ZIMBABWE IS OPEN FOR BUSINESS

An Economic Appraisal of the 'New Dispensation'

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CONTENTS

1. INTRODUCTION

The gist of the Government's *Investment Guidelines and Opportunities in Zimbabwe*[1] can be summed up by the title of the first chapter: "Towards a New Economic Order: Investment Policy Statement and Action Plan of the Government of Zimbabwe." The guidelines promise investors an economic reform agenda based on a sound market economy in order to build a competitive private sector. The main policy thrusts also include the payment of compensation to commercial farmers, whose land was seized; a commitment to repay the government's domestic and foreign debts; and respecting international obligations under Bilateral Investment Protection and Promotion Agreements (BIPPAs). Corruption, it avers, will be dealt with severely.

These issues clearly illustrate that the economic fortunes of nations not only depend on the application of sound economic principles and public financial management; they are also inseparable from matters of politics and governance. In *Why Nations Fail*, economists Acemoglu and Robinson, make a crucial link between political institutions and economic performance. 'Inclusive' economic institutions based on free and competitive markets, they argue, need the state to create an environment conducive for investment by providing secure property rights and an independent judicial system. The independence of the judiciary and the impartiality of law enforcement agencies are essential to enforce property rights, to uphold commercial contracts and trade agreements, and maintain the rule of law.

The authors' approach, together with an evaluation of the new Zimbabwe Government's guidelines to encourage foreign investment, provide a useful framework to evaluate the impact of the Government's Fast Track Land Resettlement programme on agriculture and the economy in general. It also helps answer two key questions. The first is whether the promises made by the newly installed Mnangagwa government are likely to provide investors with the confidence that Zimbabwe is on a path of genuine change or whether it is business as usual. The second question is whether the government is sufficiently committed to a programme of far-reaching political and economic reforms that are necessary to create a strong and coherent governance framework to quicken the pace of sustainable economic growth. The analysis combines both governance and economic criteria.

2. THE ECONOMIC MELTDOWN

2.1 The Road to Ruin

At its peak in the mid-1990s, the commercial agricultural sector comprised of about 4,800 commercial farms. It produced over 20 commodities and earned in excess of $1.2 billion annually in export earnings, of which 40 percent came from tobacco (Rukuni, et al., 2006). Commercial agriculture as a whole contributed about 18 percent to GDP and employed over 320,000 workers. Nearly 2 million people lived on and earned their livelihood from

[1] Presented by President Mnangagwa before the World Economic Forum Meeting in Davos, January 2018

commercial farms. Many farms provided schools for children as well as basic health services (Sachikonye, 2003).

The launch of the Fast Track programme had a devastating impact on agriculture that reverberated throughout the economy in a number of ways. The first was to undercut the productive base of agriculture by the displacement of highly skilled farmers and their workers, along with much of their productive equipment. As a consequence, second, productivity and production declined markedly across the whole range of agricultural commodities, while significantly raising the cost of food and other commodities that had to be imported. As export earnings were replaced with imports, acute foreign exchange shortages were felt. Third, these production shortfalls had knock-on effect on the agricultural processing industries – from butcheries and milk products, to millers and ginners – all at the costs of job lay-offs and underutilised capacity. Fourth, state control over all agricultural land created insecure and non-transferable land rights that limited investments and emasculated land and capital markets. It was not just the underlying collateral value of land that was lost, but also that the market mechanism for the efficient allocation of capital inputs for farm production was decimated. And, fifth, the replacement of markets with state control and planning – currently manifest in 'Command Agriculture' – so distorted markets and drained government resources that Zimbabwe is now saddled with unsustainable budget deficits and borrowing, together with trade deficits and acute foreign exchange shortages.

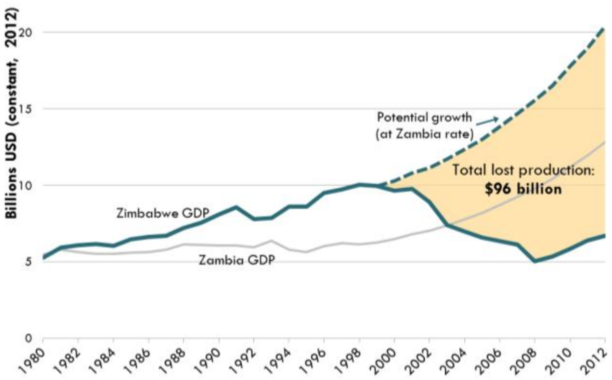
2.2 The Cost of Displacement

The occupation of commercial farms not only displaced skilled white commercial farmers, but over 200,000 semi-skilled farm workers and their families – an estimated 1.4 people – who lost their jobs and homes, as well as access to farm schools and other social amenities (Sachinkonye, 2003). Throughout the land occupations, equipment and materials were seized, misused, or vandalised. Each one of the thousands of farmers whose homes were occupied, whose lands were seized, and whose livelihoods were destroyed had a traumatic story to tell. Kondozi was just one such story. The takeover of Kondozi estate in Odzi District, owned by a black Zimbabwean, Edwin Moyo, and his white partners, Piet~~r~~ de Klerk and Adrian Zeenberg, became emblematic of the seizures of farms throughout the country.

The estate, which employed about 5,000 workers, as well as out-growers in the communal areas, had established export markets for vegetables and flowers in Europe and Canada valued at about US$15 million per annum. With freehold title over the land and a viable business model, Zimbabwean banks invested heavily in the project. Then, in April 2004, a troop of police arrived at the farm with war veterans. Armed with water cannons and submachine guns, they ordered everyone off the farm. Five ministers, including Christopher Mushohwe, the current minister of state in the President's Office, looted millions of dollars' worth of equipment, including 48 tractors, 10 trucks, 26 motorbikes, and tonnes of fertilisers and chemicals. The farm assets were systematically stripped until the farm was handed over to the Agricultural and Rural Development Authority (ARDA). In 2005, under *Operation Maguta*, an army-run food self-sufficiency programme, planted just 40 hectares of maize and sorghum, leaving the remainder of the 224 hectares of arable land unutilised. Thereafter, the government handed part of the estate over to Bonnezim (Pvt) Ltd., an agro-processing arm of the government-owned Industrial Development Corporation of Zimbabwe (IDCZ), while the remainder went to Mushohwe and war veterans.[2] Today, it lies derelict.

Given such devastation on a single commercial farming enterprise, how is it possible to estimate such destruction and its impact across the entire economy? Todd Moss of the Centre for Global Development compared Zimbabwe's actual economic growth rate with the most likely trajectory of its economic growth *without* the land seizures.[3] Using Zambia's growth rate as a proxy for Zimbabwe's, he estimated, as Figure 1 shows, that the cost to the Zimbabwe's economy between 2000 and 2012 was $96 billion dollars.

Figure 1. Estimate of Economic Cost of the Fast Track land acquisition programme



2.3 The Collapse of Production

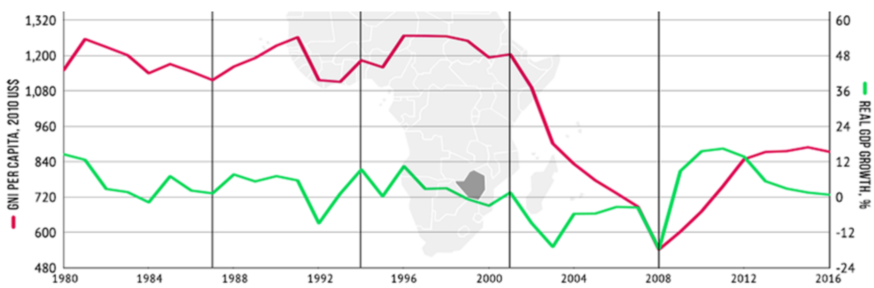
By 2007, commercial maize, tobacco and beef production stood at only one-third of their 1998 levels. Only 10 percent of coffee was being produced compared to pre-2000 levels, and the production of cotton on commercial farms had ceased. Wheat production had declined from about 270,000 tonnes in 1998 to 62,000 tonnes – falling well short of the national requirement of 400,000 tonnes (UNDP, 2008). The wheat harvest for 2009 was

[2] ZimOnline, 13 January 2007, Minister takes over huge parts of Kondozi Estate
[3] Todd Moss, 20 March 2017, How Misrule Has Cost Zimbabwe $96 billion…and Counting, Global Center for Global Development

estimated to have reached only 12,000 tonnes (FAO/WFP, 2009). Without the support of commercial maize production, and due to shortages of farm inputs, Zimbabwe experienced perennial deficits in food production. Even after a good rainy season (2008/09), when maize production stood at 1.14 million tonnes, 2.8 million people required food assistance during the 2009/10 marketing year (*ibid.*). According to an analysis by the Commercial Farmers Union (CFU), Zimbabwe lost about $12 billion worth of agricultural output in the 10 years from 2000 through to 2009.[4]

Figure 2 shows that, following the Fast Track programme, growth remained deep in negative territory from 2000 to 2008. In 2005, Zimbabwe World Bank's country director, Hartwig Schafer, remarked, "I can't think of a country that has experienced such a decline in peace time."[5] With land seizures, hyper-inflation, and horrendous election violence, per capita incomes (red line) plunged from $1,200 in 2000 to less than $600 in 2008. The legacy of 2008, which marked the low point in Zimbabwe's history, is that per capita incomes today still remain significantly lower than at independence in 1980.

Figure 2. Zimbabwe GDP (green) and per capita GDP (red) (1980 – 2016)



In 2009, Zimbabwe's economy began to pick up for three main reasons: i) the adoption of the US dollar stopped inflation in its tracks; ii) the formation of a government of national unity put restraints on government expenditure and improved public financial management, and iii) the slowing down of land seizures, especially the 'sparing' of strategic industries, such as dairy and sugar. Except for a few commodities, the picture has not change markedly over the last decade. A synopsis of the change in production for each of the main commodities produced in Zimbabwe is given below.

[4] Bloomberg, 2 August 2011, Zimbabwe loses $12 billion of produce, Farmers' Union says
[5] Zimbabwe Independent, 7 October 2005, Zimbabwe economy worse than a country at war

Maize

The former deputy minister of agriculture, Paddy Zhanda, pointed out that in 1996 Zimbabwe produced 2.6 million tonnes of maize: 1 million from commercial farmers, and 1.6 million from communal farmers. But, since the Fast Track programme, production has fallen short of national requirements of 2.2 million tonnes, resulting in maize imports every year since 2000. Figure 3, below, shows that prior to 2000, Zimbabwe was a maize exporter. The main exception was the devastating drought in 1992. Even then, within a few years Zimbabwe's maize exports reached a record 1.28 million tonnes, thus demonstrating the resilience of the agricultural sector. Before the 2017 maize harvest of 2.16 million tonnes, Zimbabwe spent $107 million on maize imports in the first eight months of the year.[6] Even with a good harvest, 301,000 families in vulnerable districts will receive food hand-outs in 2018.[7] Maize yields have also been dwindling, from an average of 1.7 tonnes per hectare in 1987 to 0.85 tonnes per hectare today.

Figure 3. Zimbabwe maize exports and imports: 1980 – 2017 (metric tonnes)

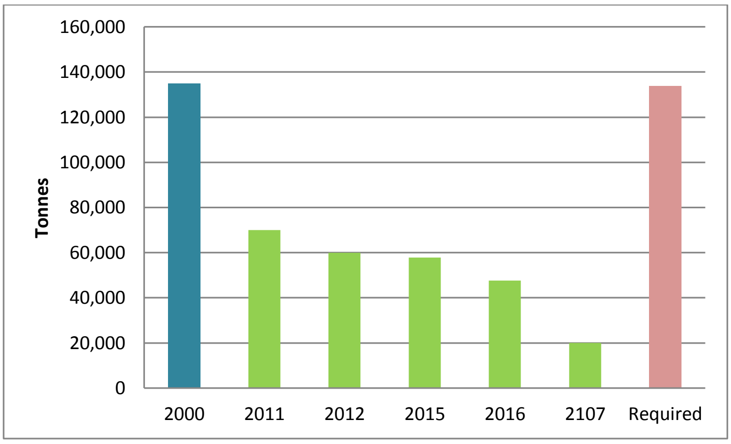
Soya beans

In 2000, Zimbabwe produced 135,000 tonnes, which met national requirements. By 2011, the country still managed to produce half this amount (70,000 tonnes), but production has since declined to 20,000 tonnes in 2017 (Figure 4). To meet the 114,000 tonne shortfall, Zimbabwe needed to import $57.4 million worth of soya from Zambia – which had produced

[6] News Day, 4 October 2017, Zimbabwe splashes $107 million on maize imports.
[7] The Herald, 23 January, 2018, 300 families to get food aid

300,000 tonnes. The previous year (2016), 78,900 tonnes of soya-meal was imported at a cost of $47.3 million, also from Zambia.

Figure 4. Zimbabwe soya bean production (metric tonnes) 2011-2017 compared to 2000 production and national requirements



Wheat

Wheat production in 2001 reached 325,000 tonnes, which still fell short of national requirements of about 400,000 tonnes. Production dropped sharply thereafter. By 2007, Zimbabwe harvested 88,000 tonnes, i.e. a quarter of the production achieved in 2001. Production plunged further in 2012 with a harvest of just 8,000 tonnes, the lowest since 1966. In 2015, Zimbabwe spent $169 million importing flour.

