

Overall Score:

56 - Very Weak

Legal Framework Score:

76 - Moderate

Actual Implementation Score:

36 - Very Weak

Category 1. Non-Governmental Organizations, Public Information and Media

1.1. ⁶⁴Anti-Corruption Non-Governmental Organizations

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

67

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

Yes | No

Comments:

It is a statutory requirement that any private voluntary organization (PVO) intending to operate in Zimbabwe must apply for registration under terms of the Private Voluntary Organizations Act.

References:

Private and Voluntary Organizations Act, 1.

The Constitution of Zimbabwe. Chapter 3, Section 21, Sub-section 1.

Yes: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected 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. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

No: 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.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes | No

Comments:

There is no law prohibiting non-governmental organizations that promote good governance or anti-corruption efforts from receiving funding from any foreign or domestic sources.

References:

Private and Voluntary Organizations Act

Yes: A YES score is earned if anti-corruption/good governance NGOs 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 any formal legal or regulatory bans on foreign or domestic funding sources for NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes | **No**

Comments:

No such public disclosure requirement exists in the current laws of Zimbabwe.

References:

Private and Voluntary Organizations Act

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

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

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

67

02a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance NGOs.

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

Comments:

Although there are no explicit restrictions in the laws, the operations of non-governmental organizations (NGOs) promoting anti-corruption efforts and good governance are severely curtailed by the slow registration process. NGO leaders and activists always operate under a shadow of potential arrests.

References:

1. Nyasha Frank Mpahlo, Information Officer, Transparency International Zimbabwe, Aug. 23, 2011, Harare, Transparency International Offices
2. Constitution of Zimbabwe, Accessed Online, Sept. 15, 2011 <http://www.parlzim.gov.zw/cms/UsefulResources/ZimbabweConstitution.pdf>
3. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 23, 2011, Harare, Zimrights Offices

100: NGOs 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: NGOs 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 NGO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

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

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

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

Comments:

In practice, anti-corruption/good governance NGOs actively engage in the political and policy-making process but may not be relevant to the legislative outcomes. Due to the polarized nature of the country's political climate, some NGOs are perceived to be anti-government. As a result, some NGOs have severe difficulty in influencing the political processes. Section 121 of the Criminal Procedure and Evidence Act has been used to detain politically oriented, civil society workers, despite judicial rulings to the contrary.

For example, Zimbabwe's political and military leaders continued to be secretive about the country's lucrative diamond business in spite of criticism by anti-corruption organizations such as Global Witness. NGOs continue to face restrictions in access to the diamond fields in the east of the country.

References:

1. Nyasha Frank Mpahlo, Information Officer, Transparency International Zimbabwe, Aug. 23, 2011, Harare, TIZ offices
2. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 24, 2011, Zimrights Offices
3. Maria Mache, Communications Officer, Crisis in Zimbabwe Coalition, August 20, 2011, Harare, Crisis in Zimbabwe Offices
4. NGO Network Alliance Project, "U.S. concerns regarding the rule of law in Zimbabwe," US Embassy, September 28, 2011, http://kubatana.net/html/archive/demgg/110928usemb.asp?sector=LEGISL&year=0&range_start=1

100: Non-governmental organizations focused on anti-corruption or good governance are an essential component of the political process. NGOs provide widely valued insights and have political power. Those NGOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs 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 NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

Yes | No

Comments:

However, there were efforts to disrupt the work of some NGOs. An example is Transparency International Zimbabwe, which had its personnel detained by the police without formal charges. Transparency International Zimbabwe faced constant harassment from the police and youths associated with the Zimbabwe African National Union – Patriotic Front (ZANU-PF, the party of President Robert Mugabe) and from members of the war veterans association, especially when the NGO was working outside the city of Harare in the rural areas. State security agents notified government agencies of Transparency International Zimbabwe's work, and the agencies encouraged the ZANU-PF youth and war veterans to disrupt their work.

References:

1. Nyasha Frank Mpahlo, Information Officer, Transparency International Zimbabwe, Aug. 24, 2011, Harare, TIZ Offices
2. NGO Network Alliance Project, "U.S. concerns regarding the rule of law in Zimbabwe" US Embassy, Sept. 28, 2011, http://kubatana.net/html/archive/demgg/110928usemb.asp?sector=LEGISL&year=0&range_start=1

Yes: A YES score is earned if there were no NGOs 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 NGO 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 NGO's work may not be explicit, however the burden of proof here is low. If it seems likely that the NGO 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 anti-corruption/good governance NGO activists safe when working on corruption issues?

67

03a. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been imprisoned.

Yes | **No**

Comments:

Transparency International Zimbabwe and the Zimbabwe Human Rights Association have had some personnel detained for engaging in their work, but without any charges filed against them. The personnel were later released without charge or compensation. In addition, news media continued to carry reports of the arrests of NGO activists in the period under review.

References:

1. Admire Munava, Programs Officer, Zimbabwe human Rights Association
2. Nyasha Frank Mphahlo, Information Officer, Transparency International Zimbabwe, Aug. 23, 2011, Harare Transparency International Zimbabwe
3. Shout Africa, "Zimbabwe's top human rights activist arrested," Saturday, April 2, 2011, by Nangayi Guyson, <http://www.shout-africa.com/top-story/zimbabwes-top-human-rights-activist-arrested/>
4. The Standard, "Police arrest Crisis director" <http://www.thestandard.co.zw/local/28781-police-arrest-crisis-director.html>, March 13, 2011
5. SW Radio Africa, 83 WOZA activists arrested at Peace Day march, <http://www.swradioafrica.com/news200910/83woza200910.htm>

Yes: A YES score is earned if there were no NGO 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.

03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed.

Yes | No

Comments:

There are no documented cases of anti-corruption/good governance NGO personnel being physically harmed. However, many have been arrested on trumped-up charges, and there have been unconfirmed reports of assaults on activists.

References:

1. Nyasha Frank Mphahlo, Information Officer, Transparency International Zimbabwe, Aug. 23, 2011, Harare, TIZ offices
2. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 24, 2011, Harare
3. NGO Pulse, "Activist Arrested During Protest," July 28, 2011, <http://www.ngopulse.org/newsflash/activist-arrested-during-protest>

Yes: A YES score is earned if there were no documented cases of NGO 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.

03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes | No

Comments:

There are no recorded cases of anti-corruption/good governance NGO personnel or activists working on corruption issues being killed during the period of study.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 24, 2011
2. Nyasha Frank Mpahlo, Information Officer, Transparency International Zimbabwe, Aug. 23, 2011, Harare, TIZ offices

Yes: A YES score is earned if there were no documented cases of NGO 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?

75

04a. In law, citizens have a right to organize into trade unions.

Yes | No

Comments:

Under the Constitution of Zimbabwe Chapter 3, of the Declaration of Rights, Section 21 of the Protection of Freedom of Assembly and Association, Sub-section 1, the law makes provision for the freedom of association and assembly, including trade unions.

References:

Constitution of Zimbabwe Chapter 3, of the Declaration of Rights, Section 21 of the Protection of Freedom of Assembly and Association, Sub-section 1

1. <http://www.parlzim.gov.zw/cms/UsefulResources/ZimbabweConstitution.pdf>
2. http://www.kubatana.net/html/archive/legisl/060201labact.asp?orgcode=par001&year=0&range_start=1
3. <http://unpan1.un.org/intradoc/groups/public/documents/cafrad/unpan005920.pdf>

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.

04b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens are denied the right to organize into trade unions. Trade unions are treated with contempt by the government and are harassed, attaching a stigma in the public mind to trade unions. There are numerous cases of Zimbabwe Congress of Trade Unions (ZCTU) members being detained by the police without any charges filed against them. For example, in March 2011, three women who participated in a ZCTU protest march were forced by police to strip off their clothes in the city centre of Bulawayo.

References:

1. Biko Mutsaurwa, Programs Coordinator Uhuru Cultural Activists Network, Aug. 23, 2011, Harare
2. Maria Mathe, Communications Officer, Crisis Coalition Zimbabwe, Aug. 22, 2011, Harare
3. SW Radio Africa, <http://allafrica.com/stories/201103080775.html>, 2011

100: 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.

75:

50: 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.

25:

0: 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.

1.2. Media's Ability to Report on Corruption

5. Are media and free speech protected?

50

05a. In law, freedom of the media is guaranteed.

Yes | No

Comments:

There is a serious problem regarding freedom of the news media and freedom of speech. While the constitution guarantees freedom of speech, it does not offer any protection against what might happen after the exercise of such a freedom. Specific legislation including the Public Order and Security Act (POSA), the Access to Information and Protection of Privacy Act (AIPPA) and the Official Secrets Act conflict with freedom of the media. So really, there is no guarantee.

References:

1. Zimbabwe, Repressive Media Law (AIPPA) Under Review, <http://www.misa.org/cgi-bin/viewnews.cgi?category=2&id=1137054440>
2. Kubatana.Net, "Communique on the recently gazetted AIPPA regulations," January 12, 2011, http://kubatana.net/html/archive/media/110112misaz.asp?sector=LEGISL&year=2011&range_start=211

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.

05b. In law, freedom of speech is guaranteed.

Yes | No

Comments:

Freedom of expression is guaranteed in the constitution, but there's no articulation of the protections that are needed to support such expression.

References:

The Constitution of Zimbabwe, Chapter 3, Section 20, Sub-section 1

1. <http://www.parlzim.gov.zw/cms/UsefulResources/ZimbabweConstitution.pdf>

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?

56

06a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

Comments:

There are still processes that hamper the registration of print media. The absence of government advertising in new newspapers also has resulted in some of them closing down.

References:

1. Media Reports: AudienceScapes, Masimba Biriwasha, Newspaper Sector Grows, Political Spectrum Still Narrow, Newspaper Sector Grows, Political Spectrum Still Narrow, <http://www.audiencescapes.org/newspaper-sector-grows-political-spectrum-still-narrow-zimbabwe-media-freedom>, July 24, 2011

2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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.

06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

Comments:

There is an appeals mechanism if a license is denied.

References:

1. <http://www.freedomhouse.org/uploads/fop10/ZimbabweFOTP2010.pdf>
2. Access to Information and Protection of Privacy Act, Section 69 (2).

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.

06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

While citizens are able to apply for license, the prospect of obtaining a print media license within a reasonable time period is quite limited. NewsDay, for example, had its license first denied before being granted a license in June 2010.

References:

Tawanda Karombo, AudienceScapes, Zimbabwe Licenses Four More Publications Media Groups Urge Broadcast Opening, July 30, 2010, <http://www.audiencescapes.org/zimbabwe-licenses-four-more-publications-media-groups-urge-broadcast-opening-556>

Africa Media Project, Interview by Christine Harjes with Luckson Chipare, Coordinator of the DW-AKADEMIE media development project in Zimbabwe, 'Struggle for press freedom in Zimbabwe,' February 2011, <http://blogs.dw-akademie.de/africa/?p=489>

Committee to Project Journalists, Nation Hikes Media Registration Fees Under Draconian Media Licensing Law, January 15, 2011, <http://www.zimbabwesituation.org/?p=27175>

Tawanda Karombo, AudienceScapes, Newly Licensed, Zimbabwe's Newspapers Struggle to Operate, January 11, 2011, <http://www.audiencescapes.org/newly-licensed-zimbabwe-newspapers-struggle-operate-media-commission-Newsday-Daily-News-liberalization>

Media Institute of Southern Africa Zimbabwe, Monthly Alerts Digest: Broadcasting Reforms on the Agenda: Free the Airwaves Now!, April 2011, <http://www.swradioafrica.com/Documents/misa110511.pdf>

Interview with John Mokwetsi, NewsDay journalist, Aug. 25, 2011

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.

06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

A print media license can be obtained, and the process is quite straightforward. However, the cost of approximately \$4,000 U.S. is beyond the reach of many in Zimbabwe. Applications can be made only in the capital city. This may impose a burden to people living in other parts of the country. The average monthly income is around USD 200.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. Patience Zirima, Media Alliance of Zimbabwe, Aug. 25, 2011, 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.

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

44

07a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

Comments:

Broadcasting in Zimbabwe remains a closed space. The government continues to maintain a stranglehold on this sector, and there have been no new players in the period under review. In fact, broadcasting in Zimbabwe has remained stagnant. There has been no expansion in radio, except one station that was introduced after independence, Radio 4. However, the government has begun showing signs of relenting and adhering to some of the provisions of the Global Political Agreement by inviting applications for broadcasting licenses.

References:

1. AudienceScape, Tawanda Karombo, Jan. 26, 2011, Will Mugabe Heed Calls for Pre-Election Media Reform, <http://www.audiencescapes.org/zimbabwe-elections-mugabe-media-reform-freedom-zanu-pf-party-democracy-change>.
2. Financial Gazette, Njabulo Ncube and Tafadzwa Shoko, Staff Reporters, April 21, 2011, Pressure on govt to free airwaves, <http://www.financialgazette.co.zw/top-stories/8035-pressure-on-govt-to-free-airwaves.html>
3. News Day, Moses Matema, May 26, 2011, BAZ invites applications for broadcasting licences, <http://www.newsday.co.zw/article/2011-05-26-baz-invites-applications-for-broadcasting-licences>
3. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
4. Patience Zirima, Coordinator, Media Alliance of Zimbabwe, Aug. 23, 2011, Harare.

100: 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.

75:

50: 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.

25:

0: 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.

07b. 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:

Article 43 (Appeals) of the Zimbabwe Broadcasting Services Act of 2001 states:

"(1) Subject to this section, any person who is aggrieved by—

- (a) a decision of the Minister not to issue a licence; or
- (b) any term or condition of a licence issued to him, or a refusal by the Minister to specify a term or condition in a licence; or
- (c) a refusal by the Minister to renew a licence; or

(d) any amendment of a licence or a refusal by the Minister to amend a licence; or

(e) the suspension or cancellation of a licence;

may, within 28 days after being notified of the decision or action of the Minister, appeal to the Administrative Court.

(2) An appeal in terms of subsection (1) shall be made in the form and manner and within the period prescribed in the rules of court.

(3) For the purpose of determining an appeal in terms of subsection (1) the President of the Administrative Court shall be assisted by two assessors.

(4) On an appeal in terms of subsection (1), the Administrative Court may, subject to subsection

(5), confirm, vary or set aside the decision or action appealed against and may make such order, whether as to costs or otherwise, as the court thinks just.

(5) [sic] Any person whose appeal on a ground specified in paragraph (a) or (c) of subsection (1) is upheld shall not be entitled to receive a licence but shall be entitled to have his matter remitted to the Authority for re-determination in terms of this Act."

Since its formation, there has not yet been an appeal since no license has been yet denied or given.

References:

Zimbabwe Broadcasting Services Act 2001, Article 43 <http://www.kubatana.net/docs/legisl/broadcastact010404.pdf>

MISA-Zimbabwe: Submission and Position Paper on Broadcasting in Zimbabwe. <http://www1.umn.edu/humanrts/research/ZIM%20Broadcasting%20Draft.pdf>

Ten reasons to amend the Broadcasting Services Act, http://www.jescom.co.zw/index2.php?option=com_content&do_pdf=1&id=45

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.

07c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Citizens cannot obtain a broadcast (radio and TV) media license within a reasonable time period. Although the government is committed to opening up the broadcasting sector under the Global Political Agreement, there has been slow progress. The broadcasting sector was largely a closed space at the time of writing this report. Applications mostly have been ignored.

References:

1. Chido Musodza, Administrator, Aug. 24, 2011, Centre for Public Accountability, Harare

2. Patience Zirima, Coordinator, Aug. 24, 2011, Media Alliance of Zimbabwe, Harare

3. The Zimbabwean, MISA-Zimbabwe Statement on licensing of community radio stations, April 04, 2011, MISA-Zimbabwe, 2011

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.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The Broadcasting Authority of Zimbabwe (BAZ) has invited applications for 14 commercial radio licenses. According to Givemore Chipere, communication and advocacy officer for Community Radio Harare (CORAH), the application fee and radio broadcasting service license cost of U.S. \$2,500 and U.S. \$7,500 “is too much for would-be broadcasters in Zimbabwe.” The basic license fee is also expensive at U.S. \$50,000.

References:

1. Zimbabwe Media Commission
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 24, 2011
3. Patience Zirima, Coordinator, Media Alliance of Zimbabwe, Aug. 25, 2011

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

08a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

Comments:

Internet and mobile-phone usage is nominally free from government interference in Zimbabwe, but there are indications that the government has a strong desire to control these communications technologies.

