a clear and transparent system of voter registration.

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Comments:
The voter registration system is relatively clear and transparent. Registration is with the Constituency registrar under the supervision of ZEC. In the last elections, there was a mobile registration exercise followed by inspection of the Voters Roll. The process is marred by the limited amount of time given towards inspection of the voters’ roll as well as accusations of presence of long dead people on the rolls.

References:
Zimbabwe Electoral Commission (ZEC),
Report on the 2008 General Election
May 13, 2009
http://www.kubatana.net

VERITAS,
“Bill Watch 13/2008”
March 28, 2008

Zimbabwe Electoral Act

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

YES | NO
Comments:
Election results can be contested through the Electoral Court.

References:
Zimbabwe Electoral Act

**YES:** A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

**NO:** A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

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<tr>
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<td>The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.</td>
</tr>
<tr>
<td>75</td>
<td>The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.</td>
</tr>
<tr>
<td>50</td>
<td>The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.</td>
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Comments:
Election results can be effectively appealed through the Electoral Court, however the majority of the cases were thrown out by the Court. Some petitions were taken to the High Court — for example, the MDC made an application to the High Court for the Zimbabwe Electoral Commission to release results of the elections. This was considered but the High Court threw out the petition. The MDC did not appeal the 2008 presidential election result, however, ZANU PF requested a re-count of the votes because the MDC had received a majority, although not enough to avoid a run-off.

References:
Sokwanele Civic Action Support Group,
Zimbabwe Election Watch, Issue 20,
March 19, 2008,
http://www.reliefweb.int/rwarchive/rwb.nsf/db900sid/KKAA-7D54S3?OpenDocument

High beam Research,
Court Rejects appeal to release Zimbabwe Election Results*,
April 15, 2008,
http://www.highbeam.com/doc/1G1-177846840.html

19d. In practice, the military and security forces remain neutral during elections.
Security chiefs including heads of the army, police, and prison service proclaimed they would not support any other president other than President Mugabe during the last elections. The service chiefs appeared on national television with this announcement. This meant they openly supported the Zimbabwe African National Union – Patriotic Front Party over any other party. The police force has also been accused of selectively applying the law in favor of ZANU PF at the expense of other political players.

References:
Human Rights NGO Forum,
Can elections held in Zimbabwe be free and fair in the current environment”,

EISA,
“EISA Regional Election Observer Mission – The 2008 Harmonised elections in Zimbabwe”,
March 31, 2008,

Zimbabwe Electoral Act

100: The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

75:

50: The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

25:

0: The military or other security forces are an active and explicit player in politics and overly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

Comments:
Observers are allowed; however, these are screened by the minister responsible for foreign affairs.

References:
Electoral Laws Amendment Act No. 17 of 2007

YES: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.
NO: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

| 100 | 75 | 50 | 25 | 0 |

Comments:
The government was accused of selectively accrediting observers. Some countries and observers were excluded from observing the elections. These included countries from the European Union as these were considered biased. Those who were accredited were however allowed to observe all aspects of the elections with no restrictions.

References:
Rusere Patience and Moyo Brenda, Zim government selective in accrediting election observers*, Voice of America March 7, 2008

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers’ activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers’ movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO
Comments:
The Zimbabwe Electoral Commission supervises elections.

References:
Constitution of Zimbabwe, Section
Constitutional Amendment No. 17
Zimbabwe Electoral Commission Act
Electoral Laws Amendment Act 2007

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

NO: A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

II-3. Political Financing

20. Are there regulations governing the financing of political parties?

0

20a. In law, there are limits on individual donations to political parties.

YES | NO

Comments:
It prohibits foreign funding, whether directly or through a third person.

References:
Political Parties Finance Act

YES: A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.
20b. In law, there are limits on corporate donations to political parties.

| YES | NO |

**Comments:**
There are no limits on corporate donations, but prohibition of foreign funding.

**References:**
Political Parties Finance Act 2002

**YES:** A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

**NO:** A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20c. In law, there are limits on total political party expenditures.

| YES | NO |

**Comments:**
There are no limits to expenditure.

**References:**
Political Party Finance Act

**YES:** A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

**NO:** A NO score is earned if there are no limits on political party expenditures during an election. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are requirements for the disclosure of donations to political parties.

| YES | NO |

**Comments:**
Political parties are not required to disclose donations under the law.
YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor’s name or amount given, or the regulations allow for anonymous donations.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

YES | NO

Comments:
No such requirements exist. Although the responsible minister can promulgate regulations to provide for the audit of the accounts of political parties, this has never been done.

References:
Political Parties (Finance) Act

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties’ finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

20f. In law, there is an agency or entity that monitors the financing of political parties.

YES | NO

Comments:
No such agency or entity exists.

References:
Political Parties (Finance) Act

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and civil society organizations.
21. Are there regulations governing the financing of individual political candidates?

0

21a. In law, there are limits on individual donations to political candidates.

YES | NO

Comments:
The law sets no limits except prohibition of foreign funding.

References:
Political Parties (Finance) Act

YES: A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21b. In law, there are limits on corporate donations to individual political candidates.

YES | NO

Comments:
There are no limits except prohibition of foreign funding.

References:
Political Parties (Finance) Act

YES: A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are requirements for the disclosure of donations to individual political candidates.
There are no requirements to disclose donations.

References:
Political Parties (Finance) Act

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor’s name or amount given, or the regulations allow for anonymous donations.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

Comments:
There are no such requirements.

References:
Political Parties (Finance) Act

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate’s campaign finances and expenditures when financial irregularities are uncovered. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate’s campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

21e. In law, there is an agency or entity that monitors the financing of individual political candidates’ campaigns.

Comments:
No such agency or entity exists.
YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates’ campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and civil society organizations.

22. Are the regulations governing the political financing of parties effective?

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<th>Description</th>
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<tr>
<td>100</td>
<td>Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.</td>
</tr>
<tr>
<td>75</td>
<td>Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.</td>
</tr>
<tr>
<td>50</td>
<td>Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.</td>
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Comments:
There are no limits on individual donations.

References:
Political Parties (Finance) Act, Chapter 2:11

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual’s ability to financially support a political party.
Comments:
There are no limits on corporate donations.

References:
Political Parties (Finance) Act, Chapter 2:11

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party’s ability to fund campaigns or politically-related activities.

Comments:
There are no limits on total political party expenditures.

References:
Political Parties (Finance) Act

EISA,
Zimbabwe: Party Regulation and Funding”,
Sept. 15, 2009
http://www.eisa.org.za/WEP/zimpartiesc.htm

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:
Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

- **100**: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. The agency is fair in its application of this power.
- **75**: The agency or entity will start investigations, but often relies on external pressure to set priorities, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, thought limited in effectiveness, is still fair in its application of power.
- **50**: The agency or entity rarely investigates on its own, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

- **100**: The agency or entity aggressively imposes penalties on offenders with respect to the financing of political parties, or is cooperative with other agencies that do. The agency is fair in its application of this power.
- **75**: The agency or entity imposes penalties, but often relies on external pressure to set priorities, has limited effectiveness when imposing penalties, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, thought limited in effectiveness, is still fair in its application of power.
- **50**: The agency or entity rarely imposes penalties on offenders, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

No such agency or entity exists.
References:
Political Parties (Finance) Act

EISA,
Zimbabwe: Party Regulation and Funding*,
Sept. 15, 2009
http://www.eisa.org.za/WEP/zimpartiesc.htm

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

Comments:
No audits are required.

References:
Political Parties (Finance) Act

EISA,
Zimbabwe: Party Regulation and Funding*,
Sept. 15, 2009
http://www.eisa.org.za/WEP/zimpartiesc.htm

100: Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.
23. Are the regulations governing the political financing of individual candidates effective?

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

|   | 100 | 75 | 50 | 25 | 0 |

Comments:
There are no limits on individual donations.

References:
Political Parties (Finance) Act, Chapter 2:11
EISA, Zimbabwe: Party Regulation and Funding*, Sept. 15, 2009
http://www.eisa.org.za/WEP/zimpartiesc.htm

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company’s ability to financially support a candidate.

|   | 100 | 75 | 50 | 25 | 0 |

Comments:
There are no limits on corporate donations.
100: Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates’ campaigns independently initiates investigations.

100  75  50  25  0

Comments:
No such agency or entity exists.

References:
Political Parties (Finance) Act, Chapter 2:11

EISA, Zimbabwe: Party Regulation and Funding*, Sept. 15, 2009
http://www.eisa.org.za/WEP/zimpartiesc.htm

100: The agency or entity aggressively starts investigations into allegations of wrongdoing with respect to the financing of individual candidates’ campaigns, or cooperates well with other agencies that do. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power. It may be reluctant to cooperate with other investigatory agencies.

25:
0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates’ campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:
No such agency or entity exists.

References:
Political Parties (Finance) Act, Chapter 2:11
EISA, Zimbabwe: Party Regulation and Funding*, Sept. 15, 2009
http://www.eisa.org.za/WEP/zimpartiesc.htm

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates’ campaigns are audited.

100 | 75 | 50 | 25 | 0

Comments:
No audits are conducted for finances of individual candidates.

References:
Political Parties (Finance) Act, Chapter 2:11
Coltart David, Critique of the Zimbabwean Broadcasting Services and Political parties (Finance) Acts*,
The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

The finances of individual candidates' campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

24. Can citizens access records related to the financing of political parties?

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24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

Political parties are not required to disclose any financial data.

References:
Political Parties (Finance) Act, Chapter 2:11

Coltart David,
Critique of the Zimbabwean Broadcasting Services and Political parties (Finance) Acts*,
Oct. 1, 2001
http://www.davidcoltart.com/?p=71

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24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

Political parties disclose their sources of funding and expenditures at least every quarter.

Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.
Comments:
Citizens cannot access financial records of political parties.

References:
Political Parties (Finance) Act, Chapter 2:11

Coltart David,
Critique of the Zimbabwean Broadcasting Services and Political parties (Finance) Acts*,
Oct. 1, 2001
http://www.davidcoltart.com/?p=71

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

Comments:
Citizens cannot access financial records of political parties.