Tobacco

At its peak, in 2000, the country produced 237 million kg before hitting an all-time low of around 40 million kg in 2008. Since the country converted to using the US dollar in 2009, the tobacco industry has been one of the fastest to recover from the economic meltdown from the previous decade. After gold, tobacco is Zimbabwe's second largest foreign currency earner. Depending on quality and world prices, earns Zimbabwe around $800 million per annum from tobacco exports. In 2017, Zimbabwe's 82,000 contract tobacco farmers delivered 186.3 million kg.[8]

[8] Daily News, 22 August 2017, Zimbabwe misses tobacco target

Horticulture

At its peak in 2000, horticulture output was valued at $143 million, and was the second largest agricultural foreign currency earner after tobacco. Zimbabwe also became a leading exporter of cut flowers. By 2001, it was ranked as the second largest in Africa, behind Kenya. By 2014, horticultural exports had fallen to $10.2 million. In 2015 Zimbabwe's flower exports had declined by 95 percent to a mere $3.1 million.

Sugar

Tongaat-Hulett, which owns Triangle sugar estate and 50.3 percent of Hippo Valley, grows 80 percent of the sugar grown. Commercial and newly settled farmers contribute to the remaining 20 percent. Zimbabwe grows about around 3.5 million tonnes of cane, which is refined into about 470,000 tonnes of sugar. Of this amount, 134,000 tonnes was exported in 2017.[9]

Dairy

In the 1990s, three-quarters of Zimbabwe's milking cows, out of a total dairy herd of 197,000 head, produced 262 million litres of milk annually. By 2011, the dairy herds of 223 registered producers had declined to just 26,000 head, of which less than half were milking cows. This herd produced 50.6 million litres, which is less than 20 percent compared to the 1990s. Still, dairy production has been improving, rising from 34 million litres in 2009 to 65 million litres in 2016; but still only 25 percent of the dairy production in its heyday.

Coffee and Tea

In 2000, Zimbabwe's 145 coffee growers cultivated 7,600 hectares of coffee, which produced nearly 15,000 tonnes of coffee. At the time, the industry was projected to expand to 20,000 tonnes by 2004. Today, there are only three commercial farmers still in business, who produce just 500 tonnes: a 95 percent drop in output.[10] Tea estates have been less affected, with output dropping from 22,000 tonnes to 13,000 tonnes, representing a 40 percent decline.

These downturns in production are felt hardest by millers and processors of maize, wheat and oilseed, who have high levels of unutilised stalled capacity. Maize millers also have to contend with unethical practices by the Grain Marketing Board (GMB). The GMB's purchase of producers' maize, facilitated by huge allocations from the budget, enabled them to replenish Zimbabwe's Strategic Grain Reserve. When this stockpile proved too tempting, the GMB went outside its statutory mandate by drawing on the grain reserve, milling it, and selling it commercially. By simply helping itself to the maize without reimbursing Treasury;

[9] GAIN, 4 May 2017, The supply and demand for sugar in Zimbabwe
[10] Daily News, 8 March 2018, Land reforms vandalised coffee industry

the GMB could mill and supply customers below commercial production costs, thereby undercutting struggling private millers, while still turning a handsome profit. Inevitably, the GMB's market share of maize-meal rose by 37%, while National Foods's share dropped, coincidently, by a corresponding 37%.

2.4 How Markets Work

Before the Fast Track programme, the success of commercial agriculture was driven by commodity and input markets, where prices were set by the relationship between supply and demand. In 1994, the Zimbabwe Agricultural Commodity Exchange (ZIMACE) was established to provide a mechanism where buyers and sellers could interact, articulating the supply and demand conditions. Muir-Leresche and Muchopa (2006) believed that its greatest contribution to agricultural marketing in Zimbabwe was to act as a completely transparent instrument of 'price discovery' for agricultural producers.[11] A commodity exchange should also include international buyers and sellers for a range or niche exports markets, from exotic flowers and vegetables, to spices and flowers seeds. The commodity exchange therefore not only determines what farmers will produce for the domestic market, but also the export market. It is the vehicle through which agricultural foreign exchange is earned. But, in 2001, the government forced ZIMACE's closure and introduced price controls on maize and other commodities.

A commodity exchange is critical for two reasons. First, it provides a benchmark for a fair market price for farmers. Today, with the ubiquitous ownership of cell phones, farmers would have instant access to prices. The second is that 'price discovery' sends signals to farmers about which crops are most profitable to produce. Here, the economic concept of 'opportunity cost' comes into play. In a market economy, the farmer has a strong economic incentive to combine crop and livestock production optimally to yield the highest returns. If returns are higher from maize production than soya beans, for example, it would be more rational to grow maize rather than soya. If the farmer nonetheless choses to plant soya, the difference between the returns from growing soya rather than maize would be the 'opportunity cost'. This principal applies equally to export crops where Zimbabwe has a comparative advantage on international markets. Zimbabwe has, for example, a comparative advantage in producing tobacco, but not wheat. It would therefore be economically efficient to grow tobacco and diversify into other high value crops, such as fruit, flowers, and vegetables, and rather import wheat.

The farmers' next decision would be to maximise their yields while minimising their production costs by the most efficient combination of inputs – land, capital and labour.[12] (These are known in economics as the 'factors of production.'). If the prices of these inputs

[11] Web-based foreign exchange dealers on Zimbabwe's parallel market serve a similar purpose.
[12] This economic principle is known as the law of variable factor proportions or 'optimal factor combination',

are known, the farmer will use them in proportion to their prices relative to their productivity. For example, if labour is relatively cheap, the farmer will employ workers for weeding. But if labour is relatively expensive relative to capital, the farmer will control weeds by spraying herbicide.[13] However, the operation of this optimal efficiency principle depends crucially on the *prices* of the different factors of production, including land, which are determined by their supply and demand *on the market*.

This principle means that the continual interplay between factors of production on efficiently functioning markets will determine the optimum farm size and optimal production efficiencies. Thus, when John Bruce rhetorically asked: 'What then is the efficient scale?' His reply was that scale 'will vary not only by crop, but by land capability, and capital and labour endowments of the farm firm'. Because farm size varies with a multitude of factors, 'any attempt to stipulate it will necessarily involve substantial inefficiencies' (1990:25). The main point is that in a market economy the multiplicity of individual farming decision, large and small, contributes to a farm's efficiency as well as the economy's overall efficiency, productivity, growth and peoples' general welfare.

Agricultural productivity therefore rests on the *transferability* of an incontestable right to property that underlies the functioning of efficient land markets. In the absence of secure land rights, most farmers will make some minimal level of farm investments to earn a living. But they will ~~very~~ not make medium and long term infrastructural investments, such as irrigation schemes, unless their property rights are guaranteed for a foreseeable future. However, it is the transferability of land that is crucial because it creates a land market that underlies the collateral value of the farm. It is this transferable value that gives farmers access to capital markets for loans to purchase productive inputs on factor markets. By using land as collateral, farmers can access capital markets, negotiate various types of loans with financial institutions to meet working capital needs, medium term financing for farm equipment, as well as extending long term loans for farm infrastructural development. Improving the security of land rights and enabling the transparent and efficient transfer of agricultural land will therefore create powerful incentives for farm investments, stimulate financial, commodity and factors markets, and thereby drive economic growth and employment in the agricultural sector.

2.5 The State-controlled Economy

In contrast, Zimbabwe's command agricultural model is based on administrative fiat rather than the market. It is the state which decides who receives land and capital (equipment and inputs), what will be produced, how much farmers are paid for their produce; and even sets

[13] More formally, this condition is met when these factors are combined in such a way that the ratio between their marginal productivities and their prices is equal.

the price for industrial processors. Land is in the gift of the state. All agricultural land outside the communal areas can be acquired and reallocated at the stroke of a pen. If it is held under freehold tenure and is transferable, the government need only 'gazette' the farm for the state to assume immediate ownership. And, with a simple 'offer' letter, it can transfer ownership to any person, regardless of any expertise in farming.

A number of grave economic implications follow from this. The first and most obvious is that the state's *de facto* ownership nullifies the farm's underlying value and extinguishes the market for land. Land cannot be bought or sold, and since it cannot be transferred, the property has no underlying collateral value. As such, it cannot be mortgaged to negotiate loans with financial institutions for funding farming operations. The net result is that an inexperienced 'new farmer' with no capital cannot access finance for farm equipment, inputs and operations. In fact, banks and other lending institutions are hesitant about lending even to those with title deeds, especially any remaining white farmers, fearing that the property, which serves as their surety, may be acquired by the state. The tenuous nature of property rights over all agricultural land provides little incentive for any farmer to make investments in farm improvements that would increase productivity. In effect, the absence of a land market has a knock-on effect on capital and other factor markets. Overall, this dearth of agricultural capital is likely to significantly slow Zimbabwe's long term agricultural productivity and growth.

The third factor of production – labour – is also captured and directed by the state. New farmers are not only beholden to the state for the land they occupy but, being unable to afford farm inputs and equipment, they are dependent on the government for farm input supplies and producer price subsidies. Few therefore make production decisions based on market price signals or consumer demand for the most profitable production of crops. Instead they produce commodities according to government plans and input supplies (e.g. seed and compound D fertilizer for maize production) and sell their produce at government controlled marketing depots at government set prices.

2.6 Command Agriculture

- Background

On 18 July 2016, then Vice-President Mnangagwa, who was Chairman of the Cabinet Committee on Food Security and Nutrition in the Office of the President and Cabinet, announced the Command Agriculture programme, formally known as the Import Substitution Maize Production Programme. Its aim was to ensure national food self-sufficiency. The Vice-President said that Cabinet had, with immediate effect, tasked the Ministry of Lands, Agriculture and Rural Resettlement and the Ministry of Environment, Water and Climate to identify 2,000 farmers near water bodies. They would receive inputs, irrigation, and mechanised equipment to 'empower' them, through 'self-financing' to plant

400,000 hectares of maize that yielded five tonnes per hectare to produce 2 million tonnes of maize.

First, we should note the word ‘command’ not only comes from the idea of a command economy, but military command. The Ministry of Agriculture had essentially been side-lined as the military took control. The Commander General of the Zimbabwe Defence Forces, Constantino Chiwenga, now the Vice President of Zimbabwe, said “the military was part of Command Agriculture’s implementation by virtue of Air Marshall Perrance Shiri’s vice-chairmanship of a subcommittee involved in steering the policy.”[14] The sub-committee in question was the National Command Agricultural Task Force, supervised by Mnangagwa, and on which Zimbabwe’s current Minister of Agriculture, Perrance Shiri, was the vice-chair. Zimbabwe National Army Commander, Lieutenant-General Philip Valerio Sibanda,[15] confirmed that nearly a thousand officers had been deployed at various levels in the programme.[16] The military overtones made clear that farmers were not free agents but would work under ‘strict supervision’.[17]

Second, the ‘identification’ of farmers was politically partisan. This was a ruling party project, designed for loyalists where empowerment had come to mean entitlement through the receipt of highly subsidised or free inputs. “Farming in the country has this year enriched a lot of people in line with ZANU-PF’s ZimAsset agenda premised on socio-economic growth … That is what the ZANU-PF Government under the leadership of President Mugabe has been advocating for. Those who want to get rich should support these ZANU-PF programmes,” said then Acting President Mnangagwa.[18] President Mugabe himself ‘hailed Command Agriculture at his ongoing interface rallies with the youths saying the programme is one of the rallying points for ZANU-PF ahead of harmonised elections next year.’[19]

Third, ‘command’ also meant a state planned and controlled programme, typical of socialist countries in the 1960s and 1970s, which pursed import substitution policies. A consistent feature is the announcement of state plans stating the level of farm input subsidies to support a given numbers of ‘identified’ farmers, who are expected to plant a particular acreage to meet projected production target – always missed – at government set prices. Command Wheat, for example, was to receive $140 million based on cultivating 70,000 hectares at a cost of $2,000 per hectare, with an implied yield of nearly 4 tonnes per ha to

[14] The Herald, 27 June 2017, General Chiwenga reads riot Act • Warns anti-Command Agriculture Lobby • Security Services aware of saboteurs
[15] Lieutenant General Philip Valerio Sibanda became the new Commander of the Zimbabwe Defence Forces in December 2017 when General Chiwenga resigned to become Vice President.
[16] NewsDay, 14 August 2017, Army confirms aiding command agriculture
[17] The Herald, 26 July 2017, Command Agriculture nets 300,000 ha
[18] The Herald, 20 October 2017, Government pays tobacco, maize farmers.
[19] The Herald, 26 June 2017, Government makes $487m agriculture funding record

produce a total of 275,000 tonnes. The state media beguiled readers by translating such announcements into actual achievements, while touting the virtues of the import substitution strategy in terms of the foreign exchange saved. 'The country can harvest over 500,000 tonnes of cereals this season if current rains continue until month-end, a situation that can save it US$260 million in grain imports,'[20] ran The Sunday Mail article. It suggested that *anything* produced saved foreign exchange without ever questioning the strategy's unsustainable economic costs to the nation.

Fourth, the government's command mind-set instinctively distrusts markets to provide farm inputs at 'affordable' prices. Accordingly, former agriculture minister, Joseph Made, said government would import inputs directly from international manufacturing countries for sale to farmers at 'reasonable' prices. This, he said, will enable the country to defend its land and agrarian reform by protecting farmers who have become a target of inflated prices charged by the private sector. He said that when government went to tender, companies purchased goods on the international market at low prices, but then sold them to the government at high prices. He added that private companies should sell inputs and equipment to farmers at 'reasonable' prices.[21] Bear in mind that Dr Made was lands and agriculture minister for 16 years: from 2000 to 2007, at the height of the land invasions, and from 2009 through to the military takeover in 2017.

- Subsidies

The government's scepticism of markets gave it a free hand to feed its patronage system through its control of agricultural commodity prices and sequestrating and diverting agricultural inputs and equipment from the private sector to its rural support base: the 'new' farmers. And, contrary to Mnangagwa's claim that Command Agriculture was to be self-financing, the ruling party's patronage system would be funded by taxpayers.