The Interception of Communications Act means that the government can potentially interfere with online communications if they deem it necessary. In the wake of the political protests in North Africa, Vikas Mavhudzi became Zimbabwe’s first “Facebook arrest.” On Feb. 13, 2011, he posted this comment on Prime Minister Morgan Tsvangirai’s Facebook page: “I am overwhelmed, I don’t know what to say Mr. PM. What happened in Egypt is sending shock-waves to dictators around the world. No weapon but unity of purpose worth emulating, hey.” A Facebook user informed the police about the comment, and Mavhudzi was arrested. Mavhudzi was charged with “advocating or attempting to take over the government by unconstitutional means.” After being held for more than 35 days, he currently is out on bail.

References:

1. FreedomHouse, Freedom on the Net 2011 Zimbabwe

Report: <http://www.freedomhouse.org/images/File/FotN/Zimbabwe2011.pdf>, 2011

2. iZiviso.com, <http://ziviso.wordpress.com/2011/04/28/social-media-not-all-that-hot-in-zimbabwe/>, Masimba Biriwasha, April 28, 2011

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.

08b. In practice, the government does not censor citizens creating content on-line.

100 | 75 | 50 | 25 | 0

Comments:

Citizens are free to use the Internet, but the government has put in place a law to intercept communications. Vikas Mavhudzi was arrested on subversion charges after posting a Facebook comment in February 2011 on Prime Minister Morgan Tsvangirai's page.

References:

1. iZiviso.com, Masimba Biriwasha, <http://ziviso.wordpress.com/2011/04/28/social-media-not-all-that-hot-in-zimbabwe/>, April 28, 2011

2. Freedom House, Freedom of the Net in Zimbabwe, www.freedomhouse.org/images/File/FotN/Zimbabwe2011.pdf

3. The Legal Monitor Edition 105 of Aug. 8, 2011, published by The Zimbabwe Lawyers for Human Rights

4. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 24, 2011, Harare

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?

50

09a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Yes | No

Comments:

Reporters can write accurately about corruption, but the law on defamation makes it difficult to do this. Oftentimes, reporters are faced with intimidation and arrests, which limits their ability to write accurately on issues.

References:

1. Official Secrets Act, http://www.kubatana.net/docs/legis/official_secrets_act_041231.pdf
2. SWRadio Africa, Tichaona Sibanda, <http://www.swradioafrica.com/news171110/standard171110.html>, 17 November 2010

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.

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:

Self-censorship is rampant in both state-owned and privately owned media. The polarized nature of Zimbabwe's political environment has only worsened the level of self-censorship in the media.

For example, in the period under review, few reports focused on the corrupt activities related to the diamond activity in the east of the country.

References:

1. ZimEye.com, Lance Guma, April 29, 2011, <http://www.zimeye.org/?p=29429>
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
3. The Propaganda War on Electoral Democracy – a report on the media's coverage of the Zimbabwe's 2008 Elections. Published by the Media Monitoring Project Zimbabwe ISBN: 978-0-7974-3745-6

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.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:

In the state-owned media, government exerts considerable control. This often results in little coverage of corruption-related

issues. In the privately owned media, the tendency is to ignore stories that may be perceived too sensitive.

One example is that local media reporting on the discovery of the diamond field in the east of the country has been very limited. None of the media outlets has provided comprehensive reporting on events at the diamond mines. The government bars any journalists from going to the fields. In the state-owned media, reporting is aimed at portraying the government in positive light.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 25, 2011, Harare
2. Loughy Dube, Voluntary Media Council of Zimbabwe, Sept. 2, 2011, Harare

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?

55

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

Yes | No

Comments:

The law states:

(1) The following persons and bodies may not be mass media owners:

(a) any individual who is not a citizen of Zimbabwe or any body corporate in which a controlling interest is not held, directly or indirectly, whether through any individual, company or association or otherwise, by one or more individuals who are citizens of Zimbabwe;

(b) an association of persons or an organization whose activity is banned or prohibited by law; or

(c) any person who is insolvent or bankrupt under a law in force in Zimbabwe or any other country, and has not been rehabilitated or discharged.

(2) No person other than— (a) a citizen of Zimbabwe or person who is regarded as permanently resident in Zimbabwe by virtue of the Immigration Act [Chapter 4:02]; or

(b) a body corporate in which a controlling interest is not held, directly or indirectly, whether through any individual, company or association or otherwise, by one or more individuals who are citizens of Zimbabwe or are regarded as permanently resident in Zimbabwe by virtue of the Immigration Act [Chapter 4:02]; may hold or acquire any shares in a mass media service.

(3) Nothing contained in this section shall prevent any person who is an existing mass media owner as at 31st January, 2002, from continuing to be a mass media owner after that date to the extent of his ownership on that date.

References:

1. Access to Information and Protection of Privacy Act. Article 65. Section 1
2. Chido Musodza, Administrator, Aug. 25, 2011, Centre for Public Accountability, Harare
3. Patience Zirima, Coordinator, Media Alliance of Zimbabwe, Aug. 23, 2011, Harare

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:

In law, broadcast (radio and TV) media companies are required to disclose ownership, but since the state has not opened up this sector, the state owns the only broadcasting system.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability
2. Patience Zirima, Media Alliance of Zimbabwe
3. Access to Information and Protection of Privacy Act, Section 65.

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:

While there is no documented evidence, reporting generally is believed to be slanted, with journalists ignorant of ethics. The polarized nature of politics in Zimbabwe has resulted in the neglect journalism ethics. Neither the state-owned media nor the private media provide fair and balanced coverage on issues of national interest.

For example, public media reporting in Zimbabwe related to the WikiLeaks case was limited to issues that implicated the opposition, while the private press reported on leaks that implicated politicians of President Robert Mugabe's party, ZANU-PF. From the reporting, it is very difficult to tell the truth on issues.

References:

1. Patience Zirima, Aug. 25, 2011, Media Alliance of Zimbabwe, Harare
2. Eric Matingo, Programme Advisor, Aug. 24, 2011, Media Monitoring Project Zimbabwe, Harare

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 coverage has been largely skewed and polarized, with the state-owned media reporting in favor of the ruling party, while the privately owned media tended to report in favor of the opposition.

Nhlanhla Ngwenya, director of the Media Institute of Southern Africa-Zimbabwe, said that both the state and privately owned local media failed to report objectively on the WikiLeaks release involving classified U.S. State Department cables. He said that local media used the cables to buttress their editorial positions. "The state media used the WikiLeaks to sustain their editorial position against the opposition without noting that the leaks merely consisted of subjective assessments by individuals and not the official position of the U.S. government. The private media did not make an effort to seek comment from the implicated sources," he said.

"The thing is, when you report on a personal opinion, it should be balanced. The cables consisted of diplomatic opinions. If you report opinion as fact, there's a problem."

For example, in the wake of the WikiLeaks' release in Zimbabwe, The Standard newspaper reported alleged secret diamonds deals involving first lady Grace Mugabe and Reserve Bank of Zimbabwe Governor Gideon Gono. Grace Mugabe sued the newspaper for \$15 million. In addition, the state media reported that the attorney general had launched a probe to investigate Prime Minister Morgan Tsvangirai's involvement in Western sanctions following media reports of a classified U.S. State Department cable relating his meetings with Western ambassadors.

References:

1. Patience Zirima, National Coordinator, Media Alliance of Zimbabwe, Aug. 23, 2011, Harare
2. John Mokwetsi, Journalist, NewsDay, Aug. 30, 2011, Harare
3. Media Monitoring Project Zimbabwe, Published in 2009, A REPORT ON MEDIA COVERAGE OF POLITICAL VIOLENCE AND HUMAN RIGHTS ABUSES IN ZIMBABWE'S 2008 ELECTION CAMPAIGNS, http://www.kubatana.net/docs/media/mmpz_media_political_violence_08_elec_090604.pdf

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.

100 | 75 | 50 | 25 | 0

Comments:

Political parties and candidates from the opposition do not have equitable access to state-owned media outlets. They are largely censored or are reported on in negative light.

In the period under consideration, the state-owned media continued to portray opposition leader Morgan Tsvangirai as a stooge of the West and imperialism, without providing substantive evidence. Moreover, the opposition continued to receive limited coverage on the state-owned television.

References:

1. The Propaganda War on Electoral, Media Monitoring Project Zimbabwe, 2009, <http://www.mmpz.org/sites/default/files/MMPZ%202008%20election%20book%20first%20draft%2009%20-%20Introduction.pdf>
2. Patience Zirima, Media Alliance of Zimbabwe, Aug. 24, 2011, Harare

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:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

11. Are journalists safe when investigating corruption?

100

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

Yes | No

Comments:

No journalist has been arrested specifically for corruption-related reporting, but journalists constantly face harassment from the state.

References:

1. Chido Musodza Administrator, Centre for Public Accountability, Aug. 24, 2011, Harare
2. Patience Zirima, National Coordinator, Media Alliance of Zimbabwe, Aug. 24, 2011, Harare

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 were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues.

References:

1. Patience Zirima, National Coordinator, Media Alliance of Zimbabwe, Aug. 20, 2011, Harare
2. John Mokwetsi, Journalist, NewsDay, Aug. 23, 2011, Harare

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 were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period.

References:

1. Patience Zirima, National Coordinator, Media Alliance of Zimbabwe, Aug. 23, 2011, Harare
2. John Mokwetsi, Journalist, NewsDay, Aug. 20, 2011, Harare

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.

61
1.3. Public Requests for Government Information

12. Do citizens have a legal right to request information?

100

12a. In law, citizens have a right to request government information and basic government records.

Yes | No

Comments:

While the Access to Information and Protection of Privacy Act provides access rights to information, it also limits access at the same time. The act has been deployed as the leading weapon to stifle independent media reporting in Zimbabwe.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare.
2. The State of the Media Report 2010 published by the Media Institute of Southern Africa – Zimbabwe.
3. Access to Information and Protection of Privacy Act, Section 5
4. The Access to Information and Protection of Privacy Act: Five Years On, MISA, 2007

Yes: A YES score is earned if there is a formal right to request 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 a request for a basic government record is denied.

Yes | No

Comments:

The Access to Information and Protection of Privacy Act includes a provision for an appeal to the Media and Information Commission (MIC), but recent developments have resulted in the disbanding of this body, and citizens can appeal through the courts. However, few citizens know about this process.

References:

Access to Information and Protection of Privacy Act, Section 50

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.

Yes | No

Comments:

Part of the Zimbabwe Media Commission's responsibility is to ensure that the people of Zimbabwe have equitable and wide access to information.

References:

1. Constitution of Zimbabwe, Amendment 19
2. Access to Information and Protection of Privacy Act, amended in January 2008)
3. 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 to information requests effective?

21

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

100 | 75 | 50 | 25 | 0

Comments:

There is no available information on this because citizens barely request information. Lack of knowledge about the right to information means that only a few people try to access information. There is a need to educate citizens so that they can exercise this right. In addition, government response to sensitive information can be heavy-handed, which means that most citizens do not even make an attempt to access information.

References:

1. The Access to Information and Protection of Privacy Act: Five Years On, Media Institute of Southern Africa, 2007, http://www.zimbabwejournalists.com/uploaddocs/AIPPA_Five_Years_On_A_Trail_of_Destruction.pdf
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
3. Patience Zirima, National Coordinator, Media Alliance of Zimbabwe, Aug. 23, 2011

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.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: 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 information request mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In a country with widespread poverty, requests for information are expensive, and the time needed to get a response can be long, sometimes adding to the expense. Government offices tend to be centralized in the capital city, and journalists and citizens may have to travel long distances to access information. The average cost of requesting information would be U.S. \$200, which includes traveling and accommodation costs. This is far beyond the reach of many people in Zimbabwe.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. Patience Zirima, National Coordinator, Media Alliance of Zimbabwe, Aug. 23, 2011, 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 NGOs. 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 NGOs trying to access this information.

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

100 | 75 | 50 | 25 | 0

Comments:

Requests for information are generally ignored. If the request involves sensitive information, there is usually lackluster response or none at all. Public officials do not feel obligated to provide the requested information.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. Patience Zirima, National Coordinator, Media Alliance of Zimbabwe, Aug. 23, 2011, Harare

100: Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

75:

50: Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

25:

0: 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.

13d. In practice, citizens can resolve appeals to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Citizens have very limited power to demand the timely release of documents, especially if the documents are perceived to be sensitive. The appeals process is at the discretion of the government. It can take up to three years before an issue is addressed. For example, an appeal by the Daily News, after being banned by the government, took more than four years to resolve. However, there were no examples during the period under review.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011
2. John Mokwetsi, Journalist, NewsDay, Aug. 25, 2011

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: 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.

25:

0: 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.

13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Most people are not aware of their right to access government information and do not even try to obtain it. While the government documents themselves are affordable, with an average cost of U.S. \$10 to U.S. \$20, people generally are afraid to initiate action against the government. An average of U.S. \$100 can enable a citizen to access information from government, especially if it's not of political nature.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare.
2. Patience Zirima. National Coordinator, Media Alliance of Zimbabwe, Aug. 23, 2011, Harare.

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:

The government has to give the reasons for denying an information request, but due to the delays and difficulties involved in

obtaining information, citizens rarely pursue this route.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. John Mokwetsi, Journalist, NewsDay, Aug. 25, 2011, Harare

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.

Category 2. Elections

2.1. ~~Voting~~ Voting and Party Formation

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:

Zimbabwe has periodic elections in which by law anyone above 18 years old can vote.

References:

1. The Constitution of Zimbabwe, Chapter 3, Section 23A, Subsection 2(a)
2. Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, 2011, Harare

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:

While periodic elections have been held since 1980, since the signing of the Global Political Agreement in 2008, there has been a

new set of circumstances, and there's still lack of clarity on when elections will be held next in Zimbabwe.

References:

1. Electoral Laws Amendment Act No. 17 of 2007
2. Constitution of Zimbabwe
3. 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

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?

42

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

100 | 75 | 50 | 25 | 0

Comments:

If you are a Zimbabwean resident in a foreign country, you forfeit your right to vote according to the law. Zimbabwean citizens living outside the country have been campaigning actively to have a right to vote. A 2011 U.N. report estimates that more than 3 million Zimbabweans live abroad. Also, many of the voting stations are not designed to accommodate the special needs of people who are disabled or visually impaired, thereby disenfranchising many people. A requirement to provide proof of residence, including utility bills, in order to register as a voter also disenfranchises some voters.

References:

1. Zimbabwe Electoral Act Section 110(3)
2. Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, 2011, Harare
3. John Mkwetsi, Journalist, NewsDay, Aug. 23, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

There have been reports of tampering with ballots, and the secrecy of the ballot remains a contentious issue in Zimbabwe. Questions also have been raised about voting by members of the security forces, whether there is intimidation when they cast ballots under the direction of a commanding officer and about the absence of monitors, agents and observers when the security forces vote.

Postal voting also is controversial, with calls for increased monitoring by the Zimbabwe Electoral Commission (ZEC). Some fear that election officials may tamper with some mailed-in ballots.

Also, there is no process to help those weakened by ill health or old age get to a polling station so they can vote.

Since 2008, the composition of the ZEC since 2008 has been partisan. Critics ask that the ZEC be professionalized, charging that the current composition makes elections subject to manipulation through bribes and forms of coercion.

References:

1. Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, 2011, Harare
2. The Propaganda War on Electoral Democracy – a report on the media's coverage of the Zimbabwe's 2008 Elections. Published by the Media Monitoring Project Zimbabwe ISBN: 978-0-7974-3745-6
3. When a State turns on its Citizens by Lloyd Sachikonye ISBN: 978-1-4314-0113-0

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.

100 | 75 | 50 | 25 | 0

Comments:

Since independence, Zimbabwe usually has held elections every five years, but due to the political crisis that culminated in the signing of the Global Political Agreement in 2008, the schedule of elections was disrupted. Elections were held in Zimbabwe in 1980, 1985, 1990, 1995, 2000, 2004 and 2008.

In the 2008 election, there was a run-off vote for the first time. The run-off campaign was marked by violence, and opposition leader Morgan Tsvangirai pulled out of the election. President Robert Mugabe declared himself winner. But regional and international pressure resulted in the establishment of a unity government for Zimbabwe and the signing of the Global Political Agreement, which is supposed to lead to a new constitution. Elections are expected in 2012.