References:
Political Parties (Finance) Act, Chapter 2:11

Coltart David,
Critique of the Zimbabwean Broadcasting Services and Political parties (Finance) Acts*,
Oct. 1, 2001
http://www.davidcoltart.com/?p=71

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.
25: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

24d. In practice, the publicly available records of political parties’ finances are of high quality.

100 | 75 | 50 | 25 | 0

Comments:
There are no publicly available records of political parties’ finances.

References:
Political Parties (Finance) Act, Chapter 2:11

Coltart David,
http://www.davidcoltart.com/?p=71

100: Publicly available records of political parties’ finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political parties’ finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political parties’ finances, when available, are so incomplete or overly general as to render them useless in understanding a party’s sources of income and its expenditures.

25. Can citizens access records related to the financing of individual candidates’ campaigns?

0

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Individual political candidates do not disclose data on financial support.
References:
Political Parties (Finance) Act, Chapter 2:11

Coltart David,
Critique of the Zimbabwean Broadcasting Services and Political parties (Finance) Acts*,
Oct. 1, 2001
http://www.davidcoltart.com/?p=71

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100: Individual candidates disclose their sources of funding and expenditures at least every quarter.

75:

50: Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

Comments:
Citizens do not have access to individual candidates’ finance records.

References:
Political Parties (Finance) Act, Chapter 2:11

Coltart David,
Critique of the Zimbabwean Broadcasting Services and Political parties (Finance) Acts*,
Oct. 1, 2001
http://www.davidcoltart.com/?p=71

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</table>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.
Comments:
Citizens cannot access candidates' financial records.

References:
Political Parties (Finance) Act, Chapter 2:11

Coltart David,
Critique of the Zimbabwean Broadcasting Services and Political parties (Finance) Acts*,
Oct. 1, 2001
http://www.davidcoltart.com/?p=71

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

25d. In practice, the publicly available records of political candidates’ campaign finances are of high quality.

Comments:
There are no publicly available records of political candidates' finances.

References:
Political Parties (Finance) Act, Chapter 2:11

Coltart David,
Critique of the Zimbabwean Broadcasting Services and Political parties (Finance) Acts*,
Oct. 1, 2001
http://www.davidcoltart.com/?p=71

100: Publicly available records of political candidates’ campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political candidates’ campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.
Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

Category III. Government Accountability

III-1. Executive Accountability

27. Can the chief executive be held accountable for his/her actions?

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

Comments: The president does give reasons for his decisions; however, there are rarely any critical questions asked of him. Most policy decisions are explained in the public media and usually just repeat official justification without critical appraisal.

References:
Presidential Powers (Temporary Measures) Act


100: The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

75:

50: The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

25:

0: The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.
27b. In law, the judiciary can review the actions of the executive.

**YES | NO**

**Comments:**
The constitution limits the power of the courts to inquire into presidential decisions. This section states that where a president is required or permitted by the constitution or any other law to make act on his own deliberate judgment, a court shall not inquire into (a) any advice or recommendation tendered to the president or acted on by him (b) whether any consultation took place (c) nature of any advice or recommendation given to the president (d) the manner in which the president exercised his discretion.

**References:**
Constitution of Zimbabwe, Section 31 (k)

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**YES:** A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

**NO:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

**100 | 75 | 50 | 25 | 0**

**Comments:**
In theory there ought to be a separation of powers in the arms of government but there are many instances in which the executive makes decisions that the judiciary cannot question. Section 31 K of the constitution states that where the president is required by the constitution to act in his own deliberate judgment, the courts shall not question whether any advice or recommendation was tendered to the president or acted on by him; whether any consultation took place in performance of the Act, the nature of advice or recommendation acted on by the president; or the manner in which the president exercised his discretion. The Presidential Powers (Temporary Measures) Act also allows the president to unilaterally declare an emergency and rule by decree and also to cancel any law.

**References:**

Constitution of Zimbabwe

Presidential Powers (Temporary Measures) Act

When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

So far executive orders have been used to establish new regulations and policy albeit as a fire fighting mechanism. For example Currency Evaluation mechanisms allowed the Reserve Bank to withdraw certain money bills and replace them with others. These pieces of legislation have mostly been controversial.

References:
Mawere Mutumwa,
The RBZ and the rule of law: Implications on democracy*,
http://www.newzimbabwe.com

Broadcasting Services (Temporary Measures) Act 2001

The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

28. Is the executive leadership subject to criminal proceedings?
28a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | NO

Comments:
Heads of state and government have immunity. The constitution states that they are not personally liable to any civil or criminal proceedings in any court.

References:
Constitution of Zimbabwe, Section 30

YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

Comments:
Ministerial-level officials have no immunity.

References:
Constitution of Zimbabwe

YES: A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

29. Are there regulations governing conflicts of interest by the executive branch?

YES | NO

29a. In law, the heads of state and government are required to file a regular asset disclosure form.
Comments:
There is no such requirement in law. However, soon after independence in 1980, the ruling party adopted a code of leadership where leaders were required to declare their wealth and under which acquisition of further wealth would be scrutinized. This fizzled out over time.

References:
Gutu Obert (Senator),
Public Officials should declare their assets”,
July 30, 2009
http://www.changezimbabwe.com

YES: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

Comments:
There is no such requirement in law.

References:
Gutu Obert (Senator),
Public officials should declare their assets”,
July 30, 2009
http://www.changezimbabwe.com

YES: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

NO: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO
Comments:
There are no regulations governing such gifts.

References:
Prevention of Corruption Act, Chapter 9:16 1996
Constitution of Zimbabwe

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | NO

Comments:
There are no requirements for asset disclosure forms in law.

References:
Constitution of Zimbabwe
Gutu Obert (Senator),
Public Officials should declare their assets”,
July 30, 2009
http://www.changepzimbabwe.com

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | NO

Comments:
There are restrictions on the president and former president who cannot take up any paid employment while receiving a pension
from the state. For ministers, vice presidents and deputy ministers, there are restrictions to paid employment during their terms of office but none for when they leave office.

**References:**
Constitution of Zimbabwe

**YES:** A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

| 100 | 75 | 50 | 25 | 0 |

**Comments:**
There are no such restrictions for vice presidents, ministers or deputy ministers. Former presidents are not allowed to take up paid employment when they receive a government pension.

**References:**
Constitution of Zimbabwe

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.
Comments:
There are no regulations governing gifts and hospitality.

References:
Constitution of Zimbabwe

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

Comments:
Members of the executive branch are not required to fill asset disclosure forms.

References:
Constitution of Zimbabwe

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.
30. Can citizens access the asset disclosure records of the heads of state and government?

0

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | NO

Comments:
Heads of state and government are not required to produce asset disclosure records.

References:
Constitution of Zimbabwe

YES: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Heads of state and government are not required to disclose their assets.

References:
Constitution of Zimbabwe

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some additional delays may be experienced.
0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

Comments:
The heads of state and government are not required to disclose their assets.

References:
Constitution of Zimbabwe

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

Comments:
The heads of state and government are not required to disclose assets.

References:
Constitution of Zimbabwe

100: The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals’ sources of income, investments, and other financial interests.
75: The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25: The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals’ sources of income, investments, and other financial assets.

26. In law, can citizens sue the government for infringement of their civil rights?

100

References:
Zimbabwe Constitution, Sections 24 and 108 regarding functions of the Ombudsman

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

NO: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

25

Comments:
There is no distinction. However, to address this situation, the Global Political Agreement between the main political parties to form the inclusive government states that state organs and institutions do not belong to any political party and should be impartial in the discharge of duties. It also states that all parties should be treated equally.

To date, there has been the appointment of MDC personnel to key positions but the president has been accused of failing to implement some of the key provisions of the agreement, such as re-appointment of provincial governor, the Reserve Bank
governor and the attorney general. In other aspects, however, the two MDC formations now have a say in ministries they are running. Other outstanding issues include the delay in constituting the various constitutional commissions.

**References:**
Agreement between the Zimbabwe African National Union Patriotic Front (ZANU PF) and the two Movement for Democratic Change (MDC) formations on the challenges facing Zimbabwe

Moyo Jonathan (Prof),
All ZANU PF wants is its geriatrics to be senators*,
http://prof-jonathan-moyo.com/?itemid=21

---

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75: 

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25: 

0: The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

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**III-2. Legislative Accountability**

32. Can members of the legislature be held accountable for their actions?

100

32a. In law, the judiciary can review laws passed by the legislature.

**YES | NO**

**References:**
Constitution of Zimbabwe

Privileges, Immunities and Powers of Parliament Act

Supreme Court Act
YES: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

Comments:
The Supreme Court reviews legislation.

References:
Constitution of Zimbabwe

Biti T and Feltoe G,
Media Law in Zimbabwe*,

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

YES | NO

References:
Constitution of Zimbabwe, Section 42
33. Are there regulations governing conflicts of interest by members of the national legislature?

0

33a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

Comments:
There is no requirement to fill asset disclosure forms, but a motion was moved in Parliament to have the legislature fill asset disclosure forms. Legislators also recently formed the African Parliament Network against Corruption (Zimbabwe Chapter) which will create a code of conduct for legislators to declare their assets.

References:
Constitution of Zimbabwe


Gumede Getrude,
Parly forms committee to fight corruption*,
The Zimbabwe Telegraph,
http://www.zimtelegraph.com/?p=2766

YES: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the legislature is not required to disclose assets.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | NO

Comments:
There are no restrictions to private sector employment for legislators after leaving the government.
YES: A YES score is earned if there are regulations restricting national legislators’ ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

| YES | NO |

Comments:
There are no such guidelines. Although the Prevention of Corruption Act deals with corrupt practices by public officials, there are no guidelines governing gifts and hospitality.

References:
Constitution of Zimbabwe
Prevention of Corruption Act

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

| YES | NO |

Comments:
Members of the national legislature are not required to file asset disclosure forms.

References:
Constitution of Zimbabwe
Prevention of Corruption Act, Chapter 9:16 1996

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.
A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

|   | 100 | 75 | 50 | 25 | 0 |

Comments:
There are no limits to post government private sector employment for the national legislators.

References:
Constitution of Zimbabwe

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

|   | 100 | 75 | 50 | 25 | 0 |

Comments:
There are no regulations governing gifts and hospitality to legislators.

References:
Constitution of Zimbabwe
Prevention of Corruption Act, Chapter 9:16 1996

100: The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

75:
The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

In practice, national legislative branch asset disclosures are audited.

Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

34. Can citizens access the asset disclosure records of members of the national legislature?

In law, citizens can access the asset disclosure records of members of the national legislature.

Comments:
Members of the legislature are not required to declare their assets.

References:
Constitution of Zimbabwe
Prevention of Corruption Act
YES: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Members of the legislature are not required to declare their assets.

References:
Constitution of Zimbabwe
Prevention of Corruption Act, Chapter 9:16, 1996

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Members of the national legislature are not required to declare their assets.
### 34. Can citizens access asset disclosure records of members of the national legislature?

<table>
<thead>
<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
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</table>

In practice, the asset disclosure records of members of the national legislature are of high quality.

**Comments:**
Members of the legislature are not required to disclose their assets.

### 35. Can citizens access legislative processes and documents?

<table>
<thead>
<tr>
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<th>75</th>
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</tr>
</thead>
</table>

The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**Comments:**
Members of the legislature are not required to disclose their assets.

**References:**
- Constitution of Zimbabwe
- Prevention of Corruption Act Chapter 9:16, 1996

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35a. In law, citizens can access records of legislative processes and documents.
YES | NO

Comments:
Citizens can access these records from the Parliament.

References:
Constitution of Zimbabwe

Government Gazette

Hansard

YES: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

NO: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Records are usually readily available upon request; however, when some documents are out of print they are only available from the national archives.

References:
Chinyemba Forbes, librarian, Southern African Research and Documentation Center, Sept. 18, 2009, Harare

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.
Comments:
Records have become expensive with the introduction of the US$ as the currency in use. The Government Gazette, for example, costs US$91 for a three-month subscription.

References:
Chinyemba Forbes, librarian, Southern African Research and Documentation Center, Sept. 18, 2009, Harare

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

44

III-3. Judicial Accountability

36. Are judges appointed fairly?

25

36a. In law, there is a transparent procedure for selecting national-level judges.

YES | NO

Comments:
The process for selecting judges is not transparent. The constitution states that the chief justice and other judges of the High Court and Supreme Court shall be appointed by the president after consultation with the Judicial Service Commission. There is no provision for the procedure by which candidates are selected for consideration by the commission and no rules or regulations for the conduct of the selection process.

References:
Constitution of Zimbabwe, Section 84
YES: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

|   | 100 | 75 | 50 | 25 | 0 |

Comments:
Professional criteria are usually followed; however, there have been accusations of relatively junior and inexperienced judges being appointed to the superior benches ahead of more experienced and senior judges. Appointed judges have been accused of being sympathetic to the ruling party.

References:
http://www.nyulawglobal.org/globalex/zimbabwe.htm

Judicial Service Act, Chapter 7:18

100: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

Comments:
There is no confirmation process.
YES: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity independent from the body appointing the judges.

NO: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

37. Can members of the judiciary be held accountable for their actions?

50

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

References:
Constitution of Zimbabwe
Judicial Services Act

YES: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

NO: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

Comments:
The judiciary gives reasons for their decisions.
High Court Act, Chapter 7:06
Supreme Court Act, Chapter 7:13

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES | NO

Comments:
The law makes provisions for the Judicial Service Commission that has administrative and disciplinary functions for the judicial service.

References:
Constitution of Zimbabwe, Sections 90 and 91
Judicial Services Act

YES: A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to the judiciary.

NO: A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | NO
Comments:
The independence of the Judicial Service Commission is not established in law.

References:
Constitution of Zimbabwe
Judicial Service Act, Chapter 7:18

| YES: A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches. |
| NO: A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an executive ministry or legislative committee. |

| 37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations. |
| 100 | 75 | 50 | 25 | 0 |

Comments:
The Judicial Service Commission can by law investigate members of the judicial service; however, it has not been effective in doing this. Where there have been allegations of judicial misconduct, the president has appointed a tribunal to investigate the matter. One such case was the arrest of Justice Benjamin Paradza in 2003, whose case is pending.

References:
Judicial Service Act

| 100: The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies’ investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power. |
| 75: |
| 50: The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power. |
| 25: |
| 0: The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies’ investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power. |

| 37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders. |
Comments:
The commission can by law impose penalties on offenders but the Commission has not been operationalized to date.

References:
Judicial Service Act

Constitution of Zimbabwe Amendment (No. 17)

100: When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

38. Are there regulations governing conflicts of interest for the national-level judiciary?

0

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | NO

Comments:
Members are not required to fill asset disclosure forms.

References:
Constitution of Zimbabwe

Judicial Service Act, Chapter 7:18

YES: A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.
38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | NO

Comments:
There are no specific guidelines. However, the Judicial Service Act makes provisions for regulations guiding a Code of Ethics that prohibits or limits gifts to judicial officers or members of their families.

References:
Judicial Service Act, Chapter 7:18
Constitution of Zimbabwe

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | NO

Comments:
Members of the judiciary are not required to disclose their assets.

References:
Constitution of Zimbabwe
Judicial Service Act, Chapter 7:18
Prevention of Corruption Act

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.
Comments:
There are no restrictions for post-government employment. There are prohibitions only when in the judicial service.

References:
Judicial Service Act, Chapter 7:18
Constitution of Zimbabwe

YES: A YES score is earned if there are regulations restricting national-level judges’ ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

Comments:
There are no restrictions for post government private sector employment for members of the judiciary.

References:
Constitution of Zimbabwe
Judicial Service Act, Chapter 7:18

100: The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.
38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

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<td>100</td>
<td>75</td>
<td>50</td>
<td>25</td>
<td>0</td>
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</tbody>
</table>

Comments:
There are no regulations on gifts and hospitality to members of the judiciary.

References:
Constitution of Zimbabwe
Prevention of Corruption Act
Judicial Service Act, Chapter 7:18

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38g. In practice, national-level judiciary asset disclosures are audited.

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<td>100</td>
<td>75</td>
<td>50</td>
<td>25</td>
<td>0</td>
</tr>
</tbody>
</table>

Comments:
Judges are not required to declare their assets.

References:
Constitution of Zimbabwe
Judicial Services Act, Chapter 7:18,
Prevention of Corruption Act

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.
50: National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

39. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

YES | NO

Comments:
Their is no requirement for members of the judiciary to disclose their assets.

References:
Constitution of Zimbabwe

Judicial Service Act, Chapter 7:18,

Prevention of Corruption Act

YES: A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Members of the judiciary are not required to disclose their assets.
References:
Constitution of Zimbabwe
Judicial Services Act, Chapter 7:18,

Prevention of Corruption Act

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100  75  50  25  0

Comments:
Members of the judiciary are not required to disclose their assets.

References:
Constitution of Zimbabwe
Prevention of Corruption Act
Judicial Services Act, Chapter 7:18,

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.
Comments:
Members of the judiciary are not required to disclose their assets.

References:
Constitution of Zimbabwe
Judicial Services Act, Chapter 7:18
Prevention of Corruption Act

100: The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

III-4. Budget Processes

40. Can the legislature provide input to the national budget?

67

40a. In law, the legislature can amend the budget.

Comments:
In law, the parliament can debate, make input and approve the budget.

References:
Constitution of Zimbabwe
YES: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

NO: A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>Significant public expenditures require legislative approval.</td>
</tr>
<tr>
<td>75</td>
<td>Some significant public expenditures are approved by the legislature.</td>
</tr>
<tr>
<td>50</td>
<td>Significant public expenditures are approved by the legislature, but some exceptions exist.</td>
</tr>
<tr>
<td>25</td>
<td>The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.</td>
</tr>
<tr>
<td>0</td>
<td>The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.</td>
</tr>
</tbody>
</table>

Comments:
The parliament approves expenditure; however, in the last few years, parliament’s role was increasingly removed because revenues and expenditure rarely tallied with the approved budget. This arose from quasi fiscal activities carried out by the Reserve Bank of Zimbabwe (RBZ) since 2003, such as financing some sectors of the economy that were favored by the government.

References:

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive’s personal budget, or other expenses.

50: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
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<tbody>
<tr>
<td>100</td>
<td>The legislature has sufficient capacity to monitor the budget process and provide input or changes.</td>
</tr>
<tr>
<td>75</td>
<td>Some capacity exists, but not fully.</td>
</tr>
<tr>
<td>50</td>
<td>Limited capacity for monitoring and input.</td>
</tr>
<tr>
<td>25</td>
<td>Limited or no capacity to monitor or provide input.</td>
</tr>
<tr>
<td>0</td>
<td>No capacity to monitor or provide input.</td>
</tr>
</tbody>
</table>

Comments:
Monitoring the budget process is done through the sector-based Parliamentary Portfolio Committees. These meet with the relevant ministry officials and stakeholders for the sectors. Consultations are sometimes hampered by erratic sittings of parliament because of resource constraints. Effectiveness is hampered by lack of human and financial capacity to carry out the oversight function.

References:
IDASA,
The budget Process in Zimbabwe – Appendix VII”,
http://www.idasa.org.za

Blessing Chipfundo (MP),
“The Zimbabwe re-engineered budget process and the impact of its all-stakeholder inclusiveness approach and how the involvement of EQUINET and other stakeholders contribute towards achieving equitable distribution of health resources”,
http://www.web.wits.ac.za/NR

DAIMA Associates Limited,
“Public finance management System for the Government of Zimbabwe,”

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

41. Can citizens access the national budgetary process?

75

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

Comments:
Parliamentary reforms were meant to improve the transparency of the budget process, however this has been undermined by off-budget activities and quasi fiscal activities by the Reserve Bank of Zimbabwe due to the economic crisis in Zimbabwe. This made the budget incomprehensive and unrepresentative.

References:
DAIMA Associates Limited,
Public Finance Management System for the Government of Zimbabwe”,

Chebundo Blessing (MP),
“The zimbabwe Re-engineered Budget Process, and the Impact of its all Stakeholder Inclusiveness Approach and how the Involvement of EQUINET and other stakeholders contribute towards achieving equitable distribution of health resources”,
http://www.web.wits.ac.za/NR

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:
There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

In practice, citizens provide input at budget hearings.

Comments:
Citizens provide input through the Parliamentary Committee Meetings as stakeholders to the process. For example, in the past civil society dealing with health and the Health Committee managed to influence the government to introduce and finance the Declaration of HIV and AIDS as a national emergency.