In 2014, the government set the producer price of maize at $390 per tonne, and issued statutory instrument SI 122 to make it a criminal offence for traders to 'unfairly' buy at below this statutory rate.[22] Since then, the government has maintained this maize producer price, which was *more than double* the world price of around $160 a tonne in June 2017. Regional prices were even lower, at $150 and $137 per tonne for South Africa and Zambia, respectively. Based on an import parity price of $160 a tonne, and given that Zimbabwe produced 2.1 million tonnes in 2017, the economic subsidy or loss amounted to $483m. The farmer's component of this subsidy – paid by taxpayers – was the difference between GMB's purchase price of maize ($390 a tonne) and the GMB's selling price of maize to

[20] The Sunday Mail, 12 February 2018, Zimbabwe to save $260m on grain imports
[21] The Chronicle, 14 November 2017, Good news for farmers … Government to import inputs directly from manufacturers
[22] Veritas Bill Watch, 25 August, 2014

millers ($250 a tonne), which was equivalent to $294 million. The GMB component of the subsidy – paid by consumers – was the difference between the millers' purchase price from the GMB ($250 a tonne) and the import parity price ($160 per tonne), which was $189 million. With such huge producer price and input subsidies, maize production incentives inevitably squeezed out the production of oilseed crops, which are substitute crops. As only 20,000 tonnes of soya-beans were produced, whatever maize production saved in foreign exchange was spent on importing soya at a cost $58 million.[23]

The setting of cotton prices also illustrates the government's high-handed approach. When the world cotton price dropped from over $1/kg in 2011 to under 75c/kg in 2012, agriculture minister Joseph Made said farmers should not sell their produce at prices that are below the cost of production. If processors who bought cotton, the ginners, did not comply with the *Cabinet* pricing decision, he said, they could lose their licenses.[24] Although prices recovered in 2013, they again fell steeply to around 63c/kg in in October 2014, and Cargill, which contracted over 20,000 smallholders, withdrew from Zimbabwe's cotton sector after suffering low cotton output, thinning margins, and significant levels of side marketing.[25] Citing sanctions, then Vice-President Mnangagwa, announced the government takeover of The Cotton Company, Cottco, by the government, "so that we *can drive the prices of cotton* in this country. We want to ensure that the clothing industry is viable again, with cotton being beneficiated here instead of being exported," he said.

- Finance

Although Mnangagwa said that Command Agriculture was to be self-financing, in December 2017 he made a curious remark. "After making plans for Command Agriculture, we realised we required $515 million. We had nowhere to get the money as we only had a plan."[26] Fortunately, Vice President Mnangagwa said, funds were coming from Government's 'partners'[27]. With much fanfare, Sakunda, a controversial company with links to the Mugabe family,[28] announced a $190 million contribution; of which $160 million was allocated to Command Agriculture – $85.5 for irrigation, and $75 million for dryland cultivation – plus $30 million towards the Presidential 'Well-wishers' Input Scheme for communal farmers. Amid speculation that the programme was being bankrolled by taxpayers, the President's spokesperson, George Charamba, said in May 2017:

> "Let it be known that Command Agriculture is not being funded by public funds. Nothing is coming from taxpayers. The money is coming from Sakunda Holdings through their company Trafigura [Sakunda's holding company] fronted by Kuda

[23] Financial Gazette, 25 May 2017, Stockfeed shortage looms
[24] VOA News, 12 July 2012, Government intervenes in cotton pricing war
[25] The Herald, 15 October 2014, Cargill closes local cotton business
[26] The Herald, 30 December 2016, Command Agriculture locally funded.
[27] The Herald, 5 July 2017, Half a billion dollars for Command Agriculture
[28] The brother of Mugabe's son-in-law, Derrick Chikore, is a partner in Sakunda.

> Tagwireyi. These are committed Zimbabweans bound by the love of their country who came to fund the project."[29]

This turned out to be untrue. An advisory note on 'Sakunda Facilities', issued by the Ministry of Finance's Public Debt Management Office confirmed the public's well-founded suspicion that the programme was indeed being funded from their pockets. Sakunda was not a funder but an agent for the government. It was paid in Treasury Bills, which were immediately redeemed in violation of its agreement with the government. The balance, including an upfront 15 percent interest rate charge, was paid from the National Oil Company of Zimbabwe Redemption Fund. In other words, Sakunda never used its own funds, but government's – i.e. taxpayers' – money. Sakunda then sourced the inputs for farmers. But its poor logistics caused interminable delays and its late delivery of inputs significantly reduced yields.

A great deal more of taxpayer's money was to be used from budget allocations by finance minister, Patrick Chinamasa. His mid-term fiscal review showed that the Ministry of Agriculture's budget of $145 million had ballooned more than fivefold to $772 million.[30] On top of this were promises made by Dr Made. Prior to harvesting in February 2017, Made announced that: "Combine harvesters and shelling machines will be made available to farmers. We are also going to avail crop driers so that farmers can harvest early and prepare for the winter cropping season early." [31]

The drip feeding of undependable information through state media created an opaque veneer over the entire agricultural funding process. Nor was there any reliable data on the output and delivery of maize produced under the Command Agriculture programme to gauge its success. Following the Article IV meeting between Zimbabwe and the Directors of the IMF Executive Board in July 2017, IMF mission chief to Zimbabwe, Ana Lucia Coronel, said that the command programme had not been budgeted for, that financing was unclear, and it did not target those most in need. The board said that buying large quantities of maize at prices that were significantly above the import parity price was not just inefficient, but one of the major causes driving the budget deficit. Later, the IMF deputy director of strategy, policy and review, Alfred Kammer, said that excessive expenditure on command agriculture would worsen cash shortage, fuel inflation, and "creates significant fiscal risks", stressing the need to reduce fiscal deficits and implement "reforms to attract investment".[32]

As a ruse to cover its patronage tracks, the government consistently swears adherence to the principle of cost recovery, while its actions suggest otherwise. First consider Sakunda. Having been hailed for its patriotic contributions, Sakunda was paid upfront. And since it

[29] NewsDay, 19 May 2017, Sakunda funded Command Agriculture
[30] The Independent, 21 July 2017, Government in deep financial crisis
[31] The Herald, 3 February, 2017
[32] NewsDay, 25 July 2007, IMF warns Zimbabwe on Command Agriculture

bore no risks for the repayment or the recovery of the costs of the inputs it supplied to farmers, it made no attempt to ensure farmers signed GMB stop orders against their receipt of inputs or equipment.[33] Instead of establishing the most rudimentary financial and legal procedures practiced by every financial institution to ensure farmers made repayments, the government's command approach was to deploy senior army officers to farms in an apparent attempt to prevent side marketing. They intruded to check the maize crop's moisture levels on farms. If the crop was sufficiently dry, they *ordered* the farmer to harvest and deliver the maize crop.[34]

Next, consider the actual repayments. According to state-controlled newspapers, then acting President Emmerson Mnangagwa said that farmers contracted through the Command Agriculture programme had repaid $67 million towards the cost of inputs.[35] Later the state media reported farmers having paid back $120m out of $200m given out as loans. Not only was this described as a 'healthy rate', but finance minister Chinamasa said a 'positive culture' of honouring loan obligations was emerging among farmers who benefited from the Command Agriculture Programme, saying that he was quite happy for government to pay the difference to "pump up agricultural production."[36] Yet, as Agribank's agriculture development executive director, Francis Macheka, told a consultative meeting on horticultural revival, "I can say with confidence that 90 percent of our farmers that got land and are able to farm have got bad debts from one bank or another."[37]

Just as Sakunda transferred the repayment risks to the government, Minister Chinamasa happily wrote off $80 million owned by his party-connected supporters, and passed the bill on to the taxpayer. Burdening taxpayers by writing off agricultural debts accumulated through party patronage that benefitted the ruling elite is nothing new. In 2011, ARDA Chairman, Basil Nyabadza, said that ARDA had lost all hope of recovering a cent from any institutions or politicians that received some of the 428 tractors, which was part of a $10 million scheme to support farmers.[38] ARDA's position mirrored that of the Reserve Bank of Zimbabwe which failed to recover US$198 million from farmers who benefited under Phase II of the government's farm mechanisation programme when over 2,000 tractors and other farming equipment was distributed to the party's elite. Reserve Bank of Zimbabwe (RBZ) governor, Gideon Gono, told parliament that there was no 'political will' to recover debts from beneficiaries. These debts were included in a $1.3 billion write off of the Reserve Bank's debts. Ignoring taxpayers' insistence that the beneficiaries should repay their debts, finance minister, Patrick Chinamasa, refused to disclose any details of beneficiaries,

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[33] The Standard, 25 June 2017, VP Mnangagwa project bombshell
[34] News 24, 22 August 2017, Government deploys soldiers to supervise harvesting of maize
[35] The Herald, 20 September 2017, Command farmers repay $67 million
[36] Sunday Mail, 12 March 2018, Government pays up Command Agriculture loans.
[37] Financial Gazette, 5 January 2017, Resettled farmers drowning in debt
[38] The Independent, 29 July 2011, No hope of recouping debts: ARDA

defended Gono's quasi-fiscal activities, and said 'let bygones be bygones'. Against all opposition, he then pushed the Reserve Bank Debt Assumption Bill through parliament in May 2015.[39]

- Production

For a programme that the government boasts about being an unparalleled success, a dearth of information has been forthcoming. The public has no breakdown of what inputs were delivered, how much was planted, who benefited, how much was produced, whether farmers met their delivery quotas, and how much was paid back in kind (maize deliveries) or in cash. However, some news has filtered out. Rather than the 400,000 ha planned, less than half – 191,000 ha was tilled – of which 153,000 ha was planted out. Less than 40 percent of the target acreage was achieved; apparently because inputs were delivered too late as a result of poor logistical planning and the RBZ's delays in making foreign exchange allocations available for importing fertilizer.[40] The best estimate of Command Agriculture maize production can be derived from the area planted (153,000 ha) and the estimated yield of 1.2 tonnes per ha.[41] This gives a figure of 183,600 tonnes – less than 10 percent of the original projection of 2 million tonnes.

- Feuding Factions

Given the scale of Command Agriculture – especially as the vanguard of the party's rural election campaign and state media hype – the rivals in the party's factional succession war each wanted to take the credit. Initially the kudos went to Mnangagwa. Then, in March 2017, state media claimed that 'President Mugabe conceived and advanced Command Agriculture and the equally successful Presidential Well-Wishers Agricultural Inputs Scheme to boost national food security and reduce grain imports.'[42] By June, state media was reporting that Command Agriculture was the 'brainchild of First Lady Dr Grace Mugabe. President Mugabe assigned Vice President Emmerson Mnangagwa to superintend over the programme'. [43]

Amidst these claims, a leading light in the G40 faction and higher education minster, Jonathan Moyo, took to Twitter to lampoon Command Agriculture and, by association, Mnangagwa and the military. Moyo derided the programme as 'Ugly-Culture' and equated reports of its success to 'Command Lies'. An apoplectic Commander General Chiwenga launched a tirade against Moyo, accusing him of trying to destroy ZAPU-PF from within and

[39] New Zimbabwe, 2 February 2015, Chinamasa refuses to name RBZ looters
[40] The Source, 2 March 2017, Command Agriculture falls short of maize target
[41] The Herald, 11 December 2017, Government interventions boost maize yields
[42] Sunday Mail, 26 March 2017, Prof Moyo benefited from Command Agriculture
[43] The Herald, 26 June 2017, Government makes $487m agriculture funding record

labelling him an 'an enemy of the state'.[44] Here, we witness the General's visceral loyalty to the party. In a bid to calm tensions, President Mugabe, when addressing 50,000-strong rally of ZANU-PF supporters at a Presidential Youth Interface Rally, referred to Command Agriculture as a "beautiful programme". [45] Unbeknown at the time, this factional spat over the programme would become the catalyst for the defenestration of Mugabe – and Mnangagwa and Chiwenga's rise to power.

2.7 The Economy

- The Black Hole

It would be mistake to think that the Fast Track programme was the only reason for the meltdown of Zimbabwe's economy. A once thriving private sector – its skills, jobs, capital and equipment – would all fell prey to the ruling party's elite. The enrichment of cronies was made possible by the government's indigenisation policy, which targeted white citizens, foreign companies, and political opponents. As with highly productive farms, once flourishing companies and mines were seized by the well-connected. Few possessed either the technical or managerial skills to successfully run a business or mine; nor did they much care about production or service provision. Most would reap the rewards of extravagant salaries and benefits, and strip assets. With some notable exceptions – such as Econet, a telecommunication company – much of what now passes for the private sector is a vast, sprawling, and inefficient hodgepodge of state-owned enterprises that are so weighed down by debt that they are technically insolvent. Air Zimbabwe, ZiscoSteel, Hwange Colliery, CAPS, IDCZ, David White Textiles and Willowvale Motor Industries, and many more, lie in ruins. The Auditor-General revealed that cumulative losses and net liabilities of state-owned enterprises was over US$1 billion. Local authorities lost more than US$500 million through corruption, underhand dealings and unaccounted expenditures.[46]

As an example, Zimbabwe's national airline boasted a profit and a fleet of 18 planes in 1980. By 2017, it was left with just two serviceable aeroplanes and drowning in $325 million of debt. ZiscoSteel once employed 6,000 workers and produced one million tonnes, half of which was exported. By 2017, the steelworks, and the town of Redcliff that it once sustained, lay derelict. The government finally terminated the contracts of 4,500 workers, who were owed $250 million in back-pay.[47] Zimbabwe now spends $400 million annually importing steel.[48] The Industrial Development Corporation of Zimbabwe (IDCZ) owns a string of loss-making companies, including Willowvale Motor Industries whose production of assembled Mazda's fell from 18,000 in 1997 to just 4,000 vehicles two decades later. One of

[44] The Herald, 27 June 2017, Gen Chiwenga reads riot act •Warns anti-Command Agriculture lobby •Security services aware of saboteurs
[45] The Herald, 1 July 2017, Command agriculture beautiful: President
[46] Zimbabwe Independent, 24 June 2016, Parastatal $1 billion in the red
[47] Sunday News, 30 October 2016, Zisco starts paying workers
[48] NewsDay, 4 April 2017, Zimbabwe importing $400 million steel annually

IDCZ's companies, Zimbabwe Copper Industries, which had produced 2,000 tonnes of copper and brass products, of which 80 percent were exported to South Africa, had to be liquidated. IDCZ also has the dubious distinction of sustaining the Mugabe's dairy operation.