References:

1. News24.com, SAPA, 4 November 2010, <http://www.news24.com/Africa/Zimbabwe/Zimbabwe-elections-unlikely-in-2011-20101104>
2. Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, 2011, Harare
3. Global Political Agreement, 2008

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:

50: 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.

25:

0: 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?

65

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

Yes | No

Comments:

The Constitution of Zimbabwe Chapter 3, Section 21, Sub-section 1 guarantees the right to form or belong to political parties.

References:

1. The Constitution of Zimbabwe Chapter 3, Section 21, Sub-section 1
2. Electoral 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:

Yes, except that to run for presidency, a candidate must be at least 40 years old, and those with criminal records may be barred from running for office.

References:

1. The Constitution of Zimbabwe Chapter 3, Section 21, Sub-section 1.
2. Electoral Act

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:

Disabled people and women, as well as white people, tend not to participate in the formation of political parties. Political financing is also a major hindrance to establishing a political party.

References:

1. Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, 2011, Harare
2. Biko Mutsaurwa, National Coordinator, Uhuru Cultural Activists Network, Aug. 22, 2011, Harare
3. 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:

In the 2008 elections, many opposition candidates and potential candidates for parliament and other offices were frustrated or discouraged by government harassment, intimidation and violence. Some candidates lost their businesses or other property; in the town of Chitungwiza, the mayor's house was bombed.

Women are generally marginalized in the political process as well as disabled people.

References:

1. Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, Harare
2. High Court of Zimbabwe Case number HH52-03 CRB 31-33/03 The State vs Nhongo et al
3. Barrica M J 2008. SADC Observer Mission: Preliminary Statement, June 27, 2008, Harare. Statement Presented on the Zimbabwe, <http://www.eisa.org.za/PDF/zim2008sadc2.pdf>

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:

Yes, but some cabinet ministers and members of the legislature have been arrested, jailed, imprisoned and physically abused before eventually being cleared of the charges against them. Among them are Evelyn Masaiti, Roy Bennett, Elton Mangoma and Thokozile Mathuthu. The court and jail time involved prevented some of them from carrying out their official duties during parts of their elective terms.

References:

1. Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, 2011, Harare
2. The Zimbabwe Parliamentary debates House of Assembly Volume 37, Number 32; Tuesday, May 31, 2011.

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.

2.2. Election Integrity

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

100

17a. 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:

Law: Constitutional Amendment 17

Law: Zimbabwe Electoral Commission Act

Law: Electoral Laws Amendment Act 2007

1. Desmond Ncube, National Youth Coordinator, MDC-T, September 6, 2011, Harare
2. <http://www.eisa.org.za/WEP/zimzec.htm>

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.

18. Is the election monitoring agency effective?

50

18a. In law, the agency or set of agencies/entities is protected from political interference.

Yes | No

Comments:

Zimbabwe Electoral Commission members are appointed according to the procedure set forth in Article 61(5) of the Constitution.

References:

1. Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, 2011
2. The Global Political Agreement, Sept. 15, 2008

3. Article 61(5) of the Constitution

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.

100 | 75 | 50 | 25 | 0

Comments:

The Zimbabwe Electoral Commission lacks the capacity to effectively monitor and manage elections in a free and fair manner. The commission's eight members are appointed by the president and are subservient to President Robert Mugabe and his ZANU-PF party. The way the commissioners are appointed limits their freedom. Opposition leaders charge that the Electoral Commission has failed to monitor and act on complaints against the state-run Herald newspaper, which, critics charge, prints stories that are completely one-sided against the opposition and in favor of Mugabe and Zanu-PF as well inciting racial, religious and political hatred.

References:

1. Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, 2011, Harare
2. Media Monitoring Project Zimbabwe, 2008, The Propaganda War on Electoral Democracy, A report on the media's coverage of Zimbabwe's 2008 elections

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.

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.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Zimbabwe Electoral Commission (ZEC) is underfunded, which has limited its ability to function. According to the opposition, the commission is staffed by intelligence operatives who are loyal to and support President Robert Mugabe. The ZEC also relies on civil servants who may not necessarily be aware of all the issues to look out for in an election in order to make it free and fair. Suspicions about the ZEC were also raised because of its failure to announce election results in a timely manner in 2008. There was delay of five weeks in announcing the results of the first round of the presidential election.

References:

1. Radio Vop, Feb. 22, 2011, http://www.cfuzim.org/index.php?option=com_content&view=article&id=1335:zim-electoral-commission-under-funded-because-of-sanctions-chinamasa&catid=86:elections&Itemid=92
2. Eldred V. Masunungure, A Militarized Election The 27 June Presidential Run-off, 2008, KAD
3. Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, 2011, Harare
4. Zimbabwe Constitution

100: The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

75:

50: The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

Comments:

The Zimbabwe Electoral Commission has not been efficient in making timely, publicly available reports following an election. In the 2008 elections, results were not released for five weeks, well beyond the timeline for holding the run-off election.

References:

1. The Guardian, Delays fuel fears of electoral fraud in Zimbabwe, March 31, 2008, <http://www.guardian.co.uk/world/2008/mar/31/zimbabwe3>
2. Eldred V. Masunungure, A Militarized Election, The 27 June Presidential Run-off, 2008

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 (ZEC) has not adequately acted on complaints brought to its attention. When the Zimbabwe African National Union – Patriotic Front (ZANU-PF, the party of President Robert Mugabe) is the subject of complaints, the ZEC barely makes any comments on the allegations. Also, the ZEC has done little to address the issue of the pervasive propaganda put out by the state-owned media.

References:

1. Media Monitoring Project, The Propaganda War on Electoral Democracy, 2008, MMPZ
2. Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, 2011, Harare
3. ZIMBABWE ELECTION SUPPORT NETWORK, [ZESN] REPORT ON THE ZIMBABWE 29MARCH HARMONISED ELECTION, Zimbabwe, 2008

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?

38

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

100 | 75 | 50 | 25 | 0

Comments:

From the technical and administrative points of view, voting and counting have always been conducted efficiently, and Zimbabwean election officials have been applauded for their knowledge of their duties. In this respect, there is a system of voter registration. Some of the requirements for registering to vote, such as utility bills from voters, make it difficult. There is also limited time for an assessment of the roll, and analysts say that there are many ghost voters. The voters roll needs a thorough review.

References:

1. Zimbabwe: A New Era in Election Management, Belinda Musanhu, 2008
2. Bethel Goka, Journalist, News Day, Sept. 7, 2011, Harare

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:

According to the Electoral Act, election results can be contested in a court of law.

References:

1. Electoral Act, Part XXIII. "Electoral Petitions."
2. Bethel Goka, Journalist, News Day, Sept. 11, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

While it is possible to appeal through the judicial system, the independence of the judiciary has been called into question. For example, Zimbabwe was in political deadlock after the 2008 elections because of the high court's indecision on whether to order publication of the presidential election results.

To read more: <http://www.dailymail.co.uk/news/article-557522/Zimbabwe-deadlock-High-Court-postpones-decision-election-results.html#ixzz1gGIV4p00>

References:

Afrol News, MDC contests results delay, April 4, 2008, <http://afrol.com/articles/28495>

Subverting Justice, March 2005, Solidarity Peace Trust, http://www.solidaritypeacetrust.org/download/report-files/subverting_justice.pdf

Zimbabwe Journalists, April 4, 2008, Reporter, http://www.zimbabwejournalists.com/print.php?art_id=3856

Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, 2011, Harare

100: 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.

75:

50: 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.

25:

0: 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.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

Comments:

The Zimbabwe army now virtually controls the major institutions of the state and the formal policy-making structures and processes of the country. The Joint Operations Command — the heads of the army, police, prisons and the Central Intelligence Organization — meets regularly to coordinate military and security affairs. Serving and retired military officers and other security officials have come to direct all key national and governance issues rather than the Cabinet. According to some analysts, the military is a pawn of a political faction. It is clear that the military has been involved in elections, especially in violently intimidating voters.

References:

1. A Militarized Election The 27 June Presidential Run-off, Eldred V. Masunungure, 2008, http://www.kas.de/upload/dokumente//2010/05/Defying_5.pdf

2. The Security-military Business Complex and the Transition in Zimbabwe
Zimbabwe Institute Discussion Paper: June 2008, http://zimbabweinstitute.org/File_Uploads/file/zimpolitico-military%20business%20complex%5B1%5D.pdf

3. The Military Factor in Zimbabwe,
2009, <http://www.swradiofrica.com/Documents/The%20Military%20Factor%20in%20Zimbabwe.pdf>

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:

Only international observers who are perceived to be friendly to Zimbabwe's ruling party are allowed to monitor Zimbabwe's elections. Election observers from most Western countries are effectively barred from monitoring elections.

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:

Election observers do not operate freely in Zimbabwe. While election observers are accredited from so-called friendly countries, their movements are severely limited.

In 2008, police harassed the legitimate, peaceful activities of the staff and observers of the Zimbabwe Election Support Network (ZESN), a legally established and widely respected citizen rights group that conducted observation in compliance with the country's electoral laws, code of conduct and international principles for election observation. ZESN members were arbitrarily detained and interrogated by police, and their offices were searched.

References:

1. Zimbabwe: 2008 Elections and Implications for U.S. Policy, <http://fpc.state.gov/documents/organization/106142.pdf>, May 2008

2. Electoral Institute for the Sustainability of Democracy in Africa (EISA), <http://www.eisa.org.za/WEP/zim2008eom.htm>, May 2008

3. Election Monitoring and Observation in Zimbabwe: Hegemony versus Sovereignty, Khabele Matlosa, African Journal of Political Science (2002), Vol. 7 No. 1, archive.lib.msu.edu/DMC/African%20Journals/.../ajps007001007.pdf

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.

2.3. Political Financing Transparency

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:

While there is no limit to individual to individual financing of political parties, foreigners are prohibited from financing political parties in Zimbabwe.

References:

REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Prepared for the Zimbabwe Elections Support Network (ZESN), Eldred Masunungure, Department of Political & Administrative Studies, University of Zimbabwe, August 2006, http://www.zesn.org.zw/publications/publication_113.pdf

Political Parties Finance Act, Chapter

2:04, http://www.parlzim.gov.zw/cms/Acts/Title02_PRESIDENT_AND_PARLIAMENT/POLITICAL_PARTIES%28FINANCE%29_ACT_2_11.pdf

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:

The Political Parties (Finance) Act prohibits political parties and candidates for public office from receiving funds from foreign donors, whether channeled directly or indirectly. The law further provides that no foreign citizens may solicit donations for a political party or candidate. Apart from this, there are no limits on corporate donations

References:

Political Parties (Finance) Act [http://www.google.co.zw/url?sa=t&rct=j&q=Political%2BParties%2B\(Finance\)%2BAct%2B&source=web&cd=4&ved=0CDEQFjAD&url=http%3A%2F%2Fwww.parlzim.gov.zw%2Fcms](http://www.google.co.zw/url?sa=t&rct=j&q=Political%2BParties%2B(Finance)%2BAct%2B&source=web&cd=4&ved=0CDEQFjAD&url=http%3A%2F%2Fwww.parlzim.gov.zw%2Fcms)

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 is no specification in the law on how much political parties can spend.

References:

Political Parties Finances Act: [http://www.google.co.zw/url?sa=t&rct=j&q=Political%2BParties%2B\(Finance\)%2BAct%2B&source=web&cd=4&ved=0CDEQFjAD&url=http%3A%2F%2Fwww.parzim.gov.zw%2Fcms](http://www.google.co.zw/url?sa=t&rct=j&q=Political%2BParties%2B(Finance)%2BAct%2B&source=web&cd=4&ved=0CDEQFjAD&url=http%3A%2F%2Fwww.parzim.gov.zw%2Fcms)

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 by law to disclose their donations. However, because the law prohibits foreign funding, one can deduce that the government has mechanisms to identify the source of funds, which may involve disclosure of funds.

References:

Political Parties Finance Act 2002, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf/view>

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. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

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:

It is not stated specifically in the law, but provisions of the law accord the minister power to look into the financing of political parties. However, there is no such specific requirement within the law.

References:

Political Party 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:

There is no such agency provided within the law.

References:

Political Parties (Finance) Act <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf/view>

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 non-governmental 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 Political Parties (Finance) Act prohibits political parties and candidates for public office from receiving funds from foreign donors, whether channeled directly or indirectly. There are no limits on individual donations to political candidates.

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 the prohibition of foreign funding.

References:

Political Parties Finances Act, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf/view>

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.

Yes | **No**

Comments:

There are no requirements for the disclosure of donations to individual political candidates.

References:

Political Parties Finances Act, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf/view>

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. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

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

Yes | **No**

Comments:

There is no provision in the law for the independent auditing of the campaign finances of individual political candidates.

References:

Parties (Finance) Act [Chapter 2:04], <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf/view>

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.

Yes | **No**

Comments:

There are no such requirements.

References:

Political Parties Finances Act, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf/view>

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 non-governmental organizations.

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

0

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.

100 | 75 | 50 | 25 | 0

Comments:

There are no limits on individual donations to political parties. Information regarding the finances of political parties is not publicly available.

References:

1. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, http://www.zesn.org.zw/publications/publication_113.pdf
2. John Mokwetsi, Journalist, NewsDay, Aug. 13, 2011, Harare
3. Political Parties (Finance) Act, Chapter 2:11

100: 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.

75:

50: 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.

25:

0: 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.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

There are no limits on corporate financing of political parties.

References:

1. REGULATION OF POLITICAL PARTIES ZIMBABWE: FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, Zimbabwe Election Support Network
2. 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.

100 | 75 | 50 | 25 | 0

Comments:

There are no provisions to this effect.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpatiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare
3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf

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:

50: 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.

25:

0: 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.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

There is no such agency or entity in Zimbabwe.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpatiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, September 6, 2011, Harare
3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf

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:

50: 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, though limited in effectiveness, is still fair in its application of power.

25:

0: 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.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:
No such agency exists.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpatiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare
3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf
4. Political Parties Finances Act, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

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:
Nothing like this exists in the law.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpatiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare

3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf

4. Political Parties Finances Act, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

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?

0

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:

No limits exist on individual donations.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpartiesc.htm>

2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare

3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf

4. Political Finances Act 2.11, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

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 is no such provision in the law or in practice. This information is not available in the public domain and has not been reported in the media.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpartiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare
3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf
4. Political Finances Act 2.11. <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

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 exists.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpartiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare
3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf
4. Political Finances Act 2.11, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

100: The agency or entity aggressively starts investigations into allegations of wrong doing 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, thought 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:

There is no such agency.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpartiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare
3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf
4. Political Finances Act 2.11, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

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:

Political finances are not audited.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpartiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare
3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf
4. Political Finances Act 2.11, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

100: 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.

75:

50: 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.

25:

0: 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?

0

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

100 | 75 | 50 | 25 | 0

Comments:

There is no such provision in the law.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpartiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare
3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf
4. Political Finances Act 2.11, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

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

75:

50: 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.

25:

0: 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.

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

100 | 75 | 50 | 25 | 0

Comments:

Citizens cannot access the financial accounts of political parties.

References:

1. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf
2. Political Finances Act 2.11, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

3. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpatiesc.htm>

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.

100 | 75 | 50 | 25 | 0

Comments:

The law does not provide for citizens to access the financial records of political parties.

References:

1. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf

2. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpatiesc.htm>

3. Political Finances Act 2.11, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

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 NGOs. 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 NGOs 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 financial reports of political parties.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpatiesc.htm>

2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare

3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf

4. Political Finances Act 2.11, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

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:

There is no requirement for individual candidates to reveal campaign finances.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpartiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare
3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf
4. Political Finances Act 2.11, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

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.

100 | 75 | 50 | 25 | 0

Comments:

Citizens cannot access records related to the financing of individual candidates' campaigns.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpatiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare
3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf
4. Political Finances Act 2.11, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%20%2011.pdf>

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.

100 | 75 | 50 | 25 | 0

Comments:

Citizens cannot access information related to the financing of individual candidates' campaigns.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpatiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare
3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf
4. Political Finances Act 2.11, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%20%2011.pdf>

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 NGOs. 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 NGOs trying to access this information.

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

100 | 75 | 50 | 25 | 0

Comments:

There is no provision requiring disclosure of such finances to the public.