References:
IDASA, The Budget Process in Zimbabwe – Appendix VII The_Budget_process_cross_country_infor_zimbabwe”, http://www.idasa.org.za

Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

Citizens or CSOs have no formal access to provide input to the budget debate.

In practice, citizens can access itemized budget allocations.

Comments:
Itemized budget allocations are available from the budget section of the Ministry of Finance and from Parliament.
Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

43. Is the legislative committee overseeing the expenditure of public funds effective?

75

43a. In practice, department heads regularly submit reports to this committee.

Comments: Ministries submit quarterly budget performance reports to the committee, but these are usually late.

Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.
Comments:
Opposition members serve equitably on the Committee.

References:
Parliament of Zimbabwe, Committee Membership*

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee’s work to roughly the same extent as any other member of the committee.

75:

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members’ ability to shape the committee’s activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

References:
DAIMA Associates Limited, Public Finance Management system for the Government of Zimbabwe*, May 20, 2009,

Reserve Bank of Zimbabwe Amendment Bill 2009

100: When irregularities are discovered, the committee is aggressive in investigating the government.
42. In law, is there a separate legislative committee which provides oversight of public funds?

100

YES | NO

Comments:
The Public Accounts Committee examines the financial affairs of government departments and state-owned enterprises, reports of the Comptroller and Auditor General, financial accounts of departments funded from public funds.

References:

YES: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

NO: A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).
The civil service is managed by the Public Service Commission.

References:
Constitution of Zimbabwe, Sections 73, 74, 75
Public Service Commission Act, Chapter 16:04

YES: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

NO: A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

Comments:
The statutory instrument states that corruption or dishonesty, which includes bribery which contravenes the Prevention of Corruption Act, is an act of misconduct in the public service. Practicing nepotism or any form of favoritism in making or recommending any appointment or promotion to any post is an offense.

References:
Statutory Instrument of 2000 (Public Service Regulations)
Public Service Act, Chapter 16:04
Prevention of Corruption Act

YES: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

NO: A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.
Comments:
They are the following:
1. Internal Disciplinary Committee
2. Ombudsman Office
3. Labor Court

References:
Public Service Commission Act
Public Service Regulations (2000)
Ombudsman Act

YES: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism’s decisions to the judiciary.

NO: A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

References:
Public Service Act
Prevention of Corruption Act
Ombudsman Act

YES: A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

NO: A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

45. Is the law governing the administration and civil service effective?

72

45a. In practice, civil servants are protected from political interference.
Comments:
All public servants are required to be neutral but there have been accusations in the past that senior civil servants who support the opposition do not hold high posts. Appointment of permanent secretaries and principal directors in the ministries was therefore an issue of contention when the president appointed permanent secretaries in February, whom the opposition hadn’t agreed to. However, eventually the parties agreed to retain the appointed permanent secretaries.

References:
Agreement between Zimbabwe African National Union (ZANU PF) and the two Movement for Democratic Change (MDC) formations on resolving the challenges facing Zimbabwe

Constitutional Amendment No. 19

Public Service Regulations (2000)

The Herald, Parties agree on Permanent Secretaries”, The Herald, May 21, 2009

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

Comments:
The Public Service Commission has clearly laid down procedures for recruitment, selection, appointment and promotion, and these are normally followed. Although there was some disagreement on the permanent secretaries appointed by the president in February, for fear that they had party affiliations, the political parties under the power-sharing government agreed on these appointees as they were qualified to hold these positions.

References:
The Herald, Parties Agree on Permanent Secretaries”, The Herald, May 21, 2009, Harare
Public Service Regulations (2000)

Transparency International Zimbabwe,
“A comparative study of National Integrity Systems in 5 southern African countries”
TIZ, Harare, 2007

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100  75  50  25  0

Comments:
Generally, appointments are based on merit. However, there have been allegations of nepotism especially at decentralized functions, where ministries can finalize appointments and promotions of grades below those of under-secretary.

References:
Public Service regulations (2000)

Transparency International Zimbabwe,
A comparative study of National Integrity Systems in 5 southern African countries”,
TIZ, Harare, 2007

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.
There are clear job descriptions in the Civil Service available upon request.

References:
Public Service Regulations (2000)

<table>
<thead>
<tr>
<th>100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.</th>
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<tr>
<td>75:</td>
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<tr>
<td>50: Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.</td>
</tr>
<tr>
<td>25:</td>
</tr>
<tr>
<td>0: Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.</td>
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In practice, civil servant bonuses constitute only a small fraction of total pay.

<table>
<thead>
<tr>
<th>100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.</th>
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<tbody>
<tr>
<td>75:</td>
</tr>
<tr>
<td>50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.</td>
</tr>
<tr>
<td>25:</td>
</tr>
<tr>
<td>0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.</td>
</tr>
</tbody>
</table>
45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

Comments:
Civil service positions are not officially published but are available from estimates of expenditure for the national budget. These are also available upon request from the Public Service Commission.

References:
Government Estimates of Expenditure, Ministry of Finance Zimbabwe
Public service commission documents
Madziwa R, former officer with the Public Service Commission, Sept. 22, 2009, Harare

100: The government publishes such a list on a regular basis.
75:
50: The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.
25:
0: The government rarely or never publishes such a list, or when it does it is wholly incomplete.

45g. In practice, the independent redress mechanism for the civil service is effective.

Comments:
The effectiveness of the Internal Disciplinary Committee is hampered by lack of human capacity to effectively hear the cases, and as a result sometimes it takes years to resolve some of the cases. Civil servants can make appeals to the Labor Court if they receive unfavorable judgments.

References:
Public Service Regulations 2000

100: The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.
The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

In practice, in the past year, the government has paid civil servants on time.

Comments:
Salaries were delayed in March by a week, but generally civil servants are paid on time. Teachers who are in the service have been paid on time. There have been reports, however, of failure to pay teachers who have re-joined the service as the process of re-admission is said to be cumbersome and takes a long time. This does not apply to the generality of teachers, however.

References:
The Zimbabwe Daily, Anxiety grips civil servants

In the past year, no civil servants have been paid late.

In the past year, some civil servants have been paid late.

In the past year, civil servants have frequently been denied due pay.

In practice, civil servants convicted of corruption are prohibited from future government employment.

Comments:
There is a lifetime ban but this is not always effective as there have been allegations of instances where convicted civil servants are shuffled to other departments.
Civil Service Regulations 2000

100: A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

46. Are there regulations addressing conflicts of interest for civil servants?

28

46a. In law, senior members of the civil service are required to file an asset disclosure form.

YES | NO

Comments:
There is no such requirement.

References:
Public Service Commission Act

Public Service Regulations (2000)

Constitution of Zimbabwe

YES: A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.
The Act governs conflicts of interest in the public service.

References:
Public Service Commission Act

YES: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

NO: A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | NO

Comments:
There are no restrictions.

References:
Public Service Act
Constitution of Zimbabwe
Prevention of Corruption Act

YES: A YES score is earned if there are regulations restricting civil servants’ ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

Comments:
Making, offering, accepting or receiving a bribe, gift or favor in connection with the discharge of duty is an act of misconduct in the public service.
YES: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

NO: A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

YES | NO

Comments:
There is no requirement for asset disclosures.

References:
Prevention of Corruption Act
Constitution of Zimbabwe
Public Service Commission Act

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:
There are no such restrictions.

References:
Prevention of corruption Act
Public Service Commission Act
100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100  |  75  |  50  |  25  |  0

Comments:
There is corruption in different sectors of the civil service and sometimes one cannot get anything done without having to offer some form of gift or bribe in all sectors of the public service and few of these cases come to light. For example, bribery at the Registrar General's Office, where the public obtains national registration and travel documents, is the norm not an exception.

References:
Transparency International Zimbabwe,
A comparative study of National Integrity systems in 5 southern African Countries”,
TIZ, Harare, 2007

100: The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.
Comments:
Civil servants rarely recuse themselves when a policy decision affects personal interests. In many cases there is abuse of power by civil servants who use their positions for personal gain.

References:
Magaisa Alex,
Reducing conflict of interest in our politics*,
May 1, 2009,
http://www.newzimbabwe.com/blog/?p=548

Prevention of Corruption Act

100: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

75:

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

Comments:
There is no requirement for civil servants to disclose assets.

References:
Prevention of Corruption Act
Constitution of Zimbabwe
Public Service Commission Act

100: Civil service asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.
25:
0: Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

47. Can citizens access the asset disclosure records of senior civil servants?

0

47a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | NO

Comments:
Civil servants are not required to file asset disclosure forms.

References:
Prevention of Corruption Act
Public Service Commission Act
Constitution of Zimbabwe

YES: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

NO: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
There is no requirement for civil servants to disclose assets.

References:
Prevention of Corruption Act
Constitution of Zimbabwe
Public Service Commission Act
100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

Comments:
There is no requirement for civil servants to disclose assets.

References:
Prevention of corruption Act
Public Service Commission Act
Constitution of Zimbabwe

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

Comments:
There is no requirement for civil servants to disclose assets.
IV-2. Whistle-blowing Measures

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

69

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES  |  NO

Comments:
It provides protection for whistle blowers; it is not limited to civil servants but to all persons reporting on corruption.

References:
Prevention of Corruption Act, Chapter 9:16, Section 14 (2)

Police Act, Chapter 11:10

Public Service Act

Ombudsman Act
YES: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:
There is whistle blowing protection but this is inadequate evidenced by the few number of public servants who actually come forward with information.

References:


100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

References:
Prevention of Corruption Act
YES: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for private-sector whistleblowers.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:
Protection is not adequate as employers may respond through verbal and physical abuse and some serious threats. However, because of increasing corporate misdeeds, whistle blowers were actually offered rewards for whistle blowing. Examples are the Zimbabwe Revenue Authority and the Reserve Bank of Zimbabwe who established whistle blower funds.

References:
Greshem T Pasi,
Speech by the Commissioner General of the Zimbabwe Revenue Authority, Mr Greshem T Pasi at the official opening of the 18th SADC SCCC meeting, Wednesday 28 May 2009*.
http://www.zimra.co.zw/Misc/SCCC%20Guest%20of%20Honour%20speech.pdf

Dennis Masaka,
“Whistle blowing in the context of Zimbabwe’s economic crisis”, 2007,

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

50

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.
Comments:
Civil servants can report corruption to the Anti Corruption Commission which had full time staff. The new commission is yet to be constituted, according to the Constitutional Amendment.