- Resuscitating State Enterprises

As a result of Zimbabwe's state-management policies, huge corporate losses have accumulated into mountains of festering debts, and Zimbabwe's export competitiveness has been all but lost. Vice-President Mnangagwa recognised the "gross mismanagement and corruption in the loss-making entities", but persisted in his belief that parastatals and state-owned companies were still the 'engines of the economy'.[49] His solution would lie not in privatisation, but still more state regulation. His answer to the malaise of state-owned companies was a Public Sector Corporate Governance Act to analyse financial statements and follow up on the Auditor-General recommendations. Despite all evidence to the contrary, at the heart of Mnangagwa's economic thinking is his belief that state-owned organisations can be 'resuscitated'. "Very soon," he predicted in 2015, "production will resume at New Zimsteel [ZiscoSteel] and this will go a long way in reviving the economy."[50] Finance Minister, Patrick Chinamasa concurred. "The country cannot make meaningful economic recovery without a robust steel industry and efforts to resuscitate ZiscoSteel should be expedited," he said.

The policy of resuscitation entails three steps for the government's 'turnaround' strategy. The first is a resolute blindness not to see the party's patronage system as the handmaiden of corporate mismanagement and corruption. Using such studied self-deception, liabilities can then be euphemistically called 'legacy' debts. This allows the party and its cronies to distance and disassociate themselves from the very wreckage they caused. Second, given the government's own wilful disregard for paying its own debts, nobody will lend it a penny more. Its policy therefore is to find 'strategic partners', inevitably the Chinese, to recapitalise the company and start afresh. The problem, though, is that no investor is prepared to take over massive corporate debts. So, third, it is necessary to 'clean the balance sheet', which is achieved by the government 'assuming' the debt: in other words, making the taxpayers pay it.

Thus, when pushing through the $1.3 billion dollars RBZ Debt Assumption Bill, Chinamasa ignored the responsibilities of party beneficiaries to repay their debts. He stated – as if it was self-evidently good financial practice – that it was necessary to clean the Central Bank's balance sheet to attract international funding so that RBZ could act as lender of last resort to commercial banks.[51] Chinamasa also wrote off an additional $812 million of bad debts,

[49] The Herald, 9 May 2016, New weapon to fight corruption
[50] New Zimbabwe, 16 November 2015, Mnangagwa's Zisco 'lies' laid bare
[51] NewsDay, 5 August 2015, Mugabe passes RBZ Debt Assumption Bill

through a ‘special purpose vehicle’, the Zimbabwe Asset Management Company (ZAMCO), to clean the balance sheets of banks and companies; and, according to Chinamasa, continue lending in order to *attract investors* and support economic activity. After $100 million of bank debts were transferred to ZAMCO, Patrick Takawira, a bank director, said that banks had knowingly extended huge loans to businesses and individuals who had no capacity to make repayments.[52] It later emerged that ruling party MPs had their debts of up to $3 million written off.[53]

- Recapitalisation

Reviving defunct state enterprises by handing bad debts over to taxpayers was complemented by recapitalising them – and, yet again, at the taxpayers’ expense. Just as huge agricultural budget allocations were made to buy the rural vote, so allocations were made to resuscitate state-run organisations for the benefit of cronies. When state enterprises were so run-down that they could not access commercial loans, the government bailed them out in 2016 through unbudgeted expenditure of $134 million. Cottco received $30 million in addition to the government’s $56 million assumption of its debt. The IDBZ received $19 million.[54]

The previous year, the government took the decision to recapitalise Hwange Colliery’s ‘turnaround’ strategy by purchasing $33 million worth of equipment and by taking over its debt of $65 million. Yet, the colliery’s subsequent output dropped to less than a quarter of its production capacity; losses soared to $44 million; and its ‘legacy’ debt stood at $136 million. Worse was to come. Managers were fired after a reported loss of $155 million in April 2016; and its debts rose to $287 million, including $22 million in unpaid salaries. When creditors demanded payment, the government approach the High Court to fend them off. The government argued that it needed time to ‘reconstruct’ the now insolvent company by laying off workers, seeking a ‘strategic partner’ and, inevitably, assuming the company’s debts to clean its balance sheet. By 2017, Hwange Colliery’s debt had risen to $350 million and Zimbabwe had to import coal.

More dubious recapitalisation pay-outs were made by the Reserve Bank to resuscitate state mining companies and party affiliated small-scale miners. In addition to $80 million of budgetary support, Zimbabwe Consolidated Diamond Company (ZCDC) received $32 million worth of mining equipment from Belarus. The Zimbabwe Mining Development Corporation received $15 million to resuscitate SMM asbestos mines, which were acquired under ignominious circumstances, plus $7 million worth of equipment to revive Sabi gold mine.

[52] The Herald, 30 March 2017, Banks to blame for non-performing loans
[53] The Herald, 19 May 2017, Zhuwao defends Youth Fund Defaulters
[54] NewsDay, 24 July 2017, Chinamasa defends government over-borrowing

Another $40 million was made available to small-scale miners through a development facility.

- Funding

The question is: how does a government that is so deeply in debt, and most of which is in arrears, waste so much money and foreign exchange in 'resuscitating' incurably hopeless state enterprises with such nonchalance? The answer is to first recognise the decades-old patronage system which cements the state-party nexus. It is to ensure that those inside the party's tent are suitably rewarded. Given this priority; then, second, the government blithely ignores repaying incontrovertible debts, which explains its inability to borrow from international lenders. Where possible, such as its obligation to pay compensation for land seizures, it simply closes its eyes to the debt. Despite owing dispossessed farmers at least $9 billion, this liability does not appear on the government's balance sheet. Third, if there is no money, then the obvious solution is to create it. In Zimbabwe's case, it created a surrogate currency for the US dollar. And, fourth, if there is no foreign exchange, then an equally obvious solution is to take it from those who have.

In a statement by the Reserve Bank Governor, John Mangudya, a list of plausible but highly misleading mixture of economic diagnoses, excuses and promises were made when taking control of the country's foreign exchange. These varied from relieving cash shortages and stimulating the economy, to promoting a multicurrency system, and introducing an export incentive system. Most disingenuous, however, was the Governor's claim to promote the efficient appropriation and utilisation of foreign exchange; i.e. state-determined priorities.[55] In a subsequent statement, the RBZ removed commercial banks' minimum cash and foreign exchange holding, and instructed them to forward half of all their clients' 'real' foreign exchange earnings to the Reserve Bank, while the RBZ would credit the exporters' accounts with 'virtual' US dollars. By the simple expedient of an accounting double entry it miraculously created more money, but which could only be used internally using electronic payments, known as RTGS (Real Time Gross Settlement).[56]

Capturing the foreign exchange came in very useful for presidential travel and for buying equipment for broken-down state-owed mines. Chemplex Corporation, a subsidiary of state-owned IDCZ, requested $122 million in foreign exchange to import raw materials to produce fertilizer for Command Agriculture and 1.8 million smallholders. But, with over 90 percent of tax revenue receipts being spent on civil service pay and benefits,[57] much more additional money was needed to fund state-driven programmes. The government's creation

[55] J.P. Mangudja (Governor), 4 May, 2016, Measures to deal with cash shortages whilst simultaneously stabilising and stimulating the economy, Press Statement, Reserve Bank of Zimbabwe
[56] Reserve Bank of Zimbabwe, 10 May 2016, Exchange control circular to Authorised Dealers and the Public
[57] Ministry of Finance, 21 July 2016, Mid-Term Fiscal Review

of 'virtual' money and its printing and minting of $200 million worth of bond notes and coins, supposedly backed by Afreminbank, certainly helped. The government's also conveniently discovered that it could pay its debts by issuing Treasuring Bills (TB).

- Widening Budget and Foreign Exchange deficits

Government's unbudgeted over-expenditure of $900 million on agricultural subsidies and bailing out state enterprises, coupled with a tax revenue short-fall of $350 million, forced government to borrow an additional $1.4 billion in 2017. This fiscal deficit, together with the need to raise $1.7 billion to pay for utilities and suppliers, saw Zimbabwe domestic debt soar to over 3 billion dollars between November 2016 and November 2017, from $7.6 billion to $10.6 billion. This was 'borrowed' by increasing virtual money by $780 million, issuing $2 billion in TBs (from $3.2 to $5.2 billion), and increasing its overdraft with the Reserve Bank. Indeed, the Government's overdraft of $1.2 billion with the Reserve Bank was illegal because, in term of section 11(a) of the Reserve Bank Act, it breached the lending limit of $800,000. The problem is that government's state-driven economic strategy of high levels of expenditure in the face of dwindling tax revenue receipts – due to its informalisation o the economy – will inexorably widen the budget deficit. In the absence of economic growth and ability to borrow externally, the government will be forced to continue its domestic borrowing binge – with potentially disastrous consequences.

In the absence of a competitive private sector, the government's import substitution and state enterprise resuscitation strategy will be unable to close the current account deficit (between exports and imports). It will fight a losing battle against foreign exchange and cash shortages. By starving the private sector of foreign exchange, the Reserve Bank is undermining the very competitiveness that is required to generate exports. By September 2017, the Reserve Bank had a $570 million international payments backlog. RBZ's solution was more borrowing through a $600 million 'stabilisation' facility from government's bank of last resort, Afreximbank.[58] But this can only be a stop-gap measure, not a solution. As foreign exchange reserves inexorably shrink, so the government will be forced to suck more and more out of the private sector. It has already raised platinum and chromes exporters' mandatory foreign exchange transfers to the RBZ from 50 to 80 percent. The reason, predictably, was to "ensure effective administration of foreign exchange, as well as spread liquidity to guarantee equity in the foreign exchange market."[59]

Three dangers present themselves. The most critical is that a headstrong government persists with unworkable economic strategies and policies, keeps digging instead of taking heed, and will not – or cannot – devise a cohesive and comprehensive market-based economic approach. The second is inflation. High borrowings and budget deficits through

[58] The Financial Gazette, 31 August 2017, Afreximbank facility to avert fuel crisis
[59] The Financial Gazette, 21 August 2017, RBZ forex directive to hit miners hard

money creation, as well as trade restrictions, are a recipe for macro-economic instability. The third is persistence cash and foreign exchange shortages. Businesses not considered a priority by government will be forced to tap into the black market, and pay higher and higher premiums for foreign exchange just to stay in business. Responding to a crisis of its own making, the government has criminalised entrepreneurs for sabotaging the economy through the 'externalisation' of funds. The premium of around 40 percent on US dollars has already fed into rapidly escalating prices for goods and services. Trouble is brewing as workers begin to feel the effects of lower real wages.

It was into this economic caldron that Emmerson Mnangagwa stepped.

3. ZIMBABWE IS OPEN FOR BUSINESS

3.1 Operation Restore Legacy

Faction fighting within the ruling party came to a head in November 2017, when Vic-President Mnangagwa was fired by President Mugabe for 'disloyalty' among other charges. In a rapid realignment of forces, General Chiwenga, flanked by 90 senior military officers, called a news conference. Laced with idioms from the nationalist narrative, he accused counter-revolutionaries of infiltrating the party to destroy it from within: a reference to Jonathan Moyo, a leader of the G40 faction. Recalling Mugabe's slogan that 'Zimbabwe will never be a colony again', Chiwenga made it clear that the military would 'protect the revolution' without hesitation and stop forthwith the purging of those party members with a liberation background. It was the plainest confirmation, if one was needed, of the conflation of party and state, and the military's role as guarantor of the revolutionary party's right to rule.

True to his word, General Chiwenga had, within the week, mounted Operation Restore Legacy that deposed President Mugabe on 17 November 2017. However, this was not a national legacy of restoring democracy, the rule of law, and human rights. Nor was it to restore the independence and impartiality of the state institutions. It was engineered to restore the ruling party's legacy forged during the liberation struggle. Accordingly, Emmerson Mnangagwa was sworn in as President. Chiwenga resigned as Commander General of the Armed Forces to take up the position as Mnangagwa's Vice President. Major General Sibusiso Moyo, famed for taking control of state television and announcing that the military takeover was not a coup, now serves as foreign minister. The commander of the air force, Air Marshal Perrance Shiri, also gave up his military position to become Minister of Lands, Agriculture and Rural Development.

In his inaugural address, the new President stated his intention to serve the country and all citizens, regardless of colour, tribe or political affiliation. On agricultural land, he said:

> Given our historical realities, we wish the rest of the world to understand and appreciate that policies and programmes related to land reform were inevitable. Whilst there is a lot we may need to do by way of outcomes, the principle of repossessing our land cannot be challenged or reversed. Dispossession of our ancestral land was the fundamental reason for waging the liberation struggle. It would be a betrayal of the brave men and women who sacrificed their lives in our liberation struggle if we were to reverse the gains we have made in reclaiming our land.[60]

He went on to say, however, that his government was committed to compensating dispossessed farmers in terms of the laws of the land. Turning to the economy, he said it would "incorporate elements of market economy … interacting with strategic public enterprises run professionally and profitably … through gainful partnerships with international investors." This sounded familiar.