References:

1. Zimbabwe: Party Regulation and Funding, <http://www.eisa.org.za/WEP/zimpartiesc.htm>
2. Desmond Ncube, National Youth Coordinator, MDC, Sept. 6, 2011, Harare
3. REGULATION OF POLITICAL PARTIES ZIMBABWE: REGISTRATION, FINANCE AND OTHER SUPPORT, Eldred Masunungure, August 2006, ZESN, http://www.zesn.org.zw/publications/publication_113.pdf
4. Political Finances Act 2.11, <http://aceproject.org/ero-en/regions/africa/ZW/Political%20Parties%20%28Finance%29%20Act%20Chapter%202%2011.pdf>

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.

25:

0: 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 3. Government Conflicts of Interest Safeguards & Checks and Balances

3.1. ⁴⁰Conflicts of Interest Safeguards & Checks and Balances: Executive Branch

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

100

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

Yes | No

Comments:

Citizens can sue the government for infringement of their civil rights.

References:

Zimbabwe Constitution, Sections 24 and 108

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.

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 chief executive gives reasons for his policy decisions through state addresses and speeches to the media that often center on defending the sovereignty of Zimbabwe. However, decisions are made arbitrarily and never explained fully.

References:

1. The Zimbabwean, Constitution Watch Content Series 2/2011 of 16th May [Executive Powers, Part I], 18 May 2011. <http://www.thezimbabwean.co.uk/human-rights/39713/constitution-watch-content-series-22011-of-16th-may-executive-powers-part-i.html>

2. Philip Matonhodza, Journalist, NewsDay, Aug. 27, 2011, Harare

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 states that when a president is required or permitted by the constitution or any other law to 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) the nature of any advice or recommendation given to the president or (d) the manner in which the president exercised his discretion.

References:

Constitution of Zimbabwe, Section 31 (k)

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:

The executive wields a lot of power in Zimbabwe, so while there is supposed to be a separation of powers, in practice the executive exercises power over the judiciary, and the independence of the judiciary is highly in question. In 2000, President Robert Mugabe fired judges who challenged the constitutionality of the land reform program. In March 2008, when the courts could not force the publication of election results, the president was widely believed to be behind the court's lack of action.

References:

1. Constitution of Zimbabwe
PRESIDENTIAL POWERS (TEMPORARY MEASURES) ACT
2. Kelvin Jakachira, Journalist, NewsDay, Sept. 10, 2011, Harare

100: 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.

75:

50: 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.

25:

0: 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.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

Comments:

Executive powers have been used to promulgate highly controversial laws. Since the signing of the Global Political Agreement in 2008, there have been limits to the exercise of executive power.

Zimbabwe underwent a political shift in September 2008 following the formation of a unity government. The unity government signed a Global Political Agreement which significantly limited the incumbent president's executive powers. For example, President Robert Mugabe is required to consult with Prime Minister Morgan Tsvangirai in making ministerial appointments.

References:

1. Rebecca Musima, Zimbabwe Women Lawyers Association, Program Officer Advocacy, Sept. 13, 2011, Harare
2. Desmond Ncube, National Youth Coordinator, MDC-T, Sept. 6, 2011, Harare

100: 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.

75:

50: 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.

25:

0: 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?

50

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

Yes | **No**

Comments:

According to the Constitution of Zimbabwe, the president cannot be subjected to criminal proceedings while in office.

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:

The Constitution of Zimbabwe makes an exception only for the president, which means that ministerial level officials can be prosecuted while in office for crimes they commit.

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?

0

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

Yes | **No**

Comments:

There is no such requirement in the law, but ministers are encouraged to disclose assets.

References:

Constitution of Zimbabwe

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 the law.

References:

Constitution of Zimbabwe

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 is no such provision in the laws of Zimbabwe.

References:

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 is no requirement in the law for the independent auditing of executive branch asset disclosure forms.

References:

Constitution of Zimbabwe

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:

The Constitution of Zimbabwe prohibits former presidents who are receiving state pay to secure any private payments. The situation is different for ministers, vice presidents and deputy ministers, who can take up employment after leaving 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:

Heads of state are prohibited from taking up employment while they are receiving pensions, but the situation is different for vice presidents and ministers. Zimbabwe has been ruled by only one person, Robert Mugabe, since attaining independence from British rule in 1980, so this has not been tested. There is no example to provide, but that is the law now. There are no restrictions for vice presidents and ministers.

References:

1. Rebecca Musima, Zimbabwe Women Lawyers Association, Program Officer Advocacy, Sept. 13, 2011
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

There are no such restrictions for vice presidents, ministers or deputy ministers.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2003, Harare

Rebecca Musima, Zimbabwe Women Lawyers Association, Program Officer Advocacy, Sept. 13, 2011

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.

100 | 75 | 50 | 25 | 0

Comments:

Executive branch asset disclosures are not audited under the law.

References:

1. The Standard, CAIPHAS CHIMHETE, Jan. 15, 2011, Zanu PF chefs refuse to declare assets, <http://www.thestandard.co.zw/local/28105-zanu-pf-chefs-refuse-to-declare-assets.html>

2. Rebecca Musima, Zimbabwe Women Lawyers Association, Program Officer Advocacy, Sept. 13, 2011, Harare

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?

6

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

Yes | No

Comments:

The heads of state and government are not required by law to disclose assets, so citizens cannot access such records.

References:

1. Constitution of Zimbabwe
2. Prevention of Corruption Act, Chapter 9:16 (1996)

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:

Citizens cannot access asset-disclosure records of the heads of state and government.

References:

1. The Standard, Caiphas Chimhete, Jan. 15, 2011, Zanu PF chefs refuse to declare assets , <http://www.thestandard.co.zw/local/28105-zanu-pf-chefs-refuse-to-declare-assets.html>
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare.

Rebecca Musima, Zimbabwe Women Lawyers Association, Program Officer Advocacy, September 23, 2011, 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 additional 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.

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

100 | 75 | 50 | 25 | 0

Comments:

Citizens cannot access the asset-disclosure records of the head of state because he is not required to make such a disclosure.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. Rebecca Musima, Zimbabwe Women Lawyers Association, Program Officer Advocacy, Sept. 23, 2011, 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 NGOs. 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 NGOs trying to access this information.

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

100 | 75 | 50 | 25 | 0

Comments:

There is no requirement in the law to produce such disclosures.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. Rebecca Musima, Zimbabwe Women Lawyers Association, Program Officer Advocacy, Sept. 13, 2011, Harare

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:

50: 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:

0: 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.

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

0

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

100 | 75 | 50 | 25 | 0

Comments:

For a long time, there was no distinction between the functions of the Zimbabwe African National Union – Patriotic Front (ZANU-PF, the party of President Robert Mugabe), which dominated Zimbabwean politics, and the running of the government. However, since the signing of the Global Political Agreement in 2008, there has been a move towards separating party politics from how the government is run. Despite this, the ZANU-PF decision-making structures continue to influence government policies in many ways. For example, the party makes many of the decisions over the timing of elections.

References:

1. Rebecca Musima, Zimbabwe Women Lawyers Association, Program Officer Advocacy, Sept. 13, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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.

3.2. Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch

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

83

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

Yes | No

Comments:

The judiciary can review laws passed by the legislature, however, there are close links between the judiciary and the Zimbabwe African National Union – Patriotic Front (ZANU- PF), and the judiciary has not reviewed some controversial decisions made in the legislature.

References:

1. Constitution of Zimbabwe Chapter 8, Section 80, sub-section 4b

2. Privileges, Immunities and Powers of Parliament

Act, http://www.parlzim.gov.zw/cms/Acts/Title02_PRESIDENT_AND_PARLIAMENT/PRIVILEGES_IMMUNITIES_AND_POWERS_OF_PARLIAMENT_ACT

3. Supreme Court Act , [http://www.google.co.zw/url?](http://www.google.co.zw/url?sa=t&rct=j&q=supreme%2Bcourt%2Bact%2Bzimbabwe&source=web&cd=1&ved=0CBsQFjAA&url=http%3A%2F%2Fwww.parlzim.gov.zw%2Fcms%2FA)

[sa=t&rct=j&q=supreme%2Bcourt%2Bact%2Bzimbabwe&source=web&cd=1&ved=0CBsQFjAA&url=http%3A%2F%2Fwww.parlzim.gov.zw%2Fcms%2FA](http://www.google.co.zw/url?sa=t&rct=j&q=supreme%2Bcourt%2Bact%2Bzimbabwe&source=web&cd=1&ved=0CBsQFjAA&url=http%3A%2F%2Fwww.parlzim.gov.zw%2Fcms%2FA)

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:

There is no example from the period under review.

References:

1. The Herald, Fidelis Munyoro, Jan. 27, 2010, <http://allafrica.com/stories/201001270021.html>
2. Jame Johwa, Lawyer, Johwa and Associates, Harare, Jan. 4, 2012

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

Comments:

Members of the legislature can be subject to criminal proceedings.

References:

Constitution of Zimbabwe, Chapter 5, Section 49.

Yes: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

No: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

33. Are there regulations governing conflicts of interest by members of the national legislature?

4

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

Yes | **No**

Comments:

Members of the national legislature are not required to disclose their assets, but there has been lobbying at various levels to encourage them to disclose assets.

References:

1. Constitution of Zimbabwe
2. Prevention of Corruption Act Chapter 9:16 (1996)

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:

No such restrictions on national legislators entering the private sector after leaving the government exist in the laws of Zimbabwe.

References:

Constitution of Zimbabwe

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:

No such regulations barring members of the legislature from receiving gifts and hospitality exist in the law.

References:

1. Constitution of Zimbabwe

2. Prevention of Corruption Act, Chapter 9:16 1996, http://www.google.co.zw/url?sa=t&rct=j&q=Prevention%2Bof%2BCorruption%2BAct%252C%2BChapter%2B9%253A16%2B1996%2B%2Bzimbabwe&source=web&cd=3&ved=0CCo16%2520.pdf&ei=McuITsrIBcrwsgbSztjbCg&usq=AFQjCNFn3bU9RgDu_r0LdqGwQDzvQ4ivdA

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:

There are no requirements for the independent auditing of asset disclosure forms of members of the national legislature.

References:

1. Constitution of Zimbabwe

2. Prevention of Corruption Act

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.

No: 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 such restrictions in the law.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. Kossam Ncube, Managing Partner, Ncube and Associates, Sept. 7, 2011, Bulawayo

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 such regulations.

Legislators often receive cows and sheep in the rural areas, but this is really not regarded as consequential in any fashion. High-level gifts may be a problem, but these do not happen in the public light.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. Kossam Ncube, Managing Partner, Ncube and Associates, Sept. 7, 2011, Bulawayo

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:

50: 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.

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.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

Legislative members are not required to disclose assets.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

2. Kossam Ncube, Managing Partner, Ncube and Associates, Sept. 7, 2011, Bulawayo

Constitution of Zimbabwe

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

75:

50: 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.

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.

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

19

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

Yes | No

Comments:

Members of the national legislature are currently not required to disclose their assets.

References:

Constitution of Zimbabwe

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, non-governmental 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:

Citizens cannot access asset records of members of the national legislature.

References:

1. The Standard, Caiphos Chimhete, Jan. 15, 2011, Zanu PF chefs refuse to declare assets , <http://www.thestandard.co.zw/local/28105-zanu-pf-chefs-refuse-to-declare-assets.html>

2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, 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.

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

100 | 75 | 50 | 25 | 0

Comments:

Members of the public cannot access such information.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

2. John Mokwetsi, Journalist, NewsDay, Sept. 10, 2011, 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 NGOs. 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 NGOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Members of the national legislature are not required to disclose their assets.

References:

1. John Mokwetsi, Journalist, NewsDay, Sept. 11, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

100: 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.

75:

50: The asset disclosure records of the members of the national legislature 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 members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

35. Can citizens access legislative processes and documents?

25

35a. In law, citizens can access records of legislative processes and documents.

Yes | **No**

Comments:

There is no legal instrument that necessarily guarantees this.

While members of the public can access some records, the process is highly tedious. Many people are not aware of where to go to obtain public documents. Some documents may be free, but citizens do not access them. The Hansard, a record of proceedings in Parliament, is now published only sporadically and is rarely available.

References:

1. Constitution of Zimbabwe
2. Government Gazette

Hansard, <http://www.parzim.gov.zw/inside.aspx?mpgid=26>

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:

The process to acquire government records is cumbersome. Application must be made in the capital city which means, for most people in the country, transport and accommodation costs are considerable. Bureaucratic steps and procedures must be completed before receiving the information, including writing letters and attending meetings.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, 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.

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

Comments:

Given the poor economic conditions in Zimbabwe, it is quite costly to access government records. People living outside the capital city have to travel to Harare to access records. It cost approximately U.S. 25 cents per copy of each debate session of Parliament. With an unemployment rate of over 80 percent, not many people can afford the costs. In a country where the minimum wage is U.S. \$120 per month, an average of U.S. \$100 may be required to access a government record.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. Kossam Ncube , Managing Partner, Ncube and Associates, Sept. 7, 2011, Bulawayo

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 NGOs. 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 NGOs trying to access this information.

3.3. Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch

36. Are judges appointed fairly?

17

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

Yes | **No**

Comments:

The process of selecting and appointing judges is not transparent. The president appoints judges after consultation with the Judicial Service Commission, but the process is not open to public oversight or debate.

References:

1. Constitution of Zimbabwe Chapter 8, Section 84

2. Judicial Services Act, [http://www.google.co.zw/url?sa=t&rct=j&q=Judicial%2BService%2BAct%2BChapter%2B7%253A18&source=web&cd=2&ved=0CCIQFjAB&url=http%3A%2F%2Fwww.kubatana.net%](http://www.google.co.zw/url?sa=t&rct=j&q=Judicial%2BService%2BAct%2BChapter%2B7%253A18&source=web&cd=2&ved=0CCIQFjAB&url=http%3A%2F%2Fwww.kubatana.net%2F)

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:

While judges do have professional qualifications, they are selected according to political loyalty, and most of the judiciary are ZANU-PF sympathizers.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 28, 2011, Harare

2. Rebecca Musima, Zimbabwe Women Lawyers Association, Program Officer Advocacy, Sept. 7, 2011, Harare

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 for national-level judges.

References:

1. Constitution of Zimbabwe

2. Judicial Service Act, Chapter 7:18

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

Comments:

Members of the judiciary can be held accountable for their actions. This has only happened in cases of a politically sensitive nature.

References:

1. Constitution of Zimbabwe, Section 88
2. Judicial Services Act, Part 4, Section 15

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:

Members of the judiciary have to give reasons for their decisions.

Judges in Zimbabwe have to give reasons for every case, but these decisions are not recorded in any digital format. They are available at the courts.

References:

1. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 11, 2011, Bulawayo
2. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Sept. 7, 2011, Harare

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 Judicial Services Commission, established by law, is responsible for holding the judiciary accountable.

References:

1. Constitution of Zimbabwe, Sections 90 and 91
2. 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 Services Commission is not established in law.

References:

1. Constitution of Zimbabwe
2. 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:

Although the Judicial Services Commission generally is believed to be ineffective, no information citing examples could be found on the issue.

References:

1. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo
2. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Sept. 7, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

While technically this is possible, there is no precedent in Zimbabwe.

References:

1. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo
2. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Sept. 7, 2011, Harare

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?

4

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

Yes | No

Comments:

There is no such provision in the law.

References:

1. Constitution of Zimbabwe

2. 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:

The Judicial Services Commission is empowered to inquire into and deal with complaints or grievances made by or against members of the Judicial Service; and the Judicial Service Act has provisions for a Code of Ethics that deals with the conduct of judges. However, there is nothing specifically outlined in the law.

References:

1. Judicial Service Act, Chapter 7:18

2. 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:

1. Constitution of Zimbabwe

2. Judicial Service Act, Chapter 7:18

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.

Yes | **No**

Comments:

There is no law that prohibits national-level judges from entering the private sector after leaving the government.

References:

1. Constitution of Zimbabwe
2. Judicial Service Act, Chapter 7:18

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 such provisions in Zimbabwean law.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Sept. 7, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

Although there is now law governing gifts and hospitality, no instances of judges accepting gifts and hospitality were reported during the time of this report.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Sept. 7, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
3. Judicial Service Act, Chapter 7:18
4. Constitution of Zimbabwe

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.

100 | 75 | 50 | 25 | 0

Comments:

There is no such provision in the law.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Sept. 7, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

75:

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.