References:
Constitutional Amendment No. 19
Veritas Bill Watch,
Media Commission Update*

100: The agency/entity has staff sufficient to fulfill its basic mandate.
75:
50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.
25:
0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

References:
Prevention of Corruption Act

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.
75:
50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.
25:
0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.
### Comments:
The Commission has been accused of failing to investigate cases of public sector corruption.

### References:
Dennis Musaka,
*Whistleblowing in the context of Zimbabwe’s Economic crisis*,

**Prevention of Corruption Act**

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.</td>
</tr>
<tr>
<td>75</td>
<td>The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.</td>
</tr>
<tr>
<td>50</td>
<td>The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.</td>
</tr>
<tr>
<td>25</td>
<td>The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.</td>
</tr>
<tr>
<td>0</td>
<td>In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.</td>
</tr>
</tbody>
</table>

### Comments:
The Commission initiates investigations and hands over cases to the police. However, it has been accused of being partisan in which cases it investigates.

### References:
Mary Revesai,
*Zimbabwe has leeches, no scorpions*,

**Ministry of Anti-Corruption and Anti-Monopolies**

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies’ investigations.</td>
</tr>
<tr>
<td>75</td>
<td>The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.</td>
</tr>
<tr>
<td>50</td>
<td>The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.</td>
</tr>
</tbody>
</table>
25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

YES | NO

Comments:
Reports can be made to the Anti-Corruption Commission.

References:
Prevention of Corruption Act
Public Service Commission Act

YES: A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

NO: A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

73

IV-3. Procurement

51. Is the public procurement process effective?

63

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.
Comments:
The Procurement Act States that members of the State Procurement Board and Committee are required to disclose certain connections and interests.

References:
Zimbabwe Procurement Act, Section 17
Prevention of Corruption Act

**YES:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

**NO:** A NO score is earned if no such rules exist.

51b. In law, there is mandatory professional training for public procurement officials.

**YES** | **NO**

Comments:
The Act does not have special qualifications related to the tasks. Staff is recruited on the basis of a standard job description and specification. Once employed the individual is deemed suitable and capable of handling any aspect of the public contracting system.

References:
Zimbabwe Procurement Act

Transparency International Zimbabwe,

**YES:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

**NO:** A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.
Comments:
It is difficult to monitor compliance to the provisions of the Procurement Act. Compliance therefore depends on the integrity and character of the Board or members of the committee.

References:

Zimbabwe Procurement Act

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict-of-interest regulations do not exist, or are consistently ineffective.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | NO

Comments:
Although the Act makes provisions for the chairman and board members to disclose all assets held by themselves and their spouses to the president there is no mechanism in law to monitor this.

References:
Zimbabwe Procurement Act, Section 8

YES: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

NO: A NO score is earned if no such mandate exists.

51e. In law, major procurements require competitive bidding.
Comments:
A minimum of three suppliers are approached whenever there is a need to purchase goods by the government. However, lately there has been flouting of some of the procurement laws when Councils or the government award tenders without going to tender.

References:
Zimbabwe Procurement Act

Procurement Regulations 2002

The Financial Gazette,
Who will save the construction sector*,
Aug. 14, 2009,

YES: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

NO: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% of GDP).

51f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

Comments:
There are strict formal limitations.

References:
Zimbabwe Procurement Act, Chapter 22:14

Procurement regulations 2002

YES: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

NO: A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.
The procuring entity is not liable for tenders that have been rejected.

References:
Procurement Act, Chapter 22:14

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

References:
Procurement Act, Chapter 22:14, Sections 43 and 44

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

References:
Prevention of Corruption Act
Procurement Act, Chapter 22:14, Section 41
YES: A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

NO: A NO score is earned if no such process exists.

51. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Comments:
All ministries and departments of state and the supplier are notified of blacklisting when a supplier is deemed ineligible. However, there have been allegations of interference from political entities who may influence future decisions.

References:
Procurement Act

Transparency International Zimbabwe,

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

50: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

52. Can citizens access the public procurement process?

83

52a. In law, citizens can access public procurement regulations.

YES | NO

Comments:
These are available from government bodies, who are the procuring entities. Regulations are also published in the Government Gazette.
YES: A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

NO: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

**YES** | **NO**

**Comments:**
Procurement decisions are to be presented to Parliament in the form of an annual report, special report or monthly report. These reports are accessible to the public from Parliament.

**References:**
Procurement Act, Chapter 22:14

YES: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

**100** | **75** | **50** | **25** | **0**

**Comments:**
These are available from the State Procurement Board as well as the procuring ministries.

**References:**
Transparency International Zimbabwe,
A comparative study of Integrity systems in 5 southern African countries*,
TIZ, Harare, 2007

Procurement act

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.
Records take around two weeks to obtain. Some delays may be experienced.

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

Comments:
Regulations are available from the state procurement board and the procuring ministries.

References:
Transparency International Zimbabwe,
A comparative Study of Integrity systems in 5 southern African countries”,
TIZ, Harare, 2007

Procurement Act

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

Comments:
Major procurements are advertised in the Government Gazette as well as the press for a specified period — usually 30 days.

References:
Government of Zimbabwe,
Government Gazette” (Various issues)
There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

In practice, citizens can access the results of major public procurement bids.

Comments:
Results are available from Parliament as decisions are presented to Parliament through periodical reports. The reports are accessible to the public.

References:
Procurement Act

Transparency International Zimbabwe,
A comparative Study of Integrity systems in 5 southern African countries”,
TIZ, Harare, 2007

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

IV-4. Privatization
53. Is the privatization process effective?

50

53a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

Comments:
The government has recently re-started the privatization process. In the current process and previously, not all businesses are eligible. An example is that the government is in the process of privatizing the Zimbabwe Iron and Steel Company (ZISCO Steel.) The government identified six foreign companies that will bid for shareholding. The process is not open to all businesses. There are also limitations placed, for example there is a certain percentage that is reserved for local investors under the indigenization program.

References:
There is no law to this effect, however, there are laid down rules for this.

US Export Council,
Zimbabwe – 16 State owned companies identified for privatization*,
http://www.usexportcouncil.com

SteelGuru,
“Zimbabwe shortlists six firms as possible bidders for ZISCO”,
Oct. 2, 2009,
http://www.steelguru.com

YES: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

NO: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

Comments:
Privatization relies on competitive bidding and public tendering and these are governed under the Procurement Act.

References:
Chikuwha.net
Privatisation of parastatals*,
July 23, 2007,
http://www.chikuwha.net/03julprivatisa54.html
YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

NO: A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

Comments:
In previous privatization exercises, there have been allegations that privatization bids have been hijacked by the ruling elite because people heading commercialized parastatals are those responsible for the enterprises that were performing badly and they have the first preference when buying shares. Privatization in this way has been used to enrich the elite in the name of black empowerment.

References:
Chikuhwa.net,
Privatization of parastatals*,
July 23, 2009,
http://www.chikuhwa.net/23julprivatisa.html

Procurement Act

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

54. Can citizens access the terms and conditions of privatization bids?

60

54a. In law, citizens can access privatization regulations.
Comments:
Recently the government has indicated that they have come up with a privatization plan that is yet to be presented to the Cabinet. Presumably, this will contain privatization rules available to the public. There were allegations in the 2000-2003 privatization process that shares were sold to foreign interests under conditions of secrecy, as information was not available to the public.

References:


YES: A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

NO: A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

Comments:
Privatization is usually conducted through public tendering and bidding, and advertising is done through the Government Gazette and the local and international press. In the case of ZISCO Steel, the government has already shortlisted companies to buy shares. However, the new privatization plan, yet to be presented to Parliament, is expected to prescribe procedures for privatization.

References:


Procurement Act


100: There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to
respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

Comments:
Procurement decisions are presented to Parliament and are therefore accessible to the public.

References:
Procurement Act
Transparency International Zimbabwe,
A comparative study of national integrity systems in 5 southern African countries”,
TIZ, Harare, 2007

YES: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Regulations are available upon request from the parent ministry or the parastatal involved. However, one major problem has been the lack of a clear policy framework for privatization and there has been no clear institutional framework for privatization.

References:
Transparency International Zimbabwe,
A comparative study of National Integrity Systems in 5 southern African countries”,
TIZ, Harare, 2007
Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

Records take around two weeks to obtain. Some delays may be experienced.

Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

In practice, citizens can access privatization regulations at a reasonable cost.

Comments: The regulations are available upon request but it may prove costly to citizens as they are available from the parent ministry of the parastatal involved.


100: Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category V. Oversight and Regulation

V-1. National Ombudsman

56. Is the national ombudsman effective?
56a. In law, the ombudsman is protected from political interference.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

Comments:
The public protector is appointed by the president, upon recommendation from the Judicial Service Commission.

References:
Constitution of Zimbabwe

YES: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

<table>
<thead>
<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

Comments:
The ombudsman is appointed by the Executive so there are questions raised as to how objective he/she is. The ombudsman also receives funding from the Ministry of Justice, Legal and Parliamentary Affairs therefore questions are raised as to whether he/she will be in a position, or be willing to, investigate cases against this ministry.

References:
Constitution of Zimbabwe

Transparency International Zimbabwe,
National Integrity Systems – Transparency International Report*,
TIZ, Harare, 2006

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:
This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

Comments:
The ombudsman is protected. The constitution provides that the ombudsman can be removed for his/her inability to discharge the functions of the office, whether arising from infirmity of body or mind or any other cause for misbehavior.” This will be after the matter has been referred to a tribunal and the tribunal recommends the dismissal to the president. There have been no cases of unfair dismissal yet.

References:
Constitution of Zimbabwe, Section 11

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

Comments:
The Ombudsman’s Office is understaffed. In 2006, there were five investigators out of the required 10.

References:

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.
The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

In practice, agency appointments support the independence of the ombudsman agency (or agencies).

Comments:
The Ombudsman and the deputy ombudsman are appointed by the president. They are fully qualified, but the current one has connections with the ZANU PF Party.