3.2 Guidelines and Opportunities

At the 2018 annual World Economic Forum at Davos in Switzerland, President Mnangagwa announced to international investors that 'Zimbabwe was open for business'. He was armed with a document, *Investment Guidelines and Opportunities in Zimbabwe*, which he officially signed, and whose first chapter is titled 'Towards a New Economic Order'. Much of the document was devoted to pictures of progress, various tables, and assurances laden with phrases such as 'efficient, effective and transparent', 'enhancing, modernising and streamlining', and 'strong, sound and sustainable', and so on. These are, of course, quite normal and acceptable in a document that seeks to entice and reassure investors.

The foundation of the document is Zimbabwe's recognition of its need to attract foreign direct investment, and the benefits that will accrue from the inflow of capital, together with modern technology and know-how that will help create jobs and hone skills in Zimbabwe. The government therefore intends to ease the entry of key foreign technical and managerial personnel into the country. Other reforms include amendments to its Indigenisation and Economic Empowerment Act and accelerate the establishment of Special Economic Zones. Furthermore, the full liberalisation of the current account (i.e. trade) will mean that foreign investors will be able to freely remit investment income such as profits and dividends without having to seek Reserve Bank (Exchange Control) approval.

To reassure investors, Zimbabwe promises a reform agenda to build a competitive private sector and an economy based on sound market principles and pro-market polices. It will prioritise its 'Ease of Doing Business' reforms. Linked to its market approach will be Zimbabwe's adherence to principles of legal protection to encourage private enterprise. It

[60] President Mnangagwa inaugural address, 24 November 2017

therefore commits itself to applying international standards and practices for the legal protection of investments from expropriation, as well as to respect its legal international obligation under Bilateral Investment Protection and Promotion Agreements (BIPPAs). It boasts such agreements with Denmark, Germany, Netherlands, Swiss Federation, 'Yugoslavia', China, South Africa and Russia, and a score of others awaiting ratification.

Where investments are acquired for public purposes, *prompt* payment of *adequate* and effective compensation will be made in accordance with national laws and the principles of international law. It stresses that Zimbabwe is signatory to the International Convention on Settlement of Disputes and the Multilateral Investment Guarantee Agency (MIGA). On compensation for dispossessed white farmers, the government admits that the outcomes and consequences were unfortunate, but having waged the liberation war to repossess ancestral land 'means that land reform cannot be reversed'. However, it is committed to compensating farmers according to the 'laws of the land'. Its intention is to establish a special tribunal based on international good practices to determine the value of compensation payable to farmers and the modalities for such payment.

Rather than pre-screening foreign investors as before, the Government will instead promote investments through the Zimbabwe Investment Authority based on a clear investment policy and regulatory and administrative framework. Zimbabwe also promises high standards of government by ensuring efficient and transparent oversight by state regulatory authorities, and by dealing severely with corruption. As a measure of its goodwill and commitment, the government also promises to fully service its domestic and foreign debt.

The guidelines then point to the various investment opportunities. Although the document encourages investment in agriculture, which boasts strong vertical and horizontal linkages to other economic sectors; investors are limited to contract farming, presumably because they cannot own land. Mining, infrastructure and tourism are encouraged in equal measure, but the main focus in on investment opportunities in the manufacturing sector, especially joint partnerships in state-owned companies under the Industrial Development Corporation of Zimbabwe (IDCZ): such as the large fertilizer company, Chemplex Corporation. Presumably, opportunities in motor assembly refer to Willowvale Motor Corporation, while those in pharmaceuticals refer to CAPS. Other lucrative investment opportunities will be on offer with the privatisation of selected parastatals, which is considered key to the country's turnaround strategy. Investors are also granted attractive tax incentives.

While meeting Wall Street investors in New York, foreign affairs and international trade minister, Sibusiso Moyo, reported tremendous progress under the new leadership of President Mnangagwa. Government's far-reaching political and economic reforms have "started attracting investment into the country," he said. This has "declared the country being open for business so that the rest of the world can see this awakening giant."[61] The good news has kept flowing. Government is sealing deals for the National Railways of Zimbabwe and Zisco worth $1.4 billion.[62] Chinese investor, Touchroad, is planning a $7 billion tourism city in Zimbabwe.[63] The mining sector expects $12 billion of new investments to flow into Zimbabwe over the next five years.[64] When Karo Resources committed to spending $4.2 billion on a Zimbabwe platinum project, mines minister Winston Chitando said that President Mnangagwa had declared the "country open for business. It's not business as usual anymore."[65]

4. BUSINESS AS USUAL

4.1 Actions speak louder than words

When insisting that civil servants and government institutions work conscientiously towards facilitating investment and implementing ease of doing business reforms, President Mnangagwa said that 'actions speak louder than words'. Or, more biblically: we shall know them by their fruits (Matthew 7:16). In this section we ask what has changed, how much, and whether it is significant and for the better. Having only been in government for a short period, the answer is tentative, but indicative of the direction the government is taking. Before considering the economic, agricultural and land questions, the institutional changes are first examined.

4.2 Governance and institutions

- The Narrative

With the support of the war veterans and the military, the nationalist liberation narrative looms large in President Mnangagwa's administration. General Chiwenga, now Vice-President, made it clear that 'Operation Restore Legacy' was *to protect the revolutionary party* by rooting out "counter-revolutionaries who have infiltrated the party and whose agenda is to destroy it from within."[66] It was therefore entirely consistent with the ruling party's self-ordained right to rule. According to one analyst:

> Liberation memory, (in essence, we are entitled to rule in perpetuity because we fought for the liberation of this country), patronage, populism and coercion became the central pillars for power retention. Within the discourse of liberation memory,

[61] The Herald, 17 April 2018, New dispensation scores big: SB Moyo
[62] Sunday Mail, 29 October 2018, A US$1.4 billion game changer
[63] The Herald, 20 April 2018, Chinese company to build $7 billion tourism city
[64] The Financial Gazette, 8 March 2018, $12 billion for Zimbabwe mining
[65] The Financial Gazette, 23 March 2018, Mnangagwa chalks up $4.2 billion PMG deal
[66] Newsday, 14 November 2017. Chiwenga calls Mugabe to order

> Zimbabwe's military – whose hierarchy is still dominated by veterans of the liberation struggle – sees itself as the custodian of the nation. The recent coup can be seen in that regard.[67]

'Restoration' has become part of the updated narrative. The theme for Independence Day was 'social and economic restoration'. So, too has the bloodlessness of the coup, which Vice-President Chiwenga likened to the 'war' to put land firmly in the hands of Zimbabweans. "Bones would have been everywhere. People would have died" without the military's restraint, he suggested.[68] The narrative also preserves Mugabe's legacy, who 'resigned' and 'who had been openly captured by a criminal cabal that surrounded him, resulting in loss of direction by both the ruling ZANU-PF and Government.'[69] At his inauguration, Mnangagwa showered praise on the former President and, out of respect, later named Harare's international airport after him.

- State institutions

President Mnangagwa inherits all the constitutional and legal powers of making appointments to state institutions enjoyed by his predecessor. Constraints of the Executive remain unchanged and unchecked, leaving all state institutions manifestly under the control of the party. The President's cabinet consists of the loyal old guard, including those tainted with allegations of corruption. The investiture of Zimbabwe's highest ranking military officer as Vice President has signalled that any challenge to the revolutionary party's continued right to rule could be met with the intervention by the military. The implicit message to the electorate is that free and fair elections may be held in the expectation that the electorate votes the 'right way'. The military's control over the state's means of violence and the interests of the ruling party are ever more closely bound.

Particularly significant was the recalling of Patrick Chinamasa as finance minister. He had previously, like Mnangagwa, served as justice minister. Chinamasa's long tenure saw him overturning the independence of the judiciary in 2001 and, in the midst of widespread and systematic atrocities perpetrated against ordinary citizens by his party in the run-up to the 2008, he shamelessly accused the opposition MDC of "instigating violence".**[70]** Chinamasa, in collusion with Reserve Bank Governor, John Magudja, have played a key role in channelling hundreds of millions of dollars of tax-payers' dollars to support the party's patronage system through government expenditure.

The independence of the judiciary was immediately brought into question by Judge President George Chiweshe's ruling that the military takeover was not unlawful. However

[67] Showers Mawowa, Deputy Director, Southern Africa Liaison Office, NewsDay, 29 March 2018, Zimbabwe's quest for legitimacy
[68] The Herald, 16 April 2018, Government launches Command Wheat Programme
[69] The Herald, 17 April 2018, Zimbabwe in an era of freedom, openness: President
[70] The Guardian, 22 June 2008, Tsvangirai pulls out of 'sham' Zimbabwe election

politically justified, opined constitutional lawyer, Lovemore Makhuku, it was clearly unconstitutional and therefore unlawful. Only the President has the constitutional powers to deploy the army – and he would not do so against himself.[71] The ruling also sets a dangerous precedent that the military may, contrary to the Constitution, intervene should the ruling party, or any particular faction it favours, be in danger of losing power. Equally disturbing, it became immediately evident that the law was again being selectively applied when Mnangagwa's G40 'counter-revolutionary' opponents were rounded up and prosecuted. Regarding allegations of graft levelled against members of the Mnangagwa's own Lacoste faction, Zimbabwe Anti-Corruption Commission had orders, according to one source, to 'put certain cases on hold'.[72]

Electoral institutions remain compromised. No changes have been made to the Zimbabwe Electoral Commission appointed by former President Mugabe. Giving evidence to the Parliamentary Portfolio Committee on Justice, Legal and Parliamentary Affairs, ZEC chairperson, Priscilla Chigumba, stated that not more than 15 percent of her staff were retired military personnel.[73] Nor has any leeway been given on the right of members of Zimbabwe's Diaspora to vote. Foreign minister Moyo claimed that Zimbabwe "is incapacitated to make sure Zimbabweans in all capitals across the world are able to vote". He did acknowledge, though, that "the Constitution allows them to do so".[74] There is also deep concern about the allegations made by Retired Army Brigadier-General Ambrose Mutinhiri, who is leader of an opposition party, the National Patriotic Front, that 5,000 soldiers have been deployed in the rural areas to intimidate villagers ahead of the elections.[75] Suspicions of rigging have also been exacerbated by the ruling party's rejection of many amendments proposed by the opposition MDC in Parliament. According to Veritas, a legal organisation that scrutinises legislation:

> Out of this jumble [of proposed electoral amendments] one thing stands out very clearly, however: the Electoral Act is seriously defective and, unless it is extensively amended or completely overhauled, it is not adequate to ensure that the forthcoming general election will be free, fair, transparent and free from malpractices as required by section 155 of the Constitution.[76]

Meanwhile, the continued conflation of party and state was on full display as ZANU-PF's primary elections used government helicopters to deliver ballot papers, and used the police as polling officers.

[71] Daily News, 24 March 2018, Army intervention was illegal
[72] The Standard, 7 May 2018, ED name-dropping scandal hits ZACC
[73] The Standard, 13 May 2018, ZEC put on the spot over soldiers
[74] The Herald, 17 April 2018, New dispensation scores big
[75] Daily News, 20 April 2018, Chamisa dares military
[76] Veritas: Election Watch 7/2018, 6 May 2018, Amendments to the Electoral Act: What's in Store when Parliament Resumes?

The integrity of the traditional institutions also remains compromised. At President Mnangagwa's meeting with chiefs, the Chiefs Council president, Chief Fortune Charumbira, said 'traditional leaders and ZANU-PF were inseparable'.[77] Such avowals of political loyalty, strictly prohibited by the Constitution, are repaid in kind, by delivering new vehicles to expectant chiefs. It is not made clear whether these are provided for in a budget overseen by Parliament, or whether, like so much government funding, the finance minister exercises wide discretionary powers to allocate funds to partisan political groupings. Nor is it a question of whether chiefs require vehicles, but that the President Mnangagwa personally handed over the vehicles, while promising to review their allowances.[78]

When the Africa Directors of the European Union visited Zimbabwe, German Ambassador to Zimbabwe, Thorsten Hutter, explained that the directors raised issues on the role of the chiefs and the military, and access to state media for all.[79] Television and radio stations remain firmly in the hands of the state or party loyalists, as are the widely circulated state-controlled newspapers. Indicative of the prevailing partisan media culture, ZANU-PF's provincial chairman, Mike Madiro, bar all journalists, except those from state media from covering a meeting. In the opinion of an independent newspaper's satirical columnist:

> Such buffoonery makes Muckraker choke on his tea whenever the phrase "new dispensation" is used to describe the government of Mnangagwa … The State-controlled media seeks to serve the interests of the ruling party by inflaming government supporters against the opposition and, inevitably, the independent press. [80]

- Human rights

Human rights violations from 27 February to 9 March 2018 reported by Heal Zimbabwe, a civil society organisation, included violence and the partisan withdrawal of food aid and agricultural inputs. Communities continue to be victimised, the report claims, by political gatekeepers who instil fear to gain control and mobilise support for ZANU-PF. Many communities are therefore fearful of freely exercising their democratic rights. The use of food as a political weapon – routinely denied by the ruling party – was confirmed by the Zimbabwe Human Rights Commission. The commission's chief human rights officer, Kurai Makumbe, said, "We have received many cases of partisan food distribution based on one's political affiliation," she said. "Such cases usually increase during election time when food is used to gain votes from the electorate."[81]

Given President Mnangagwa's role as Minister of State Security during Operation Gukurahundi, his efforts to distance himself from the massacres by 'letting bygones be

[77] The Sunday Mail, 14 January 2018, Chiefs back President
[78] The Herald, 4 May 2018, Zimbabwe chalks up $11 billion in five months
[79] The Independent, 13 April 2018, European Africa directors press for Zimbabwe reforms
[80] The Independent, 29 March 2018, Muckraker: Ridiculous to expect freedom from champions of despotism
[81] NewsDay, 26 April 2018, Partisan food distribution cases soar

bygones' has been met with greater resolve by those who seek truth, justice, and compensation as part of the healing process. Mugabe's utterances at a press conference on 15 March 2018 that it was the Ndebele people, as well as ZAPU and ZIPRA "who should bear the blame",[82] only added fuel to the fire. Even Mugabe's ally, Jonathan Moyo, said that the narrative of blaming victims for the tragedy they suffered was wrong. He insisted on the need for a truth and reconciliation commission. Nor did it help that the army and police tried to silence peaceful protests by beating and arresting Mthwakazi Liberation Front (MLF) members who were demonstrating against Mnangagwa's alleged involvement in the Gukurahundi atrocities.[83] Ominously, they were detained at the army barracks; harking back to the military's torture of journalists Mark Chavanduka and Ray Choto in January 1999.