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.

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

19

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

Yes | No

Comments:

There is no such requirement in the law.

References:

Constitution of Zimbabwe

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:

There is no such provision in the law.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Sept. 7, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, 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.

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

100 | 75 | 50 | 25 | 0

Comments:

There is no requirement for members of the judiciary to disclose their assets.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Sept. 7, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, 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 NGOs. 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 NGOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

There is no such requirement in the law.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Sept. 7, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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.

3.4. Budget Process Oversight & Transparency

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

50

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

Yes | No

Comments:

The legislature is legally permitted time to debate, contribute to and amend the national budget.

References:

Constitution of Zimbabwe, Part 5, Section 53.

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.

100 | 75 | 50 | 25 | 0

Comments:

The legislature's power to debate and approve the budget was severely undermined by the economic downturn because the budget, reduced to bare necessities, could not be changed by any government entity, let alone by the legislature. As the economy stabilizes and funds become more expendable, the legislature's role is likely to be greater.

References:

1. The Standard, Rudo Hadebe, July 10, 2010, 'Parliament Must Approve State Loan Guarantees', <http://allafrica.com/stories/201007121003.html>

2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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:

50: 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.

25:

0: 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.

100 | 75 | 50 | 25 | 0

Comments:

Sector-based Parliamentary Portfolio Committees are responsible for monitoring the budget, but the country's economic collapse rendered their function useless. The committees are often overwhelmed and make little input into shaping budgets that are reflective of needs on the ground. The health budget is an example, as it is always underfunded in comparison to the needs.

References:

1. The Zimbabwean, Wilf Mbangwa, Oct. 21, 2010, Thumbs up to the Parliament Portfolio Committee on Budget, Finance and Investment!, <http://www.thezimbabwean.co.uk/business/industry/35024/thumbs-up-to-the-parliament-portfolio-committee-on-budget-finance-and-investment-.html>

2. Farai Mweta, Consultant & Chartered Accountant for YASD, Sept. 15, 2011, Harare

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?

83

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:

There is often highly engaged debate over the budget in Parliament. Presentation of the budget is nationally televised.

References:

1. The Zimbabwean, Wilf Mbangwa, Oct. 21, 2010, <http://www.thezimbabwean.co.uk/business/industry/35024/thumbs-up-to-the-parliament-portfolio-committee-on-budget-finance-and-investment-.html>

2. CNN, Columbus S. Mavhunga, June 2, 2011, http://edition.cnn.com/2011/WORLD/africa/06/01/zimbabwe.china loan/index.html?hpt=hp_t2

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:

50: 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.

25:

0: 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.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

Comments:

Since the establishment of the government of national unity, there has been a significant improvement in the way that citizens can contribute to the process of building the budget. According to the finance minister, citizens can give input by using the ministry's Web site website (www.zimtreasury.org) or contacting the government .

References:

1. Farai Mweta Consultant & Chartered Accountant, Young Achievement Sports for Development (YASD), Sept. 15, 2011, Harare

2. Chido Musodza Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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

75:

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

25:

0: Citizens or NGOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can access itemized budget allocations, which are broadcast on national television and radio and reported widely in the print media and online.

References:

1. The Zimbabwe Independent, Staff Reporter, Nov. 26, 2009, 2010 Economic Recovery Budget, <http://www.theindependent.co.zw/opinion/24455-2010-economic-recovery-budget.html>, 2010

2. VOA, Blessing Zulu, Dec. 2, 2009, Zimbabwe FM Biti Proposes \$2.25 Billion 2010 Budget, Sees 7% Real Growth, <http://www.voanews.com/zimbabwe/news/Zimbabwe-Finance-Minister-Unveils-Budget-02Dec09-78345312.html>

100: Citizens, journalists and NGOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

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

25:

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

42. In law, is there a separate legislative committee which provides oversight of public funds?

100

42a. In law, is there a separate legislative committee which provides oversight of public funds?

Yes | No

Comments:

A post-audit legislative committee is mandated to examine the financial affairs and accounts of government departments and state-owned enterprises. It also examines all reports of the comptroller and auditor general. The committee also fulfills the oversight function of Parliament by examining the financial accounts of departments funded from public funds.

References:

Public Accounts Committee, <http://www.parzim.gov.zw/inside.aspx?mpgid=21&spid=64>

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).

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

58

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

100 | 75 | 50 | 25 | 0

Comments:

The process does not seem to be very effective because while ministers submit reports, they are often already over their allocated budgets.

More information, such as how often reports are submitted, how many reports are made annually or when reports are submitted, is not generally made public and is difficult to find.

References:

1. The Zimbabwean, Wilf Mbangwa, Thumbs up to the Parliament Portfolio Committee on Budget, Finance and Investment!, Oct. 21, 2011, <http://www.thezimbabwean.co.uk/business/industry/35024/thumbs-up-to-the-parliament-portfolio-committee-on-budget-finance-and-investment-.html>

2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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

75:

50: 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.

25:

0: 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.

100 | 75 | 50 | 25 | 0

Comments:

The committee is has legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution.

References:

1. Parliament of Zimbabwe, Accessed Oct. 10, 2011, <http://www.parlzim.gov.zw/inside.aspx?mpgid=21&spid=66>
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

While the Public Accounts Committee can initiate independent investigations into financial irregularities, they have very little power to implement findings and their work often is superseded by decisions made at the executive level.

References:

1. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Aug. 30, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

Category 4. Public Administration and Professionalism

4.1. ⁵²Civil Service: Conflicts of Interest Safeguards and Political Independence

44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

75

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

Yes | No

Comments:

The Public Service Commission by law is supposed to be an impartial, independent body managing the civil service.

References:

1. Constitution of Zimbabwe, Sections 73, 74, 75
2. 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:

There are defined procedures aimed at preventing nepotism, cronyism, and patronage within the civil service.

References:

1. Statutory Instrument of 2000 (Public Service Regulations)
 2. Public Service Act, Chapter 16:04
 3. 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.

Yes | No

Comments:

The law provides for an Internal Disciplinary Committee, an Ombudsman Office and a Labor Court as a redress mechanism for the civil service.

References:

1, Public Service Commission Act Public Service Regulations (2000)

2. 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

Comments:

There is no such provision in the law.

References:

1. Public Service Act

2. Prevention of Corruption Act

3. 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?

50

45a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Civil servants at all levels face severe political interference from both the Zimbabwe African National Union-Patriotic Front (ZANU-PF) and its rival, the Movement for Democratic Change (MDC).

References:

1. BBC News Africa, Reporter, May 13, 2011, Zimbabwe civil servants exposed by World Bank report, <http://www.bbc.co.uk/news/world-africa-13386762>
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare
3. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011
4. Constitutional Amendment No. 19
5. Public Service Regulations (2000)

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.

100 | 75 | 50 | 25 | 0

Comments:

While technically, civil servants are appointed on a professional basis, in recent years the civil service has become bloated due to political appointees.

References:

1. BBC News Africa, Reporter, May 13 2011, <http://www.bbc.co.uk/news/world-africa-13386762>, <http://www.bbc.co.uk/news/world-africa-13386762>
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011

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:

Hiring is usually done by departments of the government. Vacancies are publicly displayed on notice boards or advertised in the print media, and people go through a competitive application process.

The civil service has many problems. It has as many as 75,000 so-called ghost workers on the government payroll, that is people who are on the payroll but do no actual work or may not even exist. Other problems include political manipulation, poor pay and the number of skilled and well-educated workers leaving the country.

References:

1. BBC News Africa, Reporter, May 13, 2011, Zimbabwe civil servants exposed by World Bank report, <http://www.bbc.co.uk/news/world-africa-13386762>
2. Daily News, Chengetai Zvauya, July 10, 2011, Ghost workers in new civil servant audit, <http://www.dailynews.co.zw/index.php/news/34-news/3195-ghost-workers-in-new-civil-servant-audit.html>
3. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
4. Public Service regulations (2000)

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.

100 | 75 | 50 | 25 | 0

Comments:

Civil servants have clear job descriptions.

References:

1. Zimbabwe Public Administration Profile, Division for Public Administration and Development Management (DPADM) Department of Economic and Social Affairs (DESA), United Nations, July 2004
 2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
- Public Service Regulations (2000)

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.

75:

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.

25:

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.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

Comments:

Almost all 236,000 civil servants receive a bonus check every 13 months that amounts to one month's salary.

References:

1. The Herald, Fortious Nhambura, Nov. 19, 2011, Civil Servants Get Bonuses, <http://allafrica.com/stories/200911190004.html>
2. The Zimbabwean, Reporter, Nov. 6, 2010, Civil servants pay, <http://www.thezimbabwean.co.uk/news/world-news/35342/civil-servants-pay.html>

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

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.

25:

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.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

Comments:

The Public Service Commission has a record of all the vacancies. Advertisements are often posted in government office notices and are also advertised in newspapers, mainly the state-owned newspapers.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, 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.

100 | 75 | 50 | 25 | 0

Comments:

An Internal Disciplinary Committee exists but has little funding, which reduces its effectiveness. Civil servants can also take their cases to the high court.

References:

1. The Herald, Reporter, Labour Court Orders Teacher's Reinstatement, July 11, 2011, <http://allafrica.com/stories/201107110283.html>
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare

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.

75:

50: 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.

25:

0: 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.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

Comments:

The government has paid its workers on time in the past year.

References:

1. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011

100: In the past year, no civil servants have been paid late.

75:

50: In the past year, some civil servants have been paid late.

25:

0: In the past year, civil servants have frequently been denied due pay.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

Comments:

A lifetime ban exists in the law, but this can always be overridden by political powers. There was no example in the period under review.

References:

1. Transparency International Zimbabwe and Mass Public Opinion Institute, "National Integrity Systems: TIZ Report", TIZ, Harare, 2007
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare

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?

31

46a. In law, senior members of the civil service are required to file an asset disclosure form.

Yes | **No**

Comments:

There is no such provision in the law.

References:

Public Service Commission Act

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.

Yes | No

Comments:

The act governs conflicts of interest in the public service.

References:

Public Service Commission Act, Section 31

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 specific restrictions in the law.

References:

- 1, Public Service Act
2. Constitution of Zimbabwe
3. 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:

Accepting bribes is prohibited by law. 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.

References:

1. Public Service Regulations, 2000 (S.I. 1 of 2000). Government Gazette, Statutory Instruments, 2000-01-03, No. 1, pp. 1-72

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 provision for this in the law.

References:

1. Prevention of Corruption Act
2. Constitution of Zimbabwe
3. 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:

No such provision exists in the law.

References:

1. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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:

Corruption is rampant in the civil service. No investigations were conducted in the period under review.

References:

1. Afrol News, Staff Writer, July 1, 2011, Zimbabwe govt unable to fight corruption, <http://www.afrol.com/articles/36415>
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare
3. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

Prevention of Corruption Act

Public Service Commission Act

Constitution of Zimbabwe

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.

100 | 75 | 50 | 25 | 0

Comments:

Civil servants often engage in activities that involve personal conflicts.

References:

1. Public Administration Country Profile, Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, African Training and Research Centre in Administration for Development (CAFRAD), July 2004
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
3. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011

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.

100 | 75 | 50 | 25 | 0

Comments:

Civil servants are not required to disclose their assets.

References:

1. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011.
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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:

Senior civil servants are not required to disclose their assets.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare

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:

Civil servants are not required to disclose their assets.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, 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.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

Comments:

Civil servants are not required to disclose their assets.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, 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 NGOs. 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 NGOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

Comments:

Senior civil servants are not required to disclose their assets.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare

100: The asset disclosure records of senior civil servants 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 senior civil servants 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 senior civil servants 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.

4.2. Whistle-blowing Protections

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

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:

In the law, there is provision for the protection of whistle-blowers.

References:

1. Prevention of Corruption Act, Chapter 9:16, Section 14 (2)
2. Public Service Act
3. Ombudsman Act
4. Police Act, Chapter 11:10

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:

Due to the politically sensitive nature of the civil service, whistle-blowers are likely to face a backlash, especially if those making allegations against politically well-connected senior officials.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011

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

Comments:

The Police Act protects private sector employees who "blow the whistle" from recrimination or other negative consequences.

References:

1. Prevention of Corruption Act
2. Police 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:

Private sector whistle-blowers often face substantial negative consequences, especially from those who are politically well-connected. Zimbabwe has become partisan and corrupt, and when corrupt people occupy powerful positions, it helps them manipulate policy and the law enforcement system.

References:

1. Farai Mweta, Consultant & Chartered Accountant, YASD, Aug. 27, 2011, Harare
2. Nakai Chimba, Business Reporter, Into Zimbabwe, Sept. 3, 2011, Harare

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.

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49a. 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:

There is an Anti-Corruption Commission, but it is highly ineffectual.

References:

Anti-Corruption Commission, <http://www.icac.org,hk/news/issue27eng/button5.htm>

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.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

31

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Anti-Corruption Commission generally is regarded as toothless because it has limited funding and limited authority to conduct its work.

Information about the staff is not available to the public.

References:

1. The Zimbabwean, Reporter, May 5, 2011, Gutu blames politicians for corruption, <http://www.thezimbabwean.co.uk/news/38660/gutu-blames-politicians-for-corruption.html>
2. New Zimbabwe, Columnist, Mary Revesai, December 12, 2009, Zimbabwe has leeches, not scorpions, http://www.newzimbabwe.com/pages/mary_15044.html

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

Comments:

The Anti-Corruption Commission receives limited funding and does not have enough authority to act on its decisions.

References:

1. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare
2. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 12, 2011, Bulawayo

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.

100 | 75 | 50 | 25 | 0

Comments:

The Anti-Corruption Commission has limited capacity to carry out its work, and there are usually delays if cases involve top officials.

References:

1. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare
2. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 12, 2011, Bulawayo

100: 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.

75:

50: 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.

25:

0: 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.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

In general, there is little indication that the Anti-Corruption Commission initiates investigations brought to its attention by whistle-blowers. One recent case led to an investigation of the whistle-blower, not those accused by the whistle-blower.

In July 2010, Farai Maguwu was held in jail for more than five weeks before being released on bail on allegations of passing on false information about diamond-mining violations to the international diamond control body. Maguwu's allegations accused police and troops of rights violations and killings in the eastern diamond fields.

References:

Business Week, "Zimbabwe diamond-crime whistleblower freed on bail," July 12, 2010, <http://www.businessweek.com/ap/financialnews/D9GTGL581.htm>

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

50: 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.

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.

65
4.3. Government Procurement: Transparency, Fairness, and
Conflicts of Interest Safeguards

51. Is the public procurement process effective?

60

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

Yes | No

Comments:

The Procurement Act states that members of the State Procurement Board and Committee are required to disclose certain connections and interests.

References:

1. Zimbabwe Procurement Act, Section 17

2. 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 is not specific enough. No law not mandates training of public officials.

References:

Zimbabwe Procurement Act, Section 17. <http://www.afribiz.info/content/zimbabwe-laws-affecting-multinational-corporations>

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:

In 2011, Minister of Energy Elton Mangoma was arrested on corruption charges that accused him of procuring 1.5 million liters of fuel without going through the state procurement procedures.

References:

1. BBC, Reporter, March 10, 2011, Zimbabwe Energy Minister Elton Mangoma arrested, <http://www.bbc.co.uk/news/world-africa-12703119>
2. The Zimbabwe Independent, Paul Nyakazeya, March 11, 2011, <http://www.theindependent.co.zw/local/30199-mangoma-arrested-over-us6m-fuel-deal-.html>

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:

There is no such provision in the law.

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.

Yes | No

Comments:

The law provides for the tendering of bids as part of the procurement process.

References:

Procurement Act (Ch 22:14), Part IV of the Procurement Act, http://www.cfuzim.org/index.php?option=com_content&view=article&id=368:procurement-act-chapter-2214&catid=63:legal-the-law&Itemid=90

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 guidelines in the law which empower the government to waive certain requirements in favor of sole sourcing.

References:

1. Zimbabwe Procurement Act, Chapter 22:14
2. 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.

Yes | No

Comments:

There is provision for unsuccessful bidders to initiate an official review of procurement decisions.

References:

Procurement Act (Ch 22:14), Part IV of the Procurement Act, http://www.cfuzim.org/index.php?option=com_content&view=article&id=368;procurement-act-chapter-2214&catid=63:legal-the-law&Itemid=90

Yes: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

No: A NO score is earned if no such process exists.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Yes | No

Comments:

Unsuccessful bidders can challenge procurement decisions in a court of law.