References:

Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

In practice, the ombudsman agency (or agencies) receives regular funding.

Comments:
The Ombudsman's Office is underfunded; this has been cited for the late production of reports.

References:
100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100  |  75  |  50  |  25  |  0

Comments:
The agency made publicly available reports to Parliament, although these are delayed.

References:
Transparency International Zimbabwe,
National Integrity Systems, TIZ report*,
TIZ and Mass Public Opinion Institute, 2006

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100  |  75  |  50  |  25  |  0

Comments:
The Public Protector can by law initiate an investigation upon receiving a complaint. Its effectiveness is however limited by lack of personnel as the office has few investigators, limited funding and also because in the past the office was viewed as a political appointee, therefore not impartial.
References:
Transparency International Zimbabwe and Mass public Opinion Institute,

Global integrity Report 2006

100: The agency aggressively starts investigations — or participates fully with cooperating agencies’ investigations — into judicial misconduct. The agency is fair in its application of this power.

75:

50: The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency rarely investigates on its own or cooperates in other agencies’ investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:
The Public Protector does not impose penalties on offenders but makes recommendations on the course of action to the government. The government then makes a decision on what course of action to take.

References:
Transparency International Zimbabwe and Mass Public Opinion Institute,
National Integrity Systems, TIZ Report*,
TIZ, Harare, 2006

EISA,
"Zimbabwe: Ombudsman Office",
August 2009,
http://www.eisa.org.za/WEP/zimagency.htm

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.
56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

Comments:
The government can choose to ignore recommendations by the Public Protector. The public protector herself has been accused of failing to investigate cases of human rights abuses brought to her attention.

References:
Zimbabwe Standard,
Ombudsman fades into obscurity",
http://www.zimbabwesituation.com/may19_2003.html#link11

Zimbabwe Global Integrity Report 2006

100: Ombudsman’s reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, ombudsman’s reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman’s reports are often ignored, or given superficial attention. Ombudsman’s reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

Comments:
The ombudsman’s reports are delayed for years because of the lack of resources; therefore whatever recommendations come out are dated and ineffective.

References:
Zimbabwe Standard,
Ombudsman fades into obscurity",
http://www.zimbabwesituation.com/may19_2003.html#link11

Africafocus,
"Zimbabwe: Test for African responsibility",
http://www.africafocus.org/docs04/zim0408.php

The Herald,
“Public protector”,
May 7, 2008,
http://allafrica.com/stories/200805070124.html
100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

57. Can citizens access the reports of the ombudsman?

33

57a. In law, citizens can access reports of the ombudsman(s).

YES | NO

Comments:
The Ombudsman's reports are publicly available through Parliament.

References:
Constitution of Zimbabwe

Constitution of Zimbabwe Amendment No. 17

Ombudsman Act

YES: A YES score is earned if all ombudsman reports are publicly available.

NO: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Reports are available upon request from Parliament, however there haven't been new reports for several years.
57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

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<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
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</thead>
</table>

**Comments:**
Reports are available from Parliament; however, there are no current reports available.

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?
55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

**YES | NO**

**Comments:**
Constitutional Amendment Number 18 of 2007 created the Office of the Public Protector replacing the Ombudsman. The Ombudsman’s Office was not actually replaced, the name of the office has just been changed, as the title public protector” is more “commonly comprehensible” according to the constitutional amendment. There is also a proposed Zimbabwe Human Rights Commission and the Ombudsman’s Office will be subordinate to this commission.

**References:**
Constitutional Amendment No. 18 Act

**YES:** A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**NO:** A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

---

V-2. Supreme Audit Institution

59. Is the supreme audit institution effective?

66

59a. In law, the supreme audit institution is protected from political interference.

**YES | NO**

**Comments:**
The constitution states that in the exercise of his functions, the Comptroller and Auditor General shall, not be subject to the direction and control of any person or authority other than Parliament”.

**References:**
Constitution of Zimbabwe, Section 106
YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:
The head of the supreme audit institution can be terminated by Parliament for inability to discharge functions whether arising from infirmity of body or mind or for misbehavior. Although these requirements are indeed vague, the head of the agency is still protected from removal and to date the heads of the audit agency enjoy a certain degree of independence without fear of dismissal.

References:
Constitution of Zimbabwe
Audit and Exchequer Act

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:
There is a head and two deputy auditor generals, who each supervises four directors. Except for the head, the rest are civil servants and are full-time professionals.
Audit and Exchequer Act

| 100 | 75 | 50 | 25 | 0 |

59d. In practice, audit agency appointments support the independence of the agency.

Comments:
The staff of the agency, except the auditor and comptroller general, are civil servants. Civil servants are independent. There are also rules guiding conflict of interest that ensure this.

References:

Audit and Exchequer Act

| 100 | 75 | 50 | 25 | 0 |

59e. In practice, the audit agency receives regular funding.
Comments:
The agency receives a budgetary allocation, but this is usually inadequate to finance its operations.

References:
African Development Bank,
Zimbabwe Short-term strategy Concept note”,
April 2009

Transparency International and Mass Public Opinion Institute,
“Integrity Systems TIZ report”

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

Comments:
The law states that reports should be submitted to the Ministry of Finance no later than March 31 each year, but deadlines are not usually observed.

References:
Transparency International Zimbabwe and Mass Public Opinion Institute,
Integrity Systems TIZ Report”,

Audit and Exchequer Act

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.
25: 

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

Comments:
Ministries rarely follow-up to the auditor’s recommendations. There is limited follow-up by government. In the hyper-inflationary environment that existed, prescriptions by the auditor to curb overspending were ignored. Most reports are not submitted on time so recommendations are ineffective.

References:

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75: 

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25: 

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

Comments:
The auditor general will conduct some investigations that are usually initiated by Parliament.

References:

The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

60. Can citizens access reports of the supreme audit institution?

75

60a. In law, citizens can access reports of the audit agency.

Yes  |  No

Comments:
The audit agency presents reports to the minister and Parliament and these are accessible to the public after discussion by the legislature.

References:
Audit and Exchequer Act

Yes: A YES score is earned if all supreme auditor reports are available to the general public.

No: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100  |  75  |  50  |  25  |  0

Comments:
Reports are available upon request from Parliament, after discussion.

References:
Parliament of Zimbabwe
100: Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

75: 

50: Reports take around two weeks to obtain. Some delays may be experienced.

25: 

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 75 50 25 0

Comments:
Reports by the Auditor General are available from Parliament in the capital.

References:

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75: 

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25: 

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?
Comments:
The constitution creates the Office of the Comptroller and Auditor General.

References:
Audit and Exchequer Act
Constitution of Zimbabwe, Section 105 (1)

YES: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

NO: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

V-3. Taxes and Customs

62. Is the tax collection agency effective?

88

62a. In practice, the tax collection agency has a professional, full-time staff.

Comments:
Generally the Zimbabwe Revenue Authority has adequate staff. Like in most sectors of the economy, there has been staff exodus at ZIMRA because of the economic situation in Zimbabwe. ZIMRA also suffers from a lack of expertise to carry out its mandate. However ZIMRA has recently started recruiting personnel to improve services.

References:

In practice, the tax agency receives regular funding.

ZIMRA is the main source of government funding and usually exceeds its targets. However, ZIMRA receives funding from the Ministry of Finance and in the past, because of the hyper-inflationary environment and unstable economic conditions, it was unable to meet all its requirements. With the introduction of the US$ and the South African Rand, ZIMRA has been able to raise more money.

References:
Zimbabwe Revenue Authority Act

Bhebhe Nqobile, 
"ZIMRA surpasses revenue collection targets”,
The Zimbabwe Independent, Sept. 10, 2009, 
http://allafrica.com/stories/200909110649.html

Nyahazeya Paul and Makamure Lucia, 
“Zimra workers strike,”
The Zimbabwe Independent, Nov. 23, 2007, 
http://allafrica.com/stories/200711231004.html

The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

100: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

50: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

65. Is the customs and excise agency effective?

65a. In practice, the customs and excise agency has a professional, full-time staff.
Comments:
The Customs agency has a full time staff but faced challenges with retaining staff because of the country's poor economic performance. There are some problems caused by changes in policy that result in increased workload for the available staff, especially at border posts.

References:


100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

Comments:
The agency has regular funding although it faced challenges because of the hyper-inflationary environment.

References:

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.
61. In law, is there a national tax collection agency?

100

YES  |  NO

Comments:
Zimbabwe Revenue Authority (ZIMRA)

References:
Zimbabwe Revenue Authority Act
Finance Act 2006

YES: A YES score is earned if there is a national agency formally mandated to collect taxes.

NO: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

63. In practice, are tax laws enforced uniformly and without discrimination?

75

YES  |  75  |  50  |  25  |  0

Comments:
Tax laws are implemented fairly but there are problems with tax evasion by the informal sector, which forms a major section of the economy. Lax implementation of tax laws has also resulted in the government being prejudiced of income.

References:
Zimbabwe Ministry of Finance,
May 23, 2009,
<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.</td>
</tr>
<tr>
<td>75</td>
<td>Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.</td>
</tr>
<tr>
<td>50</td>
<td>Tax laws are enforced inconsistently. Some groups of citizens are consistently more or less likely to evade tax law than others. Some arbitrary and discriminatory tax rules exist.</td>
</tr>
<tr>
<td>25</td>
<td>Tax law is unequal or discriminatory. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.</td>
</tr>
<tr>
<td>0</td>
<td>Tax laws are usually enforced arbitrarily and/or discriminatorily. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.</td>
</tr>
</tbody>
</table>

### 64. In law, is there a national customs and excise agency?  

| 100  |

| YES  | NO |

#### Comments:  
Customs and Excise is housed under the Zimbabwe Revenue Authority.

#### References:  
Finance Act 2006  
Zimbabwe Revenue Authority Act  

#### YES:  
A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.  

#### NO:  
A NO score is earned if that function is spread over several agencies, or does not exist.

### 66. In practice, are customs and excise laws enforced uniformly and without discrimination?  

| 50  |

| 66. In practice, are customs and excise laws enforced uniformly and without discrimination?  