Subsequently, the police have selectively applied the draconian Public Order and Security Act (POSA) to prevent the MLF from conducting prayer meetings for the Gukurahundi victims, which was aimed at breaking the silence on the atrocities by giving people a platform to speak out.[84] POSA, which has been consistently and systematically used to deny political activity by the opposition, and continues to be applied when convenient, was defended by legal and parliamentary affairs minister, Ziyambi Ziyambi.

4.3 The New Economic Order

- Economic priorities

As if to signal its priorities, the Mnangagwa government's first major post-Mugabe pact was to sign a $230 million loan agreement with China: $77 to build a new Parliament, and $153 million to expand and refurbish Harare international airport.[85] It is not only that these loans will add to Zimbabwe's mountain of debt while it still owes billions of dollars in arrears. Nor is it the fact the Zimbabwe has only two or three serviceable aircraft and a national airline that is over $300 million in debt. It is the fact that the 'new dispensation' still justifies such wasteful prestige projects. Like the National Defence Academy built by the Chinese as a cost of $98 million under the Mugabe regime, the building of a new Parliament and upgrading a perfectly serviceable airport at huge cost will take precedence over its international and domestic debt obligations, and any number of critical development priorities. Just one example was the disclosure by the minister of local government, July Moyo, that more than 5,000 km of Harare's water pipes was obsolete, causing the city to lose about 60% of its treated water through leakages.[86] Apart from the urgent need to rehabilitate Zimbabwe's crumbling infrastructure, the country desperately requires investment to improve its

[82] The Herald, 9 April 2017, NPF faces implosion
[83] Daily News, 2 January 2018, Mthwakazi youths arrest outrageous: Rights groups
[84] NewsDay, 11 April 2018, Police block MLF meeting
[85]The Zimbabwe Mail, 6 December 2017, China to Build Zimbabwe's New Parliament, signs $230 million loan agreement
[86] NewsDay, 28 March 2018, 5.000 km of Harare's water pipes as good as dead

capacity to deliver essential services to the people: from primary health care and schooling children, to expanding the electricity grid.

- Turnaround plans

Zimbabweans have become so accustomed to hearing about turnaround plans and grandiose schemes that never bear fruit, notably ZimAsset, that they are sceptical of any promise of meaningful change. In 2003, then Reserve Bank Governor, Gideon Gono, announced his turnaround 'print-and-spend' plan that launched Zimbabwe into stratospheric inflation and economic meltdown. "Traditional economics do not fully apply in this country," he said, "I am going to print and print and sign the money…because we need money."[87] Today, we have a finance minister with similar views. He criticised classical economics which holds, he said, that "if you don't have revenue, don't spend. I don't share that view. For me, I view that we can borrow depending on why and where you apply the money."[88] Presumably this includes more international borrowing for prestige projects and the unrestrained issuing of Treasury Bills to fund key party constituency projects without worrying or being aware, like Gono, of the macro-economic instability implications for which the IMF has given ample warning.

Although the investment guidelines are billed as a new economic order, it is actually a rehash of the finance minister's 2016 Budget Statement, *Building a Conducive Environment that Attracts Foreign Direct Investment*, when he served President Mugabe. Chinamasa's budget statement included many of the same elements as the investment guidelines: competitiveness, beneficiation, the ease of doing business reforms, a one-stop-shop investment centre, setting up special economic zones, entering into Bilateral Investment Promotion and Protection Agreements (BIPPAs), and a drive against corruption. It turns out, though, that Zimbabwe's investment initiative goes back even further, to 2009, when then Prime Minister and late opposition leader, Morgan Tsvangirai, declared Zimbabwe open for business and eager for investment.[89] Since Zimbabwe has, in reality, been open for business and looking for investment for some time, the task is to interrogate why Zimbabwe has not been successful, and whether this time is different.

4.4 Political Capital

The main thrusts of the investment guidelines is its promise of a sound economy based on a competitive private sector and market principles, and legal protection of investment to encourage and protect private enterprise.

[87] The Economist, 16 November 2017, How Robert Mugabe held on to power for so long
[88] NewsDay, 24 July 2017, Chinamasa defends government over-borrowing
[89] The Guardian, 10 May 2009, Tsvangirai insists Mugabe is 'part of Zimbabwe's solution'

The guidelines present various initiatives, targets and various ideas, but it lacks the necessary theoretical underpinnings to create a unified, coherent and consistent economic strategy. Statements by government ministers and a recent article by Reserve Bank Governor, John Mangudja, illustrate the inconsistencies.[90] The investment guidelines, for example, stress the importance of 'market principles' when government's strategies, policies and plans consist almost entirely of state-driven 'command' programmes based on the government's elimination of agricultural land markets and the capture of capital markets. Mnangagwa claims that Zimbabwe is opening up its economy for business to attract foreign direct investment. Yet the outstanding feature of the economy is not private investment in sectors with high yielding returns for growth, but an unabashed policy of government investment in the least productive sectors and loss-making companies. As opposed to promoting markets and market principles, its policy of state-ownership of agricultural land served only to thwart the very markets that could have promoted vibrant private sector driven agricultural growth.

Earlier, it was shown how the prevention of transferable property rights had not only undercut land markets and the underlying collateral value of agricultural land, but it had knock-on effects that immobilised capital markets. Without capital markets to meet farmers financing needs, the government could then justify its financial support for an important political constituency; through unsustainable domestic borrowings to supply agricultural inputs to untrained farmers at enormous cost to the nation. Indeed, one of the government's major heists, and one the main causes for Zimbabwe's economic crisis has been, first, its diversion of private capital into the hands of the state and, second, the state's conversion of that financial capital into political capital.

For a start, the government spends over 90 percent of its tax receipts on the party's main political constituency: wages and benefits paid to its bloated civil service. But it needed to capture more funds to make capital transfers to other key political constituencies. Since government has been unable to borrow from international financial institutions or attract foreign investment, it quickly learnt that it could issue Treasury Bills to channel private funds and deposits into the central bank. With private capital now at its disposal, the state had a free hand to allocate the capital in ways that maximise political returns, regardless of markets, market principles, efficiency, losses and costs, or the deleterious effects of deficits on the wider economy. As long as capital was being funnelled into its patronage machine, the government showed no concern about 'crowding out' lending to the private sector – that is, where capital would be most efficiently allocated through the market and earn the highest returns to generate economic growth and jobs.

[90] John Mangudya, Sunday Mail, 13 May 2018, Cash shortages: RBZ lays out game plan

With a strangle-hold over the nation's financial resources, the ruling party nonetheless still needed to legitimise its expenditure to support its party constituents. Finance minister Chinamasa had previously justified any and all borrowing, depending on why and where it is allocated. Mangudya said that 'production' is the key; but not through transparent and competitive markets, but by promoting production through 'interventions and special vehicles', including, 'women and youth empowerment.' How then does he propose to drive this increase in production? His answer is through fiscal *expansion*: i.e. by borrowing and spending still more money. He reasons that by ramping up production he can grow the economy, increase tax receipts from taxable corporate profits, create jobs whose wages can be taxed, produce goods on which value-added taxes can be levied and, thereby, start to close the budget deficit. The problem, which goes unsaid, is that all this budgetary and quasi-fiscal spending is allocated to party's constituencies and companies who productivity is perilously low, who bear no risk, and who feel no obligation to repay capital, interest, or taxes. Rather than the change in government in November 2017 foretelling a movement towards sound economic policies and market principles, we have witnessed the entrenchment and disgorging of state-allocated capital to politically-favoured sectors: small scale agriculture and mining, the youth, and state-owned enterprises.

- Party Priorities

In its 2018 election manifesto, under its Indigenisation and Economic Empowerment Policy, the ruling party pledged to ensure:

> … economic participation by the indigenous people by establishing special economic zones for the local, indigenous investors; prioritise farm land allocation to youth, women, the disabled and vulnerable; prioritise allocation of stands and houses to youth, women, the disabled and vulnerable and *avail loans and equipment to SMEs, artisanal miners, farmers* and offer skills development and training.

- Command agriculture

Command Agriculture provisions for A2 farmers, and the President Inputs Scheme for resettlement and communal land farmers, have seen the most generous and widespread handouts. Although the government requested A2 farmers to repay their 'loans', there was no expectation or suggestion that the 1.8 million smallholders need contribute to the inputs they received. Far from Mangudya's claim that the increase in production would boost government revenues through taxes on corporate profits, new employees' tax contributions, and value added tax; agriculture minister, Perrance Shiri, admitted that the government had been *forced* to pay over $100 million 'to maintain good relations with the companies that supported Command Agriculture'.[91]

[91] Sunday News, 1 April 2018, Government talks tough on Command Agriculture

Undeterred, the Mnangagwa administration will press ahead with an expanded Command Agriculture programme and maintain a maize producer price of $390 a tonnes that is over double the world maize price of $180 a tonne.[92] As if to confirm the knock-on effects of land reform on capital markets, Minister Shiri said that Command Agriculture had been extended to other enterprises to alleviate the difficulties in accessing capital.[93] The Government proposes to distribute cattle from its $300 million Special Livestock, Fisheries and Wildlife programme, for a cattle breeding and pens feeding scheme.[94] Another sector to benefit under the 'command' label is horticulture. The government is determined to surpass the record $143 million mark of horticultural exports in 1999. The difficulty though, according to Minister Shiri, is that the sector is dominated by small-scale producers who are dotted across the country and face technological and skills challenges, as well as a lack of funds, specialised transport and other equipment. However, having agreed with 'private players', a $10 million Reserve Bank horticulture facility will be put in place. [95]

It was left to Vice President General Constantino Chiwenga to launch the government's 67,000-hectare Command Wheat Programme, of which 50,000 ha will be 'funded' by Sakunda, and the remaining 17,000 ha funded by other contractors. Given a conservative production estimate of four tonnes per ha, Chiwenga calculated that Zimbabwe would realise 268 000 tonnes out of the 460,000 national requirement. Speaking in Chakari, he said the district would also receive centre pivots through the Zimbabwe-funded Spanish Centre-Pivot Facility. At the same venue, the Vice President also announced Command Cotton, which he said is set to produce at least 265,000 tonnes of cotton to support the oil industry and 'resuscitate' of the textile industry. He said government was trying to source machinery and inputs directly at 'cheap prices'**.**[96]

But more has been on offer. Minister Shiri said that government is expecting tractors for farmers and an additional 80 centre pivots under Brazil's *More Food for Africa* Programme to promote mechanisation of agriculture. He was quick to add that tractors would not be given for free. Farmers would need to pay a deposit and first preference would be given to those who had paid back their loans. The country was also expecting to receive 80 centre pivots from Spain, he said.[97]

Now, one of two scenarios presents themselves. If farmers have to pay for their tractors, centre pivots, and other farming equipment and inputs, they would, according to 'market principles', normally be supplied by private sector agricultural providers through

[92] Index Mundi, 17 May 2018
[93] The Herald, 26 March 2018, Government to receive more tractors, centre pivots
[94] Sunday News, 22 April 2018, Command livestock distribution begins
[95] The Herald, 1 May 2018, Government targets $143 million horticultural exports
[96] The Herald, 16 April 2018, Government launches Command Wheat Programme
[97] The Herald, 26 March 2018, Government to receive more tractors, centre pivots

competitive markets. If, on the other hand, the government is providing goods from public funds for the private benefit of individual farmers, then the imperative becomes one of transparency, accountability and public scrutiny. Neither of these alternatives, however, applies. Private sector companies do not vie for the farmers' custom on open and competitive markets, nor is there any transparency about how individual farmers benefit from state handouts. The deputy minister of agriculture, Davis Marapira, confirmed that the government was conducting a 'vetting process' to register those farmers who intended to benefit under Command Livestock. The public and other interested party would naturally be keen to know the details of the 'vetting process', about who can apply, when and where applications should be made, and by what criteria applications are evaluated and candidates selection. It is also in the public interest to know the conditions attached to loans or grants, whether these conditions have been met, and the consequences if they are not. But when asked more about the programme, the deputy minister simply dismissed the question, saying that 'he could not be drawn into divulging more information on the programme.'[98] Rather than a fresh approach characterised by greater openness, the continued secrecy of government dealings are dominant and remain entirely consistent with the deposed Mugabe regime. No change there.