References:

1. Procurement Act, Chapter 22:14, Sections 43 and 44
2. Constitution of Zimbabwe, Chapter eight Sections 79, 79A and 79B

Yes: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

No: A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Yes | No

Comments:

Companies guilty of major violations of procurement regulations (such as bribery) are prohibited from participating in future procurement bids.

References:

1. Prevention of Corruption Act
2. 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.

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

This is called for in the law, but due to high levels of corruption the country it is rarely implemented. There are no examples from the period under review.

References:

1. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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:

50: 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.

25:

0: 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?

58

52a. In law, citizens can access public procurement regulations.

Yes | No

Comments:

Citizens can access such information from the State Procurement Board.

References:

Procurement Act

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:

The government is required to publicly announce the results of procurement decisions in reports to parliament which are available to the public.

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:

Guidelines can be accessed from government offices located in the capital city. This makes access within a reasonable time period more difficult for citizens living in other parts of the country.

References:

1, Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare

2, Kevin Jakachira, Journalist, NewsDay, Sept. 5, 2011, 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. These records are defined here as the rules governing the competitive procurement process.

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.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There is no process for making such documents easily available to citizens. The documents may be available, but the cost for many citizens is prohibitive. In particular, for citizens outside the capital city, accessing such documents can involve a huge cost.

References:

1. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare
2. Kevin Jakachira, Journalist, NewsDay, Sept. 5, 2011, 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. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. 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 NGOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

Major procurements are advertised in the Government Gazette as well as the press for a specified period, usually 30 days. But the publication is not available to the majority of the citizens. It becomes a secret only known by those in the high echelons of power.

References:

1. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare
2. Kevin Jakachira, Journalist, NewsDay, Sept. 5, 2011, Harare

100: 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.

75:

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.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

Results are presented to Parliament through periodic reports. The reports are accessible to the public. However, very few citizens can access such reports, and no effort is made to ensure that this enters into the public sphere. For rural citizens, knowledge about this process is virtually non-existent. The process is highly centralized, and information only available in the capital city where Parliament is located.

References:

1. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare
2. Kevin Jakachira, Journalist, NewsDay, Sept. 5, 2011, Harare

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.

4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

53. Is the privatization process effective?

42

53a. In law, all businesses are eligible to compete for privatized state assets.

Yes | **No**

Comments:

This is still an emerging area, with the government calling for a smaller foreign role in the economy.

References:

Based on desk research, no law exists.

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:

Members of State Procurement Board and committees are to disclose certain connections and interests if there is apparent conflict.

References:

1. Procurement Act, Section 17
2. 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 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:

There is no information available for the period under review.

References:

The Zimbabwe Independent, Erich Bloch, March 31, 2010, Zimbabwe: Privatisation Pros and Cons, <http://allafrica.com/stories/201004020886.html>

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?

50

54a. In law, citizens can access privatization regulations.

Yes | No

Comments:

The privatization regulations are not easily available to citizens and remain shrouded in secrecy.

References:

1. The Zimbabwe Independent, Erich Bloch, March 31, 2010, Zimbabwe: Privatisation Pros and Cons, <http://allafrica.com/stories/201004020886.html>

2. The Standard, Nkululeko Sibanda, March 13, 2010, Govt Moves to Privatise Parastatals, <http://allafrica.com/stories/201003150687.html>

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.

100 | 75 | 50 | 25 | 0

Comments:

Privatization of companies owned or controlled wholly or partly by the government is advertised according to the law, but due to corruption many such privatized companies end up being parceled out among top ZANU-PF officials.

References:

1. The Zimbabwe Independent, Paul Nyakazeya/Paidamoyo Muzulu, Jan. 20, 2011, Zimbabwe: Privatisation No Magic Wand for Parastatals, <http://allafrica.com/stories/201101210831.html>

2. VOA, Gobb Dube, June 17, 2010, Zimbabwean Government Positions 11 State Enterprises for Privatization, <http://www.voanews.com/zimbabwe/news/Government-of-Zimbabwe-Identifies-11-State-Enterprises-for-96587289.html>

3. 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:

By law, the results are presented to Parliament. While this information is technically available to the citizens, very few people are aware of it, and there is not much effort put into informing the public.

References:

1. Zimbabwean Government Positions 11 State Enterprises for Privatization, <http://www.voanews.com/zimbabwe/news/Government-of-Zimbabwe-Identifies-11-State-Enterprises-for-96587289.html>

2. Procurement Act

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:

Requests can be made to the parent ministry, but given government bureaucracy and slowness, it can take up to three months before information is released, and one has to write letters explaining the reason why certain types of information are required. There is no central clearing house for information of this kind.

References:

1. Donal Mangena, Economist, University of Zimbabwe, Harare, Jan. 3, 2011
2. The Financial Gazette, Levi Mukarati, Senior Staff Reporter, July 30, 2010, <http://www.financialgazette.co.zw/national-report/4998-same-old-rhetoric-on-parastatals-.html>

100: 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.

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.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Information about privatization of state companies is highly secretive, and accessing it may involve a major cost to citizens, especially those from rural areas. It costs an average of U.S. \$100 to access documents from the government, quite high in a country where U.S. \$120 to \$150 is the minimum wage per month.

References:

1. VOA, Gibbs Dube, June 17, 2010, Zimbabwean Government Positions 11 State Enterprises for Privatization, <http://www.voanews.com/zimbabwe/news/Government-of-Zimbabwe-Identifies-11-State-Enterprises-for-96587289.html>
2. The Financial Gazette, Levi Mukarati, Senior Staff Reporter, July 30, 2010, <http://www.financialgazette.co.zw/national-report/4998-same-old-rhetoric-on-parastatals-.html>

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.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. 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 NGOs trying to access this information.

71
5.1. National Ombudsman

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55a. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

Yes | No

Comments:

In law, there is a national ombudsman, now referred to as the public protector.

References:

1. Ombudsman Act (Chapter 10:18), http://www.parlzim.gov.zw/cms/Acts/Title10_GENERAL_ADMINISTRATION/OMBUDSMAN_ACT_10_18.pdf

2. Constitution of Zimbabwe, Section 107 and 108, <http://www.eisa.org.za/WEP/zimagency.htm>

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.

56. Is the national ombudsman effective?

18

56a. In law, the ombudsman is protected from political interference.

Yes | No

Comments:

The ombudsman is appointed by the president and is not free from political interference. The Ombudsman has been accused of not acting on behalf of citizens after the ZANU-PF violated citizen rights.

References:

1. Constitution of Zimbabwe, Section 107 and 18, <http://www.eisa.org.za/WEP/zimagency.htm>

2. Ombudsman Act (Chapter 10:18), http://www.parlzim.gov.zw/cms/Acts/Title10_GENERAL_ADMINISTRATION/OMBUDSMAN_ACT_10_18.pdf

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.

100 | 75 | 50 | 25 | 0

Comments:

The national ombudsman faces severe political pressure and cannot effectively carry out office's role. The ombudsman is appointed by the executive and also is funded by the Ministry of Justice, which raises questions about the office's independence.

References:

1. The Zimbabwe Independent, Gift Phiri, April 26, 2006, Ombudsman's office a shambles, <http://www.theindependent.co.zw/local/11664.html>
2. The Financial Gazette, Clemence Manyukwe, April 15, 2011, Zimbabwe: Human Rights Law Passed, <http://allafrica.com/stories/201104190259.html>

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:

0: 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.

100 | 75 | 50 | 25 | 0

Comments:

In theory, the ombudsman is protected, but if perceived to be not toeing the political line, the ombudsman can easily be removed.

References:

1. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 11, 2011, Bulawayo
2. Kelvin Jakachira, Journalist, NewsDay, Sept. 3, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

The ombudsman's office has a limited professional, full-time staff, which limits its ability to fulfill its mandate. The ombudsman has a backlog of 1,500 cases and only two law officers.

References:

1. Financial Gazette (Harare), Clemence Manyukwe, April 15, 2011, Zimbabwe: Human Rights Law Passed, <http://allafrica.com/stories/201104190259.html>
2. The Zimbabwean, MISA, April 8, 2011, Ombudsmans office short of staff, money, <http://www.thezimbabwean.co.uk/news/38787/ombudsmans-office-short-of-staff-money.html>

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

There is no example in the period under review.

References:

1. The Zimbabwean, MISA, April 8, 2011, Ombudsmans office short of staff, money, <http://www.thezimbabwean.co.uk/news/38787/ombudsmans-office-short-of-staff-money.html>
2. U.S. Department of State, 2010 Human Rights Report: Zimbabwe, Bureau of Democracy, Human Rights, and Labor 2010 Country Reports on Human Rights Practices, <http://www.state.gov/documents/organization/160485.pdf>

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.

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.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The office of the ombudsman office is grossly under-funded, according to reports. The office says it is operating with only two law officers instead of the desired 10, which has led to a large backlog of cases at a time when reports of human rights abuses have increased.

References:

1. The Zimbabwe Independent, Gift Phiri, Friday, April 21, 2006, Ombudsman's office a

shambles, <http://www.theindependent.co.zw/local/11664.html>

2. The Zimbabwean, MISA, April 8, 2011, Ombudsmans office short of staff, money, <http://www.thezimbabwean.co.uk/news/38787/ombudsmans-office-short-of-staff-money.html>

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 office of the ombudsman has been very slow to respond to issues and cases, and its reports to the legislature are often delayed.

References:

1. The Zimbabwe Independent, Gift Phiri, Friday, April 21, 2006, Ombudsman's office a shambles, <http://www.theindependent.co.zw/local/11664.html>

2. The Zimbabwean, MISA, April 8, 2011, Ombudsmans office short of staff, money, <http://www.thezimbabwean.co.uk/news/38787/ombudsmans-office-short-of-staff-money.html>

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 office can initiate investigations but has limited effectiveness due to limited staff, a lack of authority, a large backlog of cases and political interference.

There were no case investigated in the period under review.

References:

1. Financial Gazette (Harare), Clemence Manyukwe, April 15, 2011, Zimbabwe: Human Rights Law Passed, <http://allafrica.com/stories/201104190259.html>

2. The Zimbabwe Independent, April 21, 2006, Ombudsman's office a shambles, <http://www.theindependent.co.zw/local/11664.html>

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 office of the ombudsman is mandated to investigate allegations of administrative malpractice and contraventions of the Declaration of Rights by members of the defense forces, police, government departments and the prison service. The office can make recommendations to various arms of government but it does not have powers to enforce its findings.

References:

1. Financial Gazette (Harare), Clemence Manyukwe, April 15, 2011, Zimbabwe: Human Rights Law Passed, <http://allafrica.com/stories/201104190259.html>
2. The Zimbabwe Independent, April 21, 2006, Ombudsman's office a shambles, <http://www.theindependent.co.zw/local/11664.html>
3. The Zimbabwean, MISA, April 8, 2011, Ombudsmans office short of staff, money, <http://www.thezimbabwean.co.uk/news/38787/ombudsmans-office-short-of-staff-money.html>
4. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

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).

100 | 75 | 50 | 25 | 0

Comments:

The government rarely acts on the ombudsman's reports, especially if they implicate top political officials. The agency has long been regarded as toothless.

References:

1. Financial Gazette, Clemence Manyukwe, April 15, 2011, Zimbabwe: Human Rights Law Passed, <http://allafrica.com/stories/201104190259.html>

2. The Zimbabwe Independent, Gift Phiri, April 21, 2006, Ombudsman's office a shambles, <http://www.theindependent.co.zw/local/11664.html>

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.

100 | 75 | 50 | 25 | 0

Comments:

The ombudsman's office has over 1,500 pending cases. Due to poor funding and staffing levels as well as political interference, it does not act on citizens' complaints within a reasonable time period.

References:

1. Financial Gazette (Harare), Clemence Manyukwe, April 15, 2011, Zimbabwe: Human Rights Law Passed, <http://allafrica.com/stories/201104190259.html>

2. The Zimbabwe Independent, April 21, 2006, Ombudsman's office a shambles, <http://www.theindependent.co.zw/local/11664.html>

3. The Zimbabwean, MISA, April 8, 2011., Ombudsmans office short of staff, money, <http://www.thezimbabwean.co.uk/news/38787/ombudsmans-office-short-of-staff-money.html>

4. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

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?

50

57a. In law, citizens can access reports of the ombudsman(s).

Yes | No

Comments:

Citizens can access reports of the ombudsman via Parliament.

References:

1. Ombudsman Act, http://www.parl.zim.gov.zw/cms/Acts/Title10_GENERAL_ADMINISTRATION/OMBUDSMAN_ACT_10_18.pdf

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:

According to reports, the ombudsman's office is a shambles due to lack of personnel, gross under-funding and alleged mismanagement. It has a serious backlog, which means its reports are not made available to citizens within a reasonable time period.

References:

1. Financial Gazette (Harare), Clemence Manyukwe, April 15, 2011, Zimbabwe: Human Rights Law Passed, <http://allafrica.com/stories/201104190259.html>

2. The Zimbabwe Independent, April 21, 2006, Ombudsman's office a shambles, <http://www.theindependent.co.zw/local/11664.html>

100: Reports 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: 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 records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Obtaining copies of the ombudsman's reports can be expensive for citizens, journalists or non-governmental organizations. Getting a report requires a visit to the office in the national capital. Also, the ombudsman's office is very slow to produce reports because of lack of funding and staffing.

References:

1. Financial Gazette (Harare), Clemence Manyukwe, April 15, 2011, Zimbabwe: Human Rights Law Passed, <http://allafrica.com/stories/201104190259.html>

2. The Zimbabwe Independent, April 21, 2006, Ombudsman's office a shambles, <http://www.theindependent.co.zw/local/11664.html>

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 NGOs. 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. Reports costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

5.2. Supreme Audit Institution

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Yes | No

Comments:

In law, there is a there a national auditor general covering the entire public sector.

References:

1. Audit and Exchequer Act, <http://www.law.co.zw/downloads/statutes/22/Audit%20And%20Exchequer%20Act.pdf>
2. Constitution of Zimbabwe, Section 105 (1), <http://www.parlzim.gov.zw/cms/UsefulResources/ZimbabweConstitution.pdf>

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.

59. Is the supreme audit institution effective?

53

59a. In law, the supreme audit institution is protected from political interference.

Yes | No

Comments:

The supreme audit institution is protected under the law.

References:

1. Constitution of Zimbabwe, Section 105-106, http://www.kubatana.net/docs/legisl/constitution_zim_000420.pdf
2. Auditor General Act, <http://www.law.co.zw/downloads/statutes/22/Audit%20And%20Exchequer%20Act.pdf>

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 auditor general can be removed by the president who appoints him or her on the recommendation of Parliament. No regulatory framework adequately protects the auditor general.

References:

1. The Zimbabwe Independent, Bernard Mpfu, Nov. 5, 2009, Zimbabwe: Audit Office Must Have Teeth – Parliament, <http://allafrica.com/stories/200911060804.html>

2. World Bank, REPORT ON THE OBSERVANCE OF STANDARDS AND CODES (ROSC), Zimbabwe ACCOUNTING AND AUDITING, February 15, 2011, [http://www.worldbank.org/ifa/rosc_aa_zimbabweZimbabwe-ROSC%20A&A%20\(Final-%20February%2015,%202011\).pdf](http://www.worldbank.org/ifa/rosc_aa_zimbabweZimbabwe-ROSC%20A&A%20(Final-%20February%2015,%202011).pdf)

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:

The audit office appears to be poorly staffed, judging from its failure to produce audited reports on time. The audit office failed to produce annual reports between 2000 and 2005, blaming government ministries for keeping a tight lid on public records. There have been recommendations to reform the functions and operations of the comptroller and auditor-general's office to make it more effective.

References:

1. The Zimbabwe Independent, Bernard Mpfu, Nov. 5, 2009, Zimbabwe: Audit Office Must Have Teeth – Parliament, <http://allafrica.com/stories/200911060804.html>

2. World Bank, REPORT ON THE OBSERVANCE OF STANDARDS AND CODES (ROSC), Zimbabwe ACCOUNTING AND AUDITING, Feb. 15, 2011, [http://www.worldbank.org/ifa/rosc_aa_zimbabweZimbabwe-ROSC%20A&A%20\(Final-%20February%2015,%202011\).pdf](http://www.worldbank.org/ifa/rosc_aa_zimbabweZimbabwe-ROSC%20A&A%20(Final-%20February%2015,%202011).pdf)

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.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

Most of the appointed staff are professionals, but the top leadership is appointed by the president, which can potentially lead to political interference.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 5, 2011, Harare

100: Appointments to the agency 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.