#### YES:  
A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.  

#### NO:  
A NO score is earned if that function is spread over several agencies, or does not exist.
Comments:
Laws apply uniformly in many cases but systems are still not in place to ensure that the law is effective. Generally, customs is still known for the amount of bribery that goes on. There are many cases in which senior government officials evade paying customs duties and are involved in smuggling of goods. There has been a crackdown on small scale informal traders who have evaded paying presumptive tax, but it has been revealed that most smuggling rackets are operated by the elite.

References:
Muleya Thupeyo, Smuggling – Scourge of Beitbridge border post”, The Herald, Aug. 19, 2009
Ministry of Finance Zimbabwe

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

V-4. State-Owned Enterprises

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

45

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES  |  NO
Comments:
State-owned enterprises report to the parent ministry, cabinet and other bodies such as the State Enterprises Restructuring Agency.

References:
Zhou G,

YES: A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100  |  75  |  50  |  25  |  0

Comments:
There is no independent agency that oversees state-owned enterprises. However, the State Enterprises Restructuring Agency (SERA) does have full-time staff.

References:
Zhou G,

100: The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.
Comments:
There is no independent agency that oversees state enterprises but these are supervised by various ministries. These ministries receive regular funding although in most cases this is not adequate.

References:

Nyakazeya P, “Parastatals fail to account for RBZ funds”, Zimbabwe Independent, Jan. 11, 2008

100: The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

Comments:
Financial irregularities of state-owned enterprises are investigated by the National Economic Conduct Inspectorate (NECI) staffed by Ministry of Finance and Security personnel and the Comptroller and Auditor General. The NECI conducted an investigation of alleged looting at the Zimbabwe Iron and Steel Company in 2006 that implicated top government officials in looting the company. Some investigations are undertaken by different authorities such as the Reserve Bank of Zimbabwe, which audited use of funds distributed to state-owned enterprises under the Parastatals and Local Authorities reorientation Program in 2008, where the audit discovered that the parastatals could not account for funds distributed by the RBZ.

References:

Nyakazeya P, “Parastatals fail to account for RBZ funds”, Zimbabwe Independent, Jan. 11, 2008

Zulu B, “Parliamentary panel seeks prosecution of Zimbabwean Trade minister”,
100: When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

Comments:
There is no independent agency that oversees state enterprises that can impose penalties on offenders. Where there are offenders, these are rarely penalized because the majority of those implicated have political connections.

References:
Zhou G,
Public Sector Enterprise Reforms in Zimbabwe: A macro analytical approach*,
http://ir.uz.ac.zw:8080/dspace/bitstream/uzlib/454/1/4-Zhou.pdf

100: When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

69. Can citizens access the financial records of state-owned companies?
69a. In law, citizens can access the financial records of state-owned companies.

**YES | NO**

**Comments:**
Audited accounts are presented to parliament and then are accessible to the public.

**References:**
Audit and Exchequer Act

**YES:** A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

**NO:** A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

**100 | 75 | 50 | 25 | 0**

**Comments:**
Reports are usually late and state-owned enterprises have been accused of not keeping adequate records therefore hampering operations.

**References:**
Sifelani Tsiko,
"Negligent record-keeping costing state",
The Herald, June 2, 2009,
http://www.allafrica.com/stories/200406020819.html

Choruma Allen,
“Promote good corporate governance",
The Herald, June 18, 2009

**100:** State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

**75:**

**50:** State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

**25:**

**0:** Financial data is not publicly available, or is consistently superficial or otherwise of no value.
69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

Comments:
State-owned enterprises are audited by the Auditor and Comptroller General.

References:
Audit and Exchequer Act
Nyakazeya Paul,
Parastatals fail to account for RBZ funds,*
The Zimbabwe Independent, Jan. 11, 2008

100: Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

Comments:
Financial records are available upon request through audited accounts presented to Parliament.

References:
Audit and Exchequer Act
Parliament of Zimbabwe

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.
25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:
The records are available from the Parliament of Zimbabwe in the capital.

References:
Audit and Exchequer Act
Parliament of Zimbabwe

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

YES | NO

Comments:
There are several institutional provisions for state-owned companies. These include the following:
State Enterprises Restructuring Agency;
Department of State Enterprises under the Ministry of State Enterprises, Anti-Corruption and Anti-Monopolies;
Different state-owned enterprises are also housed under various parent ministries;
National Economic Planning Commission.
YES: A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

72

V-5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

81

70a. In law, anyone may apply for a business license.

YES  |  NO

References:
Companies Act 1951
Companies Amendment Act 2006

YES: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

NO: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

70b. In law, a complaint mechanism exists if a business license request is denied.
**Comments:**
An appeal can be made to the High Court.

**References:**
Companies Act,  

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**YES:** A YES score is earned if there is a formal process for appealing a rejected license.

**NO:** A NO score is earned if no such mechanism exists.

---

**70c.** In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

---

**Comments:**
Starting a business is a lengthy process in Zimbabwe because of the many formalities one needs to go through.

**References:**
Doing Business, "Starting A Business in Zimbabwe",  

Companies Act

---

**100:** Licenses are not required, or licenses can be obtained within roughly one week.

**75:**

**50:** Licensing is required and takes around one month. Some groups may be delayed up to a three months

**25:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

---

**70d.** In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.
Comments:
There is a small fee required to register a company.

References:
Doing Business, Starting A Business in Zimbabwe*

Companies Act

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

References:
Public Health Act and its regulations
Hazardous Substances and Articles Act and its regulations
Food and Food Standards Act and Its regulations

YES: A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.
71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

**YES** | **NO**

**References:**
Environmental Management Act

Water Act

Atmospheric Pollution Prevention Act and its regulations

Hazardous Substances and Articles Act

**YES:** A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

**YES** | **NO**

**References:**
Factories and Works Act, Chapter 14:08, 1996 and its regulations

Environmental Health Act

Pneumocononiosis Act, Chapter 15:08

Public Health Act

Mining Health and Safety Regulations


**YES:** A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.
72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

72a. In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.

100  75  50  25  0

Comments:
Sometimes these inspections are not carried out at all especially because of the appearance on the market of products that have not been certified. This has been caused by the large variety of imports as well as the absence of a formal industry that produces products such as fresh food, therefore people buy whatever is available on the market.

References:
Makore George, 
SAZ hosts a stakeholder meeting on counterfeit colgate toothpaste on the Zimbabwean market", 
SAZ, May 2006, 

Ushewokunze-Obatolu Unesu, 
“Food safety, a Consumer’s Right", 
The Herald, Feb. 15, 2008

100: Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100  75  50  25  0

Comments:
Inspections are carried out in a relatively uniform and even-handed manner. There have however been accusations of bribery because of flouting of regulations by some businesses.
100: Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

Comments:
There are structures in place to do this. However, there have been accusations of lack of coherence and coordination among the inspection agencies. The government has been accused of failing to enforce regulations — for example, the transport sector and its operators fail to meet public safety regulations.

References:
FAO and WHO,
FAO/WHO Global forum of food security Regulators”, Marrakech, Morocco, Jan. 28-30, 2002,
http://www.fao.org/docrep/meeting/004/ab438e.htm

Jupiter Punungwe,
“Ministry merely addressing symptoms”, Aug. 5, 2009,
http://www.thezimbabwetimes.com/?p=20709

100: Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.
Business inspections by the government to ensure public safety standards are met are generally carried out in an evenhanded way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category VI. Anti-Corruption and Rule of Law

VI-1. Anti-Corruption Law

73. Is there legislation criminalizing corruption?

89

73a. In law, attempted corruption is illegal.

YES | NO

References:
Prevention of Corruption Act

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

YES | NO
### Criminal Law Codification and Reform Act, Section 34

**YES:** A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

**NO:** A NO score is earned if this is not illegal.

| 73c. In law, offering a bribe (i.e. active corruption) is illegal. | YES | NO |

### Prevention of Corruption Act, Section 3 (b)

**YES:** A YES score is earned if offering a bribe is illegal.

**NO:** A NO score is earned if this is not illegal.

| 73d. In law, receiving a bribe (i.e. passive corruption) is illegal. | YES | NO |

### Prevention of Corruption Act, Section 3 (1) (a)

**YES:** A YES score is earned if receiving a bribe is illegal.

**NO:** A NO score is earned if this is not illegal.

| 73e. In law, bribing a foreign official is illegal. | YES | NO |
References:
Prevention of Corruption Act

YES: A YES score is earned if bribing a foreign official is illegal.
NO: A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

YES | NO

References:
Prevention of Corruption Act, Section 6

YES: A YES score is earned if using public resources for private gain is illegal.
NO: A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

YES | NO

References:
Civil Evidence Act 1992

YES: A YES score is earned if using confidential state information for private gain is illegal.
NO: A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

YES | NO
YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

References:
Criminal Procedure and Evidence Act

YES: A YES score is earned if organized crime is illegal.

NO: A NO score is earned if this is not illegal.

VI-2. Anti-Corruption Agency

75. Is the anti-corruption agency effective?

56

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

Comments:
The Anti-Corruption Commission is not subject to the direction or control by any person or authority.

References:
Constitution of Zimbabwe, Article 109
YES: A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

Comments:
The Anti-Corruption Commission has been accused of bias in favor of the ruling party in the past. The commission has also been accused of failing to investigate some cases of corruption against some politicians from the ruling party. A new one is to be constituted with the Parliamentary Committee on Standing Rules and Orders shortlisting applicants to the commission.

References:
Veritas, Media Commission Update*, Veritas Bill Watch 28/09

Revesai M, “Zimbabwe has leeches, not scorpions”, Jan. 12, 2008
http://www.newzimbabwe.com/pages/mary.15044.html

100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

Comments:
There has been no removal of the chairperson of the Anti-Corruption Commission yet.
References:
Anti-Corruption Commission Zimbabwe,
http://www.accz.co.zw/commissioners.htm

Anti-Corruption Commission Act

100: The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

Comments:
Members of the Commission are professionals; however, they have been accused of bias. The Global Political Agreement (GPA), however, seeks to ensure that an independent constitutional commission is appointed that does not serve partisan interests. In the new regulations, the Parliamentary Committee on Standing Rules and Orders will identify and short-list applicants.

References:
Veritas Bill Watch 28/09,
Media Commission Update*

Agreement between the ZANU PF and the two MDC formations on resolving the challenges facing Zimbabwe

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.
The Global Political agreement calls for the re-constitution of the Anti-Corruption Commission that is independent and not partisan. The previous commission had adequate staff, but they lacked expertise in information science and forensic auditing among other skills.