Nor was there any change in approach when the Reserve Bank simply reported that it had 'bailed out' a number of fertiliser and chemical producing companies with $20 million in order to 'avert shortages'. According to reports, fertiliser companies started drawing on funds from a $56 million African-Export and Import Bank (Afreximbank) facility, which was designed to support imports of fertiliser for the 2017 /2018 cropping season. [99] Here, the public needs to know who was bailed out (in terms of ownership), whether the conditions of the bailout prejudiced taxpayers, whether the conditions were met, as well as any consequence arising from breaching the conditions.

- Small scale mining

Mining gold in Zimbabwe without a licence is not just illegal, but artisanal gold-panners, according to a spokesperson for the Environmental Protection Agency (EMA), leave a trail of environmental destruction, causing siltation, the poisoning of waterways, and leaving deep and dangerous gullies on productive land.[100] In 2009, the then Minister of Home Affairs, Kembo Mohadi – who is now a Vice President of Zimbabwe – arrested thousands for small-scale artisan miners, saying, "We cannot allow illegal activities."[101] But recognising the informal mining sector's potential for patronage and as an important political constituency, mines minister, Obert Mpofu (now Minister of Home Affairs), urged government to release

[98] Sunday News, 8 April 2008, Command Livestock registration begins
[99] The Herald, 28 December 2017, RBZ bails out fertilizer firms
[100] The Mutare Post, 2 February 2018, Gold panners destroy Mutare River
[101] VOA, 1 November 2009, Gold miners in Zimbabwe say government crackdown leave many without livelihood

all jailed illegal gold panners in 2012 and to declare them 'national heroes' in honour of their immense contribution to the national economy.[102]

Although artisanal mining without a licence remains a criminal offence, Reserve Bank Governor, John Mangudya, echoed Mpofu's sentiments by urging the police not to arrest artisanal gold miners operating without licences as the country needed to expand exports.[103] He was fulsome in this praise for these illegal miners:

> "I am always proud when I talk about the artisanal miners of gold. In the month of July, the artisanal miners produced more gold than the large-scale producers at 1.2 tonnes … That is what we call entrepreneurship."[104]

Entrepreneurship indeed: the Mugabe government began disbursing a $50 million loan, ostensibly sourced from Sakunda, to fund companies that produced mining and mineral processing equipment for small scale miners. The aim was to offer small scale miners equipment, plus $15,000 in start-up capital.[105] In addition, the government identified one million hectares of protected mining land across the country for distribution to small-scale miners in all provinces. Deputy mining minister, Fred Moyo, urged women to join the gold rush. "Just rush and go in and peg like everyone else", he said. In the same report, Zimbabwe Miners Federation president, Aplonia Munzverengwi, said that miners were already illegally mining the reserved areas.[106]

Support for illegal and environmentally destructive artisanal mining has continued and increased under Mnangagwa's new dispensation. In April 2018, John Mangudja said that the government had managed to increase the artisanal mining Gold Development Initiative Fund, organised by the Reserve Bank, from $80 million the previous year to $150 million in the current year.[107] According to the report, 240 miners had benefitted from the fund, which translates into an average allocation of over $330,000 per miner. Again, the public has been kept in the dark about the source of funding, who received grants and loans, how much was paid out, what was paid for, on what terms, and how, if or when it would be repaid. Sound market principles are all but absent from the shadowy links between senior ruling party politicians and the hordes of illegal artisanal miners who wreak havoc on the environment.

- Youth Funds

Since 2014, the government's Youth Development Fund has invited controversy. That it was used to 'empower' youths affiliated to the ruling party, supposedly though income-

[102] NewsDay, 21 May 2012, Free jailed panners: Minister
[103] The Herald, 12 September 2016, Stop arresting gold panners: RBZ boss
[104] NewsDay, 28 August 2017
[105] The Sunday News, 23 July 2017, Government rolls out $50 towards small-scale miners capacitation
[106] The Herald, 20 July 2017, Government to distribute land to small-scale miners
[107] The Sunday Mail, 29 April 2018, Artisanal miners draw down $80 million to increase production

generating projects, has not been in doubt. Rather, it was that 'loans' were never repaid into what was supposedly a revolving fund set up with the support of major Zimbabwean companies. Despite the avalanche of criticism, further youth funds were made available in 2015 under the so-called Localised Empowerment Acceleration Facility. By 2017, a Parliamentary fact-finding mission failed to find functional projects run by those who had accessed a $40 million youth fund.[108] I turned out, though – amidst numerous reports of funds being allocated to party-connected youths for their own purposes – that sports and recreation minister, Makhosini Hlongwane, who was no longer a 'youth', received $33,000.[109] The only defence for missing funds mounted by youth development, indigenisation and economic empowerment minister, Patrick Zhuwao, was that Members of Parliament who owed $3 million in unpaid debt were accusing youths of having abused the youth fund of "a small amount of money compared to theirs."[110]

Unchastened by this history of the party's abuse of funds, the new Mnangagwa government has established a follow-up $12 million youth fund. There was no disguising that the fund had been ring-fenced for ZANU-PF youths. The announcement was made by the party's deputy secretary for youth affairs in the Politburo, Lewis Matutu. At the launch of President Mnangagwa's *#EDhasMyVote* campaign in the Midlands, he said that the loans would be issued by the Empowerment Bank.[111] The questions that arise in the public mind are: what is the 'Empowerment Bank', how was it established, what is its mandate, how is it funded, who authorised the loans to youth; plus all the other questions about the identification and selection of beneficiaries, the application of funds, and the repayment mechanisms. Maintaining such an opaque youth fund speaks not of a 'new dispensation' based on sound economic policies, but rather the reliance on the tried and tested perpetuation of patronage.

- Assuming state-owned enterprise debt

"Ziscosteel and Shabanie Mines are part of our 100-day plan and they should be open within that period. We are working on it," Mnangagwa said in January 2018.[112] After a decade of failure to find financiers to revive ZiscoSteel, the President might have been more circumspect. The mine is still not open. Any prospect of reopening the iron and steel works rests on the government's now familiar 'resuscitation' strategy. First, Chinamasa said that the government would "need to free the Ziscosteel balance sheet [of its] 'historical baggage' liabilities" while "engaging a new investor".[113] Next, having apparently found a Chinese investor, R&F, to inject $1 billion to revive the steelmaker; commerce minister Mike Bimha

[108] The Herald, 10 May 2017, $40 million Youth Fund beneficiaries vanish
[109] The Herald, 12 May 2017, Minister in Youth Fund storm
[110] The Herald, 19 May 2017, Zhuwao defends Youth Fund defaulters
[111] The Herald, 30 March 2018, Government avails $12 million youth facility
[112] NewsDay, 15 January 2018, Mnangagwa vows to resuscitate ZiscoSteel
[113] New Zimbabwe, 27 November 2015, Government fires Zisco staff, take $700 million debt

suggested, with a straight face, that Zimbabwe could export $1 billion worth of steel.[114] Then, third, the *coup de grace*, the gazetting of the Iron and Steel Company (Debt Assumption) Bill, allowing the government to take over Zisco's $494 million debt[115] – and passing it on to the taxpayer.[116]

One need not be an economist, but simply an informed observer, to question both the Mugabe government's and Mnangagwa's obsession with resuscitating ZiscoSteel when global steel markets are roiling from Chinese over-production and its dumping of steel products at below cost. The United States has already responded by imposing sanctions on China and Europe to resuscitate its own steel industries. In such a depressed global environment, why would a Chinese company want to invest in Zimbabwe? Why are Zimbabwe taxpayers being asked to pay half a billion dollars to clean ZiscoSteel balance sheet for an unfamiliar foreign company to benefit from exploiting our resources? Or, as many taxpayers suspect, are there clandestine connections between Chinese investors and senior politicians who stand to benefit? Sound economic policies and market principles do not involve investment decisions made behind the closed doors of the Office of the President and Cabinet. It calls for a thorough cost-benefit analysis on the economic viability and opportunity cost of reviving ZiscoSteel; the finding funding alternatives to burdening taxpayers; and if economically justifiable, a transparent and internationally competitive tender process, underwritten by reputable international organisations, whose integrity lends credibility to a process that is beyond dispute. Anything less will dent any investor confidence that 'Zimbabwe is open for business'.

- Privatisation

Section 10 of the investment guidelines suggested that the government was keen to dispose part of its shareholding to the private sector. Foreign investor would be forgiven for believing that whole companies would be up for grabs. What the government actually meant was that a 'part' of each state-owned enterprise would be privatised. Foreign investors would thus be joint shareholders with government. In April 2018, the finance minister presented a statement on the cabinet decision on state enterprise 'reform'. The term 'privatisation' was not used for good reason. Only two small state-owned companies are to be privatised. Four companies are to be liquidated; though the government will be careful to retain two radio licences. The government will retain its minority shareholding in three companies, and embark on the 'partial privatisation' of 28 others; though it is unclear what this means in terms of shareholding. There will be no change in four other parastatals or the research institutes. The remainder of the statement addresses the rationalisation

[114] NewDay, 20 October 2017, Zisco can generate $1 billion annually
[115] The debt consist of $218 million in external loans and suppliers; $220 million to domestic supplies, utilities, etc. and $57 million in domestic loans.
[116] The Herald, 29 January 2018, Government gazettes Zisco Debt Assumption Bill

(rather than reform) of state parastatals and regulatory authorities, including various merges of government organisations and the reincorporation of others into line ministries. Some of these organisation changes will help streamline the regulatory environment, especially if the new merged organisations can be professionalised.

However, the government's aim is evident. The opportunities for investment that it presents in its guideline are, in fact, joint ventures and strategic partnerships in its state-owned enterprises. These include companies falling under the umbrellas of the Industrial Development Corporation of Zimbabwe (IDCZ), including companies ruined by government's own mismanagement, such as the Willowvale motor assembly plant. Likewise, the Zimbabwe Mining Development Corporation (ZMDC) is seeking joint venture partnerships to resuscitate its defunct gold and other state-owned mines across the country, including Sandawana, Jena, Elvington and Lynx mines.[117]

The Mnangagwa government is simply unable to grasp the nettle of privatisation and imagine a market economy driven by the private sector. It wants its cake and to eat it too. It wants foreign investment to resuscitate its bankrupt state-owned enterprises, but which still remain under its control. Until it can exorcise its state command-and-control mentality and embrace economic reforms that are genuinely founded on market principles, its prospects of attracting foreign direct investment will remain minimal.

- A Competitive Private Sector

While finance minister Chinamasa seemed to recognise that the country's competitiveness hinged on 'inefficiencies in the goods, labour and financial markets'[118] his policies to promote competitiveness focused not on markets, but on trade. His misplaced idea of competitiveness – shared by his cabinet colleagues, including Mnangagwa – was to embark on an import substitution policy. In breach of Zimbabwe's international trade obligations under the SADC Free Trade Area and the African Continental Free Trade Area, the government raised tariffs and imposed import bans by gazetting Statutory Instrument 64 of 2016. The minister reasoned that making imported goods *more expensive for consumers* would 'level the playing field' and thus make inefficient Zimbabwean companies more 'competitive' and create employment. His complementary industrial policy was to 'resuscitate' local companies, not through private investment and capital markets, but by pumping government funds – and Zimbabwe's limited foreign exchange reserves – into stagnating state-owned enterprises, command agriculture, and informal small-scale sectors, like mining.

[117] Sunday News, 6 May 2018, ZMDC seeks partners to revive key mines
[118] The 2016 National Budget Statement, presented to the Parliament of Zimbabwe on 26 November 2015, paragraph 460

The government's indigenisation policy also restricts market competition to protect local businesses. Although significant amendments were made to the Indigenisation and Economic Empowerment Act,[119] it still protects Zimbabweans from foreign competition in 12 'reserved' sectors of the economy, which encompasses passenger transport, the retail and wholesale trade sectors, grain milling, tobacco processing, artisanal mining, and others. The government is also determined to implement a 'local content policy', which tops the ruling party's election manifesto agenda for 'broad-based empowerment initiatives'. This policy has been sold as a 'smart' protectionist measure, where manufacturers will be required to buy a portion of their inputs from local suppliers, irrespective of the quality or the price of inputs.

These policies, which restrict competitive markets, will prove self-defeating. First, trade restrictions that keep local companies in business will not only prejudice consumers who must pay higher prices for shoddy goods, but goods produced locally will be uncompetitive on global markets. Zimbabwe's inability to export will thus widen the trade deficit and exacerbate the foreign currency shortages. Second, by shutting out foreign competition from reserved sectors, Zimbabwe will be depriving itself of the capital, skills and innovations that are required to create jobs, improve productivity, drive down costs, and ultimately benefit Zimbabwe and Zimbabweans. And, third, a local contents policy that *requires* business to source costly inputs from inefficient local business will raise the costs of production that will prejudice consumers and Zimbabwe's export competitiveness.

There are indications of a policy review. Amidst the regional furore and the threat of retaliatory action from Zambia and South Africa, Zimbabwe repealed many of its import restrictions and bans by passing of SI 122 of 2017. Minister of industry and commerce, Mike Bimha, has also said that the government will review its industrial protectionist policies to foster local competition with businesses investing in Zimbabwe.[120] We await specific measures.