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.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The agency receives a budget allocation every time that the budget is announced on a yearly basis in Zimbabwe.

References:

1. Zimbabwe Budget Statement 2011, <http://www.zimtreasury.org/downloads/2011-budget-statement.pdf>
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

The audit agency has been inefficient in producing reports. It has not adhered to the March 31 deadline for submission of reports.

According to reports, by the time of compiling this report, 2008 audit results had still not been presented.

References:

1. The Zimbabwe Independent, Nov. 5, 2009, Audit Office Must Have Teeth — Parliament, <http://allafrica.com/stories/200911060804.html>

2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

The government rarely acts on reports by the audit agency. Part of the reason is that reports are submitted so far behind schedule. The 2008 report, which has not yet been presented, is an example.

References:

1. The Zimbabwe Independent, Bernard Mpfu, Nov. 5, 2009, Audit Office Must Have Teeth — Parliament, <http://allafrica.com/stories/200911060804.html>

2. The Zimbabwe Independent, Wongai Zhangazha, Audit Lifts lid on More Government Corruption, <http://www.theindependent.co.zw/local/24085-audit-lifts-lid-on-more-government-corruption.html>

3. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

The supreme audit institution generally can decide what to investigate and when, but it is subject to pressure on politically sensitive issues from the executive or the legislature. There was no incident of this sort during the reporting period.

References:

1. ZimTreasury, Public Finance Management and Audit Office Bills Signed Into Law, <http://www.zimtreasury.org/news-detail.cfm?News=660>

2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: 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.

25:

0: 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?

58

60a. In law, citizens can access reports of the audit agency.

Yes | No

Comments:

Citizens can access reports to a certain extent. Very few Zimbabweans actually know this office exists, and it is rarely publicized.

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 not produced on time, and when reports arrive, they might not implicate top figures because of political interference at the agency.

References:

1. The Zimbabwe Independent, Bernard Mpofu, Nov. 5, 2009, Audit Office Must Have Teeth — Parliament, <http://allafrica.com/stories/200911060804.html>

2. The Zimbabwean, Columnist, Jan. 6, 2010, Auditor General complicit in govt looting, <http://www.thezimbabwean.co.uk/comment/editor/27686/auditor-general-complicit-in-govt-looting.html>

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 city.

References:

1. Chido Musodza Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare
2. Yeukai Mugadzaweta, Social Amenities Officer, Ministry of Public Works, Sept. 7, 2011, Harare

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 NGOs. 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 NGOs trying to access this information.

70
5.3. Taxes and Customs: Fairness and Capacity

61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

Yes | No

Comments:

There is a national tax agency established under the law.

References:

1. Zimbabwe Revenue Authority Act
2. 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.

62. Is the tax collection agency effective?

88

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Zimbabwe Revenue Authority (ZIMRA) is undergoing a restructuring to improve its professional capacity. In recent years, it has experienced a significant drain of staffers leaving the agency for better jobs, which has affected its operations.

References:

1. The Herald Online, Martin Kadzere and Perina Chitubura, April 19, 2011, Zimra unbundles, http://www.herald.co.zw/index.php?option=com_content&view=article&id=8025:zimra-unbundles-&catid=41:business&Itemid=133
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The tax department receives regular budget allocations that are publicly announced by the minister of finance during the last quarter of the year.

References:

1. Zimbabwe Mid Term Fiscal Policy Review, July 2010, http://www.google.co.za/url?sa=t&rct=j&q=zimra+receives+budget+allocation+2010&source=web&cd=3&ved=0CC8QFjAC&url=http%3A%2F%2Fwww.zimra.co.zw%2Findex.php%3Fstatements%26download%3D125%3Aamid-term-fiscal-policy-review-14th-july-2010%26Itemid%3D112&ei=tk0HT5_JLIHLhAebvumeCQ&usq=AFQjCNGTSbFw71aw7smTQZNCbKwfvcpH3A&sig2=18zQH1Z8DNSeNtKXh3Ye5g&cac
2. ZIMRA Revenue Performance for the Year 2010, http://www.zimra.co.zw/index.php?option=com_phocadownload&view=category&id=15:budget-statements&download=287:2010-revenue-performance-report&Itemid=112

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.

63. In practice, are tax laws enforced uniformly and without discrimination?

75

63a. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

Tax laws are implemented fairly, but there is widespread tax evasion by the so-called informal sector (the under-the-table or off-the-books economy), which forms a major section of Zimbabwe' economy.

References:

1. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011
2. Farai Mweta, Consultant & Chartered Accountant, YASD, Sept. 1, 2011

100: 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.

75:

50: 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.

25:

0: Tax law is unequally applied. 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.

64. In law, is there a national customs and excise agency?

100

64a. In law, is there a national customs and excise agency?

Yes | No

Comments:

There is a national customs and excise agency in Zimbabwe established by law.

References:

1. Finance Act 2006
2. 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.

65. Is the customs and excise agency effective?

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The customs and excise agency has a professional, full-time staff but has faced severe setbacks in recent years due to the economic collapse in the country.

References:

1. Private Sector Hails ZIMRA for Hard Work & Strategic Initiatives, http://www.zimra.co.zw/index.php?option=com_content&view=article&id=119:private-sector-hails-zimra-for-hard-work-strategic-initiatives&catid=4:story&Itemid=85
2. The Herald Online, Zimra unbundles, Oct. 24, 2011, http://www.herald.co.zw/index.php?option=com_content&view=article&id=8025:zimra-unbundles-&catid=41:business&Itemid=133

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.

100 | 75 | 50 | 25 | 0

Comments:

The Zimbabwean Revenue Agency receives a consistent amount of funding on a regular annual basis, but the funding is inadequate. A decade of high inflation and economic decline has weakened many of the key tax administration functions of the Zimbabwean Revenue Agency and delayed its modernization. The taxpayer register is outdated, while core audit and investigation activities were made redundant because of rapidly declining real values of corporate balance sheets and incomes under hyperinflation.

References:

1. The Herald, Business Reporter, Reporter, April 19, 2011, Zimra unbundles, http://www.herald.co.zw/index.php?option=com_content&view=article&id=8025:zimra-unbundles-&catid=41:business&Itemid=133
2. VOA, Reporter, Border Chaos As Zimra Workers Embark On Go Slow, http://cfuzim.org/index.php?option=com_content&view=article&id=1044:border-chaos-as-zimra-workers-embark-on-go-slow&catid=51:newspaper-clippings

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.

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

There are robust customs and excise laws that are enforced uniformly and without discrimination. The customs and excise function is one of the most effective within the government.

References:

1. Pedzisiya Muzondo, Zimbabwe Revenue Authority, Manager, Dec. 9, 2011, Harare
2. John Nyashanu, News editor, Day, Dec. 9, 2011, Harare

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.

5.4. Oversight of State-Owned Enterprises

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67a. 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 State Enterprises Restructuring Agency, the Department of State Enterprises under the Ministry of State Enterprises, Anti-Corruption and Anti-Monopolies and the National Economic Planning Commission. Different state-owned enterprises are also housed under various parent ministries.

References:

Ministry of State Enterprises, Anti-Corruption and Anti-Monopolies
Zimbabwe, <http://www.fightcorruption.gov.zw/about%20us/state-dept.htm>

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.

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

65

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes | No

Comments:

There is a series of agencies responsible for this within the law. One agency is the Ministry of State Enterprises and Parastatals, whose Minister is Gordon Moyo. The Ministry of State Enterprises and Parastatals was formed in February 2009 to recognize the role of state-owned enterprises in macroeconomic stabilization and to be platform for sustainable economic growth.

References:

State Enterprises and Parastatals Act

State Enterprises and Parastatals Management Bill

State Enterprises Restructuring Agency Bill

Companies Act (Chapter 24:03)

Zimbabwe Community Radio, "Cabinet Approves Parastatals Restructuring Law," Saturday, 26 March 2011, http://www.zicora.com/index.php?option=com_content&view=article&id=558:cabinet-approves-parastatals-restructuring-law&catid=19:matabeleland&Itemid=34

Ministry of State Enterprises and Parastatals. <http://www.mosep.gov.zw/>

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 single agency that oversees state-owned companies. State-owned enterprises report to the parent ministry, the Cabinet and to other bodies such as the State Enterprises Restructuring Agency. The State Enterprises Restructuring Agency has a full-time staff.

References:

1. Farai Mweta Consultant & Chartered Accountant, YASD, Sept. 3, 2011, Harare

2. Elijah Mutemeri, Researcher & National Coordinator, Zimbabwe Congress of Trade Unions, Sept. 4, 2011

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.

100 | 75 | 50 | 25 | 0

Comments:

State enterprises are under the jurisdiction of ministries, which sometimes receive inadequate funding. There are several institutional provisions for state-owned companies, including the State Enterprises Restructuring Agency, the Department of State Enterprises under the Ministry of State Enterprises, Anti-Corruption and Anti-Monopolies and the National Economic Planning Commission. Different state-owned enterprises are also housed under various parent ministries.

References:

1. Farai Mweta, Consultant & Chartered Accountant, YASD, Aug. 31, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

The National Economic Conduct Inspectorate (NECI), staffed by Ministry of Finance and security personnel and the comptroller and auditor general, is responsible for conducting investigations into financial irregularities.

References:

1. Farai Mweta, Consultant & Chartered Accountant, YASD, Aug. 31, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

There is no single agency. Although it is generally believed that offenders go free because they are linked to the ZANU- PF political party, there was no case in the period under review.

References:

1. Farai Mweta, Consultant & Chartered Accountant, YASD, Aug. 31, 2011, Harare
2. Chido Musodza, Administrator, Centre for Public Accountability, Aug. 23, 2011, Harare

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?

60

69a. In law, citizens can access the financial records of state-owned companies.

Yes | No

Comments:

Citizens can access such records, which are made available through Parliament, but the process can be cumbersome.

References:

Audit and Exchequer Act, Part IV, 17

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:

Several state-owned companies failed to meet the October cutoff period for submitting financial statements to the government for auditing, citing major challenges in reconciling the Zimbabwe dollar era transactions to the later multi-currency regime.

References:

The Zimbabwe Independent, Nqobile Bhebhe, Zimbabwe: Parastatals Miss 1. Financial Statement Deadline, Jan. 13, 2011, <http://allafrica.com/stories/201101170379.html>

2. Public Enterprise Reform and Privatization in Zimbabwe, Tekalione Godana, University of Zimbabwe, 1998

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.

100 | 75 | 50 | 25 | 0

Comments:

The records are audited to international standards but they are delivered late.

References:

1. The Zimbabwe Independent, Nqobile Bhebhe, Zimbabwe: Parastatals Miss Financial Statement Deadline, Jan. 13, 2011, <http://allafrica.com/stories/201101170379.html>

2. Public Enterprise Reform and Privatization in Zimbabwe, Tekalione Godana, University of Zimbabwe, 1998

3. Zimbabwe Independent (Harare), Zimbabwe: Parastatals Fail to Account for RBZ Funds. Paul Nyakazeya. Jan. 11, 2008, <http://www.theindependent.co.zw/business/9772.pdf>

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.

100 | 75 | 50 | 25 | 0

Comments:

No specific information is available about how long it takes citizens to retrieve such records. Citizens can access records via

Parliament, but the process can be very long and cumbersome. The process is conducted largely at the discretion of public service officials involved. There is also a lot of bureaucracy involved, which inhibits many people from trying to access this type of information.

References:

1. The Zimbabwe Independent, Nqobile Bhebhe, Zimbabwe: Parastatals Miss Financial Statement Deadline, Jan. 13, 2011, <http://allafrica.com/stories/201101170379.html>
2. Zimbabwe Independent (Harare), Zimbabwe: Parastatals Fail to Account for RBZ Funds. Paul Nyakazeya. Jan. 11, 2008, <http://www.theindependent.co.zw/business/9772.pdf>

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:

No study has been done in the country to ascertain the actual cost. The records are available via Parliament, but the process of accessing them is difficult. Very few citizens are aware that they can access such information via Parliament.

References:

1. The Zimbabwe Independent, Nqobile Bhebhe, Zimbabwe: Parastatals Miss Financial Statement Deadline, Jan. 13, 2011, <http://allafrica.com/stories/201101170379.html>
2. Public Enterprise Reform and Privatization in Zimbabwe, Tekalione Godana, University of Zimbabwe, 1998
3. Zimbabwe Independent (Harare), Zimbabwe: Parastatals Fail to Account for RBZ Funds. Paul Nyakazeya. Jan. 11, 2008, <http://www.theindependent.co.zw/business/9772.pdf>

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 NGOs. 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 NGOs trying to access this information.

75
5.5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

70a. In law, anyone may apply for a business license.

Yes | No

Comments:

By law, anyone may apply for a business license.

References:

1. Companies Act 1951
2. 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.

Yes | No

Comments:

Under the law, an appeal can be made to the High Court.

References:

Companies Act, Section 11.

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.

100 | 75 | 50 | 25 | 0

Comments:

There are numerous bureaucratic and legal hurdles that an entrepreneur must overcome in order to incorporate and register a new firm. These delay the final approval for a license. It takes about 170 days, according to the World Bank, to be fully registered in Zimbabwe.

References:

1. World Bank, Doing Business in Zimbabwe, <http://www.doingbusiness.org/data/exploreeconomies/zimbabwe/starting-a-business>(Accessed Oct. 3, 2011)

2. Truthness Makurira, Beauty Therapist Entrepreneur, Sept. 25, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

Starting a business in Zimbabwe takes about 96 days, according to the World Bank, and involves a lot of costs for citizens, especially those living outside the capital city.

References:

1. World Bank, Doing Business in Zimbabwe, <http://www.doingbusiness.org/data/exploreeconomies/zimbabwe/starting-a-business>(Accessed Oct. 3, 2011)
2. Max Souter, Company Registration & Business Setup in Zimbabwe, <http://bizsetup.wordpress.com/2010/05/28/company-registration-zimbabwe-business-setup/>
3. Truthness Makurira, Beauty Therapist Entrepreneur , Sept. 25, 2011, Harare

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

Comments:

The law specially outlines the requirement for health and safety standards and empowers the government to conduct inspection in the interests of public health.

References:

1. Public Health Act and its regulations Part IX, http://www.chr.up.ac.za/undp/domestic/docs/legislation_56.pdf
2. Hazardous Substances and Articles Act and its regulations, <http://faolex.fao.org/docs/pdf/zim83357.pdf>

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

Comments:

The law establishes a Hazardous Substances and Articles Control Board to regulate hazardous materials.

References:

1. Public Health Act [Chapter 15:09]
2. Hazardous Substances and Articles Act [Chapter 15:05]

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

Comments:

Various health and safety laws covering businesses are available online on various government and public Web sites.

References:

1. Factories and Works Act, Chapter 14:08, <http://www.mywage.org/zimbabwe/main/decent-work-check/health-and-safety-laws>
2. Public Health Act, Chapter 15:09, http://www.parlzim.gov.zw/attachments/article/101/PUBLIC_HEALTH_ACT_15_09.pdf

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?

25

72a. In practice, business inspections by government officials to ensure public health standards are being met and are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

Such inspections are ad hoc, if conducted at all. Citizens may be exposed to toxic imported food and clothing products. Sometimes the government does carry out inspections, such as when the government banned South African chicken imports.

References:

1. Bulawayo24.com, Mafu Sithabile, Zimbabwe Bans Poultry Imports from South Africa, April 15, 2011, <http://bulawayo24.com/index-id-news-sc-national-byo-2833-article-Zimbabwe+bans+poultry+imports+from+South+Africa.html>

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:

The government's Environmental Management Agency (EMA) does not consistently and even-handedly enforce regulations. However, the agency does conduct some enforcement activity. For example, in March 2011, the EMA banned the use of plastics deemed to be dangerous to the environment. The department responsible also started monitoring car exhausts.

Estas Mabwe, the EMA environmental education and publicity officer for Mashonaland East, in January 2011 said the use of plastic packaging was still permissible in Zimbabwe, but what had been banned was the use of plastics thinner than 30 micrometres (microns).