References:

Veritas Bill Watch 28/09, “Media Commission Update”

Agreement between the ZANU PF and the two MDC formations on addressing the challenges facing Zimbabwe

100: The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:
The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

The agency’s funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

In practice, the anti-corruption agency (or agencies) makes regular public reports.

The Anti-Corruption Commission did not have the powers to carry out its mandate for various reasons. The government claimed that this was because of logistical and “procedural” problems, however, the commission has been accused of lacking independence and did not investigate politicians from the ZANU PF party. The new commission that came about due to the Global Political agreement is expected to be more independent.

References:
Constitutional Amendment No. 19
Veritas Bill Watch 28/09, Media Commission Update
100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75: 

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25: 

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

Comments: The Anti-Corruption Commission initiates investigations and presents reports to the police. However, alleged corruption by top politicians have gone uninvestigated, therefore its effectiveness is questionable.
76. Can citizens access the anti-corruption agency?

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76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

Comments:
The former Commission was accused of being ineffective except in settling political scores. The new Commission to be set up under the Global Political agreement is yet to be constituted and investigate cases of corruption.

References:
Veritas Bill Watch 28/09, Media Commission Update”;
http://www.sokwanele.com/thisiszimbabwe/archives/4571

Constitutional Amendment No. 19

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100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:  

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:  

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

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Comments:
Whistle blowers face verbal and physical abuse despite the existence of legislation protecting them.

References:
**Prevention of Corruption Act**

**Police Act**

**100:** Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

---

**74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?**

**100**

**74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?**

**YES | NO**

**Comments:**
It is the Anti-Corruption Commission of Zimbabwe. There is also the Reserve Bank Unit on Anti-Corruption.

**References:**
Anti-Corruption Commission Act, Chapter 9:22
Constitution of Zimbabwe

**YES:** A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

**NO:** A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

---

**VI-3. Rule of Law**
77. Is there an appeals mechanism for challenging criminal judgments?

58

77a. In law, there is a general right of appeal.

YES | NO

References:
Constitution of Zimbabwe
Supreme Court Act, Chapter 7:13,

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

NO: A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
There are delays in the whole judiciary system. Appeals to the Supreme Court are not treated urgently.

References:
Chiware T and Otto Saki,
The law in Zimbabwe*, February 2007,
http://www.nyulawglobal.org/globalex/zimbabwe.htm

International Bar Association,
“Justice Delayed is Justice Denied”,
IBA weekly column on Zimbabwe Number 043, Aug. 2, 2004

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:
0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100  75  50  25  0

Comments:
Attorney fees are very high and prohibitive to pursuing an appeal.

References:
Law Society of Zimbabwe

Transparency International Zimbabwe, National Integrity systems ZIZ Report," Harare 2006


100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

78. In practice, do judgments in the criminal system follow written law?

50

Comments:
Judgments follow written law, however there is the existence of civil and customary law. Customary law is unwritten therefore law is based on the interpretation by the court. Despite the codification of laws in Zimbabwe, there is still a large amount of law that remains uncodified. There have also been allegations of corruption in the judiciary and concerns that this defeats the course of justice.
100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

79. In practice, are judicial decisions enforced by the state?

50

Comments:
Generally, judgments are enforced, but the state and the police force have been accused of partisan policing as there have been court orders that have been ignored if the police view these as going against the interests of the government.

References:
International Bar Association (IBA),
Partisan Policing: An obstacle to human rights and democracy in Zimbabwe*,
Metro Zimbabwe,

Zimbabwe Lawyers for Human Rights,
“Mindset and actions of state representatives must change if there is to be a return to the rule of law”,
Feb. 26, 2009,
http://www.kubatana.net
Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

80. Is the judiciary able to act independently?

88

80a. In law, the independence of the judiciary is guaranteed.

YES  |  NO

Comments:
The constitution states that In the exercise of judicial authority, a member of the judiciary shall not be subject to the direction or control of any person or authority."

References:
Constitution of Zimbabwe, Section 79 (b)

YES: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence includes financial issues (drafting, allocation, and managing the budget of the courts).

NO: A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100  |  75  |  50  |  25  |  0

Comments:
The judiciary is dependent on politicians in the executive and legislative arms of the government. The judiciary does not get to determine their own budgets. Because of poor remuneration, judges are open to corruption. There were accusations, for example, that judges were given new luxury vehicles, generators, televisions and satellite dishes by the Reserve Bank governor ahead of the 2008 elections in a move that has been seen as bribery of judges to give favorable judgments to the ruling party.

References:
100: National-level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National-level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National-level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

References:
Zimbabwe High Court Act
Zimbabwe Supreme Court Act

YES: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

NO: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

Comments:
Judges have not been removed but many have resigned over the years due to political pressure and have been replaced by judges who are linked to the ruling party.

References:
Constitution of Zimbabwe
YES: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

NO: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES  |  NO

Comments:
There have been no documented cases of judges physically harmed.

References:
Machingura D, Legal officer, Media Monitoring Project Zimbabwe,
Oct. 12, 2009, Harare

YES: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES  |  NO

References:
Machingura D, Legal and advocacy officer, Media Monitoring Project Zimbabwe,
Oct. 12, 2009, Harare

YES: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.
82. Do citizens have equal access to the justice system?

54

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100  |  75  |  50  |  25  |  0

Comments:
Generally decisions are not based on race or ethnic bias. The judiciary has been accused of making judgments based on race on issues regarding the land reform program, as the land reform program involved taking land from white commercial farmers. Judges hearing cases have been accused of being ruling party sympathizers, therefore rulings would be against white commercial farmers.

References:


100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

100  |  75  |  50  |  25  |  0
Comments:
Women have access to the judicial system in theory, but practically they are the majority of the poor, illiterate and disadvantaged, which hampers access. The majority who live in rural areas are women, where there are limited judicial services, thus further hampering access.

References:

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

References:
Constitution of Zimbabwe
Legal Aid Act (Zimbabwe) 18/1996 and 22/2001

YES: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

NO: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.
82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

Comments: Although there is no legal provision for this, the state can arrange and provide free state legal aid for defendants in serious criminal cases.

References: Constitution of Zimbabwe
Transparency International Zimbabwe and Mass Public Opinion Institute, National Integrity Systems: TIZ report*
TIZ, Harare, 2007

100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

50: State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

Comments: Attorney fees are significantly high and prohibitive. However, the defendant can represent him/herself and this reduces costs — for example in maintenance court or small claims court people may represent themselves effectively.

References: Transparency International Zimbabwe and Mass Public Opinion Institute, National Integrity Systems: TIZ report*
TIZ, Harare, 2007

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney fees do not represent a major cost to citizens.
In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

The cost of engaging the legal system prevents middle class citizens from filing suits. Attorney fees are high enough to discourage most citizens from bringing a case.

In practice, a typical small retail business can afford to bring a legal suit.

In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.

In practice, all citizens have access to a court of law, regardless of geographic location.

The majority of citizens have to travel long distances to access a court of law. The majority of Zimbabweans live in rural areas where judicial services are limited. People therefore have to travel long distances to major centers where services are available.

Comments:
Attorney fees are prohibitively expensive.

References:
VI-4. Law Enforcement

83. Is the law enforcement agency (i.e. the police) effective?

42

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

Comments:
Initial appointments to the police force are made on merit. Typically, the minimum qualifications are five ordinary level subjects including Maths and English. However, promotions are a closely guarded secret. The president has huge discretionary powers when making appointments to senior positions in the uniformed forces.

References:

George Smith, “President making unlawful appointments”, The Zimbabwe Independent, Oct. 29, 2009
100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:
The police force has an insufficient budget to carry out its mandate. The police force has inadequate resources for transport, accommodation and other resources.

References:
Zimbabwe Independent,
Recruits asked to pay for upkeep",
http://www.theindependent.co.zw/local/20874-police-recruits-asked-to-pay-for-upkeep.html

Transparency International Zimbabwe and Mass Public Opinion Institute,
“National Integrity Systems; TIZ Report”,
TIZ, Harare, 2009

100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency’s ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0
Comments:
The president makes appointments to senior ranks in the police force and there have been accusations that appointments are made along party lines and therefore the police force is biased towards the ZANU PF.

References:
International Bar Association,
Partisan Policing: An Obstacle to Human Rights and Democracy in Zimbabwe, 2007,

George Smith,
"President making unlawful appointments",
The Zimbabwe Independent,
Oct. 29, 2009

100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

84. Can law enforcement officials be held accountable for their actions?

75

84a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

Comments:
The ombudsman can investigate human rights violations and citizens can bring legal suits against the police.

References:
Constitution of Zimbabwe

Police Act

Ombudsman Act

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.
NO: A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen’s complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Investigations of complaints against the police force may be delayed or not undertaken at all.

References:
Human Rights Watch,
You will be thoroughly beaten: the brutal suppression of dissent in Zimbabwe”
http://www.hrw.org/reports/2006/zimbabwe1106/6.htm

Transparency International Zimbabwe and Mass Public Opinion Institute,
“National Integrity Systemes”, TIZ Report”
TIZ, Harare, 2007

100: The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

Comments:
They are the Anti-Corruption Commission and the Internal Investigation Section at Police Headquarters.

References:
Prevention of Corruption Act

Constitution of Zimbabwe

Police Act
YES: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

NO: A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100  |  75  |  50  |  25  |  0

Comments:
The effectiveness of the Anti-Corruption Commission is questionable because despite numerous allegations of corruption by the police force, there have been only a few investigations.

References:
Transparency International Zimbabwe,
TIZ Advocacy and Legal Advice Centre Update July 2009,"
http://www.kubatana.net/docs/demgg/tiz_alac_update_090730.doc

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

YES  |  NO

References:
Police Act
YES: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

NO: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 75 50 25 0

Comments:
Law enforcement officials are not immune from prosecution but there have been allegations of police brutality and other abuses that have remained unprosecuted.

References:
Zimbabwe Human Rights NGO Forum,
Zimbabwe Facts and Fictions," November 2005,

International Bar Association,
“Partisan policing: An obstacle to human rights and democracy in Zimbabwe”, 2007,
http://www.zimbabwemetro.com

100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.