References:

1. Philip Chidavaenzi, Journalist, NewsDay, Sept. 13, 2011, Harare
2. Chipso Masara, Journalist, The Standard, Sept. 13, 2011, Harare
3. NewsDay, 'Plastic bags not banned', Jan. 16, 2011. <http://www.newsday.co.zw/article/2011-01-16-plastic-bags-not-banned>

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.

100 | 75 | 50 | 25 | 0

Comments:

There is no available evidence in the public domain. However, there generally is believed to be a high level of corruption that

limits government effectiveness in enforcing basic health, environmental and safety standards on businesses. Enforcement of most of these has tended to be neglected in recent years.

References:

1. Philip Chidavaenzi, Journalist, NewsDay, Sept. 13, 2011, Harare
2. Chipso Masara, Journalist, The Standard, Sept. 13, 2011, Harare

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.

75:

50: Business inspections by the government to ensure public safety 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 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 6. Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism

6.1. ~~60~~ Anti-Corruption Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

Yes | No

Comments:

Attempted corruption is illegal.

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

Comments:

It is illegal.

References:

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

Comments:

In law, offering a bribe (i.e. active corruption) is illegal.

References:

1. Criminal Procedure and Evidence Act

2. 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

Comments:

In law, receiving a bribe (i.e. passive corruption) is illegal.

References:

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

Comments:

In law, bribing a foreign official is illegal.

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

Comments:
In law, using public resources for private gain is illegal.

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

Comments:
In law, using confidential state information for private gain is illegal.

References:
1. Civil Evidence Act 1992
2. Constitution of Zimbabwe Chapter 10B Section 100L subsections (a) & (b)

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

Comments:
In law, money laundering is illegal.

References:
Serious Offences (Confiscation of Profits) Act, Chapter 9:17

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

Comments:

In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

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.

6.2. Anti-Corruption Agency or Equivalent Mechanisms

74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes | No

Comments:

The Anti-Corruption Commission Act, Chapter 9:22, established the Anti-Corruption Commission in 2004.

References:

1. Anti-Corruption Commission Act, Chapter 9:22. <http://www.law.co.zw/downloads/statutes/09/Anti-Corruption%20Commission%20Act.pdf>

2. 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.

75. Is the anti-corruption agency effective?

44

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes | No

Comments:

In law, the anti-corruption agency is protected from political interference.

References:

1. Constitution of Zimbabwe, Article 109
2. Anti-Corruption Commission Act, Chapter 9:22

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.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the Anti-Corruption Commission has very little authority to take steps aimed at stopping corruption in Zimbabwe.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 18, 2011, Harare
2. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare

US Department of State, Bureau of Democracy, Human Rights, and Labor 2010 Country Reports on Human Rights Practices, April 2011, <http://www.state.gov/documents/organization/160485.pdf>

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.

100 | 75 | 50 | 25 | 0

Comments:

No chairperson of the Anti-Corruption Commission has been removed. The commissioners are protected by Section 73 of the Constitution.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 19, 2011, Harare
2. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

Commissioners are vetted for eligibility, but political loyalty comes first. They are chosen by the president, and the loyalty they exhibit in the ZANU-PF party gets them chosen. According to Section 100k (1) of the Constitution of Zimbabwe, the president has the prerogative of appointing members of the Anti-Corruption Commission.

References:

1. Transparency International Zimbabwe (TIZ), July 2, 2002, Position Paper on the Independent Anti Corruption Commission, <http://www.ethicsinstitute.com/pdf/Corruption%20Commission%20Report%20II.pdf>
2. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 19, 2011, Harare
3. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

The commission is supposed to be funded by the Treasury but it is highly underfunded. Often, it has to rely on donor funding. As a result, the commission is not appropriately staffed.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 19, 2011, Harare

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 | 75 | 50 | 25 | 0

Comments:

The anti-corruption agency is highly underfunded.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 19, 2011, Harare
2. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare

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: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

Despite the widely reported allegations of corruption in the government, the anti-corruption agency rarely makes public reports.

References:

1. New Zimbabwe, Mary Revesai, Zimbabwe has leeches, not scorpions, Dec. 11, 2009, <http://www.newzimbabwe.com/pages/mary.15044.html>
2. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 19, 2011, Harare
3. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare

100: The agency (or agencies) 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 (or agencies) makes publicly available reports to the legislature 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.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The anti-corruption agency generally is believed to have little power to carry out its mandate. This is especially the case when allegations involve government circles or those connected to the ZANU-PF political party. There have been no examples of the agency carrying out its mandate during the period under review, despite high levels of corruption in the country.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 19, 2011, Harare
2. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare
3. U.S. Department of State, Bureau of Democracy, Human Rights, and Labor
2010 Country Reports on Human Rights Practices <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154377.htm>

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.

100 | 75 | 50 | 25 | 0

Comments:

The anti-corruption agency is weakened because its members are political appointees and because it has no power to implement its mandate.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 19, 2011, Harare
2. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

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

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

76. Can citizens access the anti-corruption agency?

25

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The Anti-Corruption Commission is highly inefficient and does not act on complaints within a reasonable time period. No average time period could be ascertained from available information.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 19, 2011, Harare
2. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare

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.

100 | 75 | 50 | 25 | 0

Comments:

Unless citizens file complaints anonymously, they face the risk of being identified by the politically appointed commissioners. The appointees of the agency arouse fear among citizens.

References:

1. Admire Munava, Programs Officer, Zimbabwe Human Rights Association (ZIMRIGHTS), Aug. 19, 2011, Harare
2. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare

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.

56
6.3. Judicial Independence, Fairness, and Citizen Access to Justice

77. Is there an appeals mechanism for challenging criminal judgments?

42

77a. In law, there is a general right of appeal.

Yes | No

Comments:

In law, there is a general right of appeal.

References:

1. Constitution of Zimbabwe
2. 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:

The whole judiciary system is rife with delays. There is little sense of urgency either to consider or review cases. There is also a trend that if a case is of a political nature, the judiciary takes its time to consider appeals. There were no incidents during the period under review.

References:

1. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare
2. Joyce Mutememeri, Information Officer, Centre for Public Accountability, Harare, Zimbabwe, Jan. 3, 2012

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:

Legal costs in Zimbabwe are high and beyond the reach of many citizens. An attorney costs between U.S. \$180 and U.S. \$270.

Lawyers who have been in practice for 20 years and above are allowed to charge between U.S. \$354 and U.S. \$531 per hour while those who have been in practice for less than a year charge between U.S. \$130 and U.S. \$195.

This is compared to a minimum wage of U.S. \$120 \$150 a month.

References:

1. Financial Gazette (Harare), Vote Muza, Jan. 21, 2011, Zimbabwe: Legal Costs, <http://allafrica.com/stories/201101271003.html>
2. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare

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

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

Zimbabwe has a hybrid, or plural, legal system. The following are sources of Zimbabwean law: legislation, precedent / case law / court decisions, customary law, common law and authoritative text.

Having said that, some laws in Zimbabwe, especially governing land distribution, have tended to be driven largely by political considerations.

References:

1. Daily News Online, Reporter, March 17, 2005, New report slams Zimbabwe*s judiciary, http://www.zimbabwesituation.com/mar18_2005.html#link1
2. Financial Gazette (Harare), Vote Muza, Jan. 21, 2011, Zimbabwe: Legal Costs, <http://allafrica.com/stories/201101271003.html>
3. The Law in Zimbabwe, By Otto Saki and Tatenda, Chiware, <http://www.nyulawglobal.org/globalex/zimbabwe.htm>, (Accessed Sept. 20, 2011)
4. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare

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

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

Comments:

Judicial decisions generally were enforced by the state, but in some instances decisions were ignored. Decisions that are perceived to be anti-ZANU-PF have tended to be ignored, whereas decisions passed against the political opposition are quickly implemented by the police.

References:

1. U.S. Department of State, 2010 Human Rights Report: Zimbabwe, Bureau of Democracy, Human Rights, and Labor, 2010 Country Reports on Human Rights Practices, <http://www.state.gov/g/drl/ris/hrrpt/2010/af/154377.htm>
2. Financial Gazette (Harare), Vote Muza, Jan. 21, 2011, Zimbabwe: Legal Costs, <http://allafrica.com/stories/201101271003.html>
3. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare
4. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: 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.

25:

0: 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 Boston Globe reported that attorneys from the Zimbabwe Lawyers for Human Rights working on a "politically charged court case" were stopped by police and prevented from attending their client's hearing. Their client, Moses Mzila-Ndlovu, was a co-minister in the state national healing commission and a member of the former opposition in Zimbabwe's coalition, and a Roman Catholic priest. He was detained for allegedly holding an unapproved memorial service for victims of massacres in western Zimbabwe that occurred after independence in 1980.

On the other hand, there are instances of judges abstaining from political influence. For instance, in June 2011, a high court judge acquitted Zimbabwe's energy minister, Elton Mangoma, on charges of corruption in a gasoline deal and said that prosecutors failed to show evidence of wrongdoing. Mangoma was a founder of Prime Minister Morgan Tsvangirai's former opposition party, and Tsvangirai's party cited the case as an instance of political interference.

References:

Angus Shaw, Boston Globe, "Zimbabwe Police Stop Lawyers Headed to Court," April 19, 2011, http://www.boston.com/news/world/africa/articles/2011/04/19/zimbabwe_police_stop_lawyers_headed_to_court/?rss_id=Boston.com+%2F+Boston+Globe+-+World+News

The World AP, Omaha World Herald, "Zimbabwe energy minister cleared of corruption," June 28, 2011, <http://www.omaha.com/article/20110628/AP15/306289922>

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

Comments:

In law, there is a transparent and objective system for distributing cases to national-level judges.

References:

1. Zimbabwe High Court Act
2. 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:

In law, national-level judges are protected from removal without relevant justification, but due to the politicized nature of the judiciary, judges have been removed in the past decade.

References:

1. Constitution of Zimbabwe
2. Zimbabwe High Court Act
3. Zimbabwe Supreme Court Act

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:

In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

References:

1. International Crisis Group, Zimbabwe: Political and Security Challenges to the Transition, March 5, 2010, <http://www.zimbabwedemocracynow.com/2010/03/05/zimbabwe-political-and-security-challenges-to-the-transition/>
2. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

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

Comments:

In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

References:

1. International Crisis Group, Zimbabwe: Political and Security Challenges to the Transition, March 5, 2010, <http://www.zimbabwedemocracynow.com/2010/03/05/zimbabwe-political-and-security-challenges-to-the-transition/>
2. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

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.

No: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge 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.

82. Do citizens have equal access to the justice system?

46

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

There were no specific examples in the period under review. However, as described in the U.S. State Department's 2010 Human Rights Report, there is known "tension" in Zimbabwe between the white minority and other groups.

References:

Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

U.S. Department of State, "Bureau of Democracy, Human Rights, and Labor 2010 Country Reports on Human Rights Practices Report," April 8, 2011, <http://www.state.gov/j/drl/rls/hrrpt/2010/af/154377.htm>

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 courts, but the legal system is still very much defined by patriarchal laws that seriously disadvantage women from accessing justice. The majority of women cannot afford legal fees charged by private lawyers. Court procedure and court language are a hindrance to women in Zimbabwe, the majority of whom are less educated than men. Deputy Minister for Women's Affairs Fungayi Jessie Majome, who is also a member of Parliament and a practicing lawyer, told the Inter Press Service that court procedures and court officials who "carry patriarchal baggage remain a challenge for women who use courts to seek justice."

References:

1. Women and Access to Justice, Kellivn Nyamudeza, http://independent.academia.edu/KellivnNyamudeza/Papers/491349/Women_and_Access_to_Justice_In_Zimbabwe
2. Transparency International Zimbabwe, "National Integrity Systems: TIZ Report," TIZ and Mass public Opinion Institute, Harare, 2007

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

Comments:

In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

References:

1. Constitution of Zimbabwe
2. Legal Aid Act (Zimbabwe) 18/1996 and 22/2001
3. Chiware T and Otto Saki, "The law in Zimbabwe", February 2007, <http://www.nyulawglobal.org/globallex/zimbabwe.htm>

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.

100 | 75 | 50 | 25 | 0

Comments:

The state can make available legal representation for defendants in criminal cases who cannot afford it, but the brain drain in recent years has affected the government's ability to fully deliver on this.

References:

1. The Law in Zimbabwe, By Otto Saki and Tatenda, Chiware, <http://www.nyulawglobal.org/globallex/zimbabwe.htm>, (Accessed Sept. 20, 2011)
2. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare
3. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75:

50: 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.

25:

0: 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.

100 | 75 | 50 | 25 | 0

Comments:

Legal costs in Zimbabwe are high, and most people cannot afford to engage a lawyer. To sue costs an average of U.S. \$1,000.

References:

1. Financial Gazette (Harare), Vote Muza, Jan. 21, 2011, Zimbabwe: Legal Costs, <http://allafrica.com/stories/201101271003.html>
2. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

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.

75:

50: 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.

25:

0: 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.

82f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

The cost of the legal system and high attorney fees discourage most small businesses from bringing a lawsuit.

Lawyers who have been in practice for 20 years and above are allowed to charge between U.S. \$354 and U.S. \$531 per hour while those who have been in practice for less than a year charge between U.S. \$130 and U.S. \$195.

References:

1. Financial Gazette (Harare), Vote Muza, Jan. 21, 2011, Zimbabwe: Legal Costs, <http://allafrica.com/stories/201101271003.html>
2. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

100: 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.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

25:

0: 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.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

Comments:

Residents of rural areas — most of the population — have a problem accessing a court of law.

References:

1. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare
2. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

83. Is the law enforcement agency (i.e. the police) effective?

50

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

Appointments are usually made on a professional basis, but the top leadership of the police is usually appointed on political line. For instance, the official term of the current police commissioner, Augustine Chihuri, ended in 1997, and ever since he has been reappointed annually by President Robert Mugabe.

References:

1. MetroZimbabwe, Sakhile Malaba, Aug. 31, 2010, Chihuri's term in office indefinite says Mohadi, <http://www.zimbabwemetro.com/?p=18836>
2. Nehanda Radio, Esther Gomo, March 8, 2011, Chihuri hiding behind a finger on violence, <http://nehandaradio.com/2011/03/08/chihuri-hiding-behind-a-finger-on-violence/>

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 needs.

References:

1. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare
2. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

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 police force is affected by politics in Zimbabwe. In fact the police commissioner has been known to make statements in favor of President Mugabe's ZANU- PF political party. Members of the police have also been fired for playing songs that support the political opposition. The police commissioner has proclaimed that he will not salute anyone in Zimbabwe without wartime credentials. Prime Minister Morgan Tsvangirai, who is a leader of the opposition Movement for Democratic Change, does not have wartime credentials.

References:

1. MetroZimbabwe, Sakhile Malaba, Aug. 31, 2010, Chihuri's term in office indefinite says Mohadi, <http://www.zimbabwemetrometro.com/?p=18836>
2. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare

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?

63

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes | No

Comments:

There is an independent mechanism for citizens to complain about police action.

References:

1. Constitution of Zimbabwe
2. Police Act
3. 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:

Not at all. If one does not bribe the officer, it's difficult to get assistance. The state protects the officers instead of the victim. And many citizens are afraid to approach the police because there are reported cases in which those who complained about the police were arrested.

References:

1. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare
2. Nobu Ndlovu, Journalist, NewsDay, Harare, Sept. 24, 2011, Harare
3. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

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:

The system allows for the Anti-Corruption Commission to work in conjunction with the police who are part of the justice system.

References:

1. Prevention of Corruption Act
2. Constitution of Zimbabwe
3. 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. There is no evidence available.

References:

1. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare
2. Nobu Ndlovu, Journalist, NewsDay, Harare, Sept. 24, 2011, Harare
3. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

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

Comments:

In law, law enforcement officials are not immune from criminal proceedings.

References:

1. Police Act
2. Constitution of Zimbabwe
3. High Court 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 is generally subject to criminal investigation, but some criminal actions are overlooked by the police or prosecutors. No specific events could be found.

References:

1. Elijah Mutemeri, Research & National Coordinator, Zimbabwe Congress of Trade Unions, Aug. 20, 2011, Harare
2. Nobu Ndlovu, Journalist, NewsDay, Harare, Sept. 24, 2011, Harare
3. Kossam Ncube, Managing Partner, Ncube & Associates, Sept. 7, 2011, Bulawayo

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.