- Ease of Doing Business Reforms

One of the unique selling points touted to attract potential investors, according to the guidelines, are pro-market policies that government is implementing, especially 'ease of doing business' reforms. The credibility of this promise, unfortunately, has been dented by past unfilled promises. In his 2016 Budget Statement, finance minister Chinamasa said that the implementation of ease of doing business reforms had been scaled up and were being driven by the Office of the President and Cabinet, under the Rapid Results Approach, for which various thematic groups had been established. Such was the imperative to achieve success that none other than Vice-President Mnangagwa himself was tasked to head this

[119] Amendments to Section 42 of the Finance Act in Government Gazette Extraordinary dated 14 March 2018
[120] Sunday News, 29 April 2018, Government to review policies that protect local industry

inter-ministerial committee. Making himself a hostage to fortune, Chinamasa set a target date of March 2016 for the overall *completion* of all major doing business reforms. His second target was to see Zimbabwe's ease of doing business ranking move up from 155 in 2016 to 100 in 2017. But rather than moving up 55 places by October 2017, Zimbabwe had slipped 2 places to 159 out of 190 countries: being the worst-placed country in southern Africa.[121]

Noting in his 2016 Budget Statement that power was one of the main cost drivers militating against a competitive business environment, the finance minister pointed out that for the 'getting electricity' indicator for ease of doing business, Zimbabwe scored 0 out of a possible 8 points.[122] One of the prime reasons for Zimbabwe's pitiful ranking is that the Zimbabwe Electricity Supply Authority cannot cut off supplies to favoured clients and sectors. It is currently owned a staggering $1 billion by defaulting users. Only when political heavyweights fall from favour, and the tide goes out, is the extent of their impunity revealed. Didymus Mutasa owed $70,000. Ambrose Mutinhiri, leader of the new political party National Patriotic Front, and Kudakwashe Bhasikiti, the former Masvingo Provincial Affairs minister, have been taken to court over outstanding electricity bills for $54,000 and $133,663 respectively. Paddy Zhanda, the former deputy agriculture minister, owed over $200,000.[123] Overall, farmers' outstanding electricity bills now stand at $180 million.[124]. As long as the Mnangagwa government selectively prosecutes opponents and grants impunity to their cronies, there is little reason to believe that their vaunted 'ease of doing business rating' will improve or, indeed, convince wary foreign investors. Meanwhile, the Reserve Bank had to scramble to find $43 million in foreign exchange to pay part of the $120 million it owes for imported power supplies.[125]

- Governance

One of the investment guideline's key principles is to pursue high standards of governance by combating corruption at all levels. Here is another government promise repeated each time another incident of high level corruption involving senior politicians is exposed. In his 2016 Budget Statement the finance minister reiterated, in all earnestness, the government's 'zero tolerance of corruption in all sectors of the economy.' There is a credibility problem, however, of the pot calling the kettle black. It is laughable, were it not so serious, witnessing allegedly corrupt ministers in Mnangagwa's cabinet lecturing others on the evils of corruption[126] – just as former senior minister, Ignatius Chombo once did,[127] or former Police Commissioner, Augustine Chihuri.

[121] The World Bank, Doing Business Rankings, as at June 2017
[122] This indicator includes the reliability of electricity supply, transparency of tariffs, and price of electricity.
[123] Zimbabwe Independent, 30 January 2015, Cabinet ministers bleeding ZESA outed
[124] Financial Gazette, 3 July 2017, Farmers electricity debt rises to $180 million in four years
[125] The Chronicle, 8 May 2017, Eskom give ZESA ultimatum over $43m debt
[126] Daily News, 26 February, 2018, Laughter as Mpofu says Government won't tolerate graft

In his 2016 budget statement, Chinamasa said that, 'corruption has permeated the very fabric of our national life and character, and is now in our blood as it were.' [para. 1356] In fact, the minister's word came precariously close to the truth. Corruption in not 'out there' involving a few and particularly 'bad apples' who can be flushed out by anti-corruption strategies, commissions, special courts, and, most recently, Mnangagwa's own Special Anti-Corruption Unit housed in the Office of the President and Cabinet. This is because corruption *is* the life blood of the ruling party's patronage system. As Robert Bates observed in the 1980s,[128] patronage is deliberately camouflaged by opaque and obfuscating administrative systems and lax procedures to allow patronage to flourish and corruption to fester. How was it that Sakunda, a huge company which ostensibly financed the $200 million Command Agriculture programme, did not keep a basic and transparent account of deliveries to farmers and ensure that farmers signed stop orders against deliveries to the Grain Marketing Board (GMB)? Another potential scam involves the $140 a tonne government-controlled discount at which the GMB sells maize to millers. Millers can simply resell the grain through a 'farmer', who then re-delivers it to the GMB to make a $140 a tonne premium. As grain is continually recycled, everyone in the chain receives their cut.

These and other loopholes are set to remain in place as the Mnangagwa government will again use Sakunda to distribute inputs for Command Agriculture. It will also maintain the current maize and milling pricing structures.

4.5 Sound Economic Principles

The investment proposals make a promise of yielding a properly run national economy based on sound market principles.

- Debts obligations

One of the basic principles of a properly run economy is the timely repayment of debts. As part of the government's investment policy thrust, it promises to fully service its domestic and foreign debt. As at June 2016, Zimbabwe's debt stood at $11.2 billion dollars of which $7.2 billion is owed to external creditors, and 4 billion is owned domestically.[129] This total debt, which stands at 70 percent of GDP, is uncomfortably high for a stagnating economy. Other worries include the high proportion of debt arrears, especially the amounts owing to the World Bank group; the fact that solemn promises of repayments have gone unfulfilled over the past three years, and that it is not clear that the government's balance sheet includes all its liabilities.

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[127] Sunday News, 27 November 2016, Corrupt officials destroying ZANU(PF) - Chombo
[128] Bates H.R. (1981): Markets and states in tropical Africa: The political basis of agricultural policies. University of California Press, Berkeley.
[129] IMF Statement by the Executive Directors for Zimbabwe, 7 July 2017, IMF Country Report 17/196

Zimbabwe is a pariah in the international financial community and cannot borrow from foreign creditors because nearly 70 percent of its external debt ($5.2 billion) is in arrears. Of this amount, $1.2 billion is owed to the World Bank and $600 million is owed to the African Development Bank, a member of the World Bank group. Zimbabwe is required to first clear the World Bank group's debts before it can borrow fresh capital or enter into negotiations for debt relief (or rescheduling) from its other external creditors. In October 2015, Zimbabwe presented its debt clearance plan to international creditors on the side-lines of the IMF and World Bank annual meeting in Lima, Peru. But Zimbabwe's plan was not to pay and reduce the debt itself, but to simply borrow from other creditors to repay the World Bank. First Algeria, then Afreximbank and Lazard were apparently willing backers. When these deals fell through, it was reported that the Trafigura Group had agreed to meet the repayments. This report, however, proved unfounded. No change in Mnangagwa's debt clearance strategy is yet in evident; just a forlorn hope that a new financier, Standard Chartered Bank, can be won over.[130] Investors' doubts persist.

Another concern for investors is the amount of information disclosed on the government's balance sheets. How does government debt suddenly rise, for example, by $500 million dollars? It was because the government will assume ZiscoSteel's debts. In 2015, President Mugabe used the Presidential Powers Act to force government to take over the $144 million debt owed by Premier Service Medical Aid Society,[131] which has been racked by scandal and corruption. This raises the question about how many other deeply indebted state-owned corporations will have their balance sheets cleaned by the government to pave the way for international investors. The debts owed by state-owned enterprises are staggering, and include: the National Railways of Zimbabwe ($323 million), Hwange Colliery ($350 million), Air Zimbabwe ($300 million) Zimbabwe Road Administration ($206 million), National Oil Company ($108 million), to name a few. But these debts pale in comparison to the massive undisclosed government debt owed in compensation – to be paid domestically and externally – for seized farms. Once these real and contingent liabilities are properly reflected in the government's balance sheet, total debts can expect to at least double to an unsustainable – and certainly unpayable – 140 percent of GDP.

- Public Financial Management

Another important facet of a properly run economy is the government's prudent public financial management, especially a firm control over the budget deficit to ensure macro-economic stability (i.e. the control of inflation). The problem for the Mnangagwa government is that expenditure patterns, vis-à-vis revenues, have continued along the same unsustainable trajectory as before. Even though, as of September 2017, the budget deficit

[130] Zimbabwe Independent, 6 April 2018, New debt plan on the cards
[131] Presidential Powers (Temporary Measures) Act under Statutory Instrument (SI) 77 of 2015

stood at $1.8 billion[132] the IMF and Econometer Global Capital have warned that continued increases in government expenditure will continue to far outweigh the growth in revenue, resulting in a dangerously widening budget deficit. By issuing Treasuring Bills and borrowing from the Reserve Bank to finance its budget, the banking sector's has put itself at risk to over-exposure to government debt, which now stands at more than 33 percent of total assets; up from a mere 4 percent a few years ago. Despite the IMF warnings, Mnangagwa's gaffe-prone deputy finance minister, Terence Mukupe, flippantly asked, "Why are we printing the TBs? We do not have the International Monetary Fund (IMF), so we have to create our own IMF."[133]

Recent pronouncements suggest that the President's financial men are not heeding the IMF's advice. In a recent article, the Reserve Bank Governor called for fiscal expansion – more government expenditure – and importing still more cash into the economy in a bid to increase production. This expansionary fiscal stance can only mean more domestic borrowing, an increase in Zimbabwe's debt burden, and a further widening of the budget deficit that will almost certainly fuel inflation. As inflation rises, a necessary rise in interest rates will reduce the small window of loans to the private sector and, thereby, cut off one potential driver of economic growth.

When estimating inflation, it is safe to ignore Zimbabwe statistical agency's estimate that the Consumer Price Index increased by 2.68 percent between March 2017 and March 2018.[134] By comparing the spread of the Old Mutual share price between Harare and London, Steve Hanke of John Hopkins University estimated that Zimbabwe's inflation was 333 percent, not the official 0.78 percent.[135] There is every indication that the government believes that inflation somehow lies outside the economic system, that it is driven by greed and profiteering, and that it can be addressed by administrative fiat. In December 2017, after the military takeover, the minister of industry and commerce, Mike Bimha, seemed surprised that the recommendations of the government's 'inter-ministerial task force on price increases' had failed to end the scourge of price increases.[136] As if to underline this belief, it was reported that businesses were continuing to defy a recent *directive* by President Emmerson Mnangagwa to stop *unnecessary* price increases.[137]

The upshot of persistent inflationary pressure under the government expansionary economic policies is the inevitable decline in purchasing power, the demand for wage increases, and the deleterious effects of strike action. Doctors and nurses strikes have been

[132] Daily News, 15 April 2018, Don't lend government, banks warned
[133] NewsDay, 8 December 2017, Government smart funding command agriculture
[134] Financial Gazette, 17 April 2018, Zimbabwe's inflation recedes
[135] The Standard, 28 October 2017, Zimbabwe's inflation puzzle
[136] NewsDay, 8 December, Bimha fumes over price increases
[137] The Standard, 1 April 2018, Prices of basics remain high

faced down by government, and teachers, demanding a doubling of their wages, have threatened to strike. The Zimbabwe Congress of Trade Unions (ZCTU) called for a general strike to protest against the government's disregard for workers. At a time when salaries and wages are devouring virtually all government revenues, the government has offered 30,000 war veterans a 10 percent rise and 15 percent increase in civil servants' pay packets.[138] Undeterred, Chinamasa announced the re-engagement of thousands of national youth officers – known as 'green bombers'.[139] Not only will this widen the budget still further, but these hirelings are accused of supporting the ruling party through intimidation in the rural areas in run up to elections.

- Exchange control

In a well-functioning market economy, a currency is generally allowed to float and is traded on foreign exchange markets. Having adopted the US dollar as its currency, Zimbabwe should, in theory, be able to trade it openly. The investment guidelines seem to suggest that, due to the liberalisation of the current (trade) account, investors would be free to make cross border payments – presumably for purchases of equipment, spares and materials – without the Reserve Bank's Exchange Control approval. Reality, though, is different. Since the Reserve Bank took control of the country's foreign currency, its self-serving 'priority' allocations have, predictably, resulted in severe shortages of hard currency – with dire consequences for the economy. According to the Confederation of Zimbabwe Industries (CZI), the foreign currency backlog stood at US$600 million in April 2018.[140] Despite the central bank's drawdowns on the $1.1 billion Afreximbank stabilisation facility, production at the country's largest coal miner Makomo Resources plunged 36 percent on the back of serious shortage of foreign currency to import spares.[141] Another international company, Delta Corporation, complained of the Reserve Bank's inability to provide it with foreign exchange to import essential Coca Cola concentrates and resins to maintain production.[142]

The investment guidelines claim that 'dividends are freely remittable' rings equally hollow. The document states:

> Due to the liberalisation of trade and investment transactions, foreign investors can now freely remit investment income such as dividends and profits realised from their investments to various destinations without seeking prior Reserve Bank approval. Request to remit investment income to external destinations are handled at Authorised Dealer (bank) without coming to the Reserve Bank. (p.14)

[138] The Herald, 15 May 2018, Government ups civil servants pay offer
[139] NewsDay, 12 April 2018, 3,200 'Green Bombers' bounce back
[140] The Independent, 13 April 2018, Forex backlog hits US$600m
[141] The Herald, 26 March 2019, Makomo battling $10 million forex hole
[142] The Herald, 30 April 2018, Forex shortages hamper Delta

In a move to facilitate the repatriation of dividends by foreign investors, the Reserve Bank established the Portfolio Investment Fund. But, by October 2017, the backlog in dividends awaiting remittance to international shareholders had reached $75 million. British American Tobacco (BAT) International Holdings (United Kingdom) Limited, has not been granted permission to remit around $10 million to shareholders, nor $5.5 million due to international suppliers.[143] Volumes on the Zimbabwe Stock Exchange have fallen to record lows as investors experience delays in the remittance of capital. Underlining the seriousness of these defaults, Exim Bank of India representative Sanjay Lamba said, "In all discussions … we should be talking of ease of remittance out of Zimbabwe. This has been a major stumbling block for investors wishing to invest in Zimbabwe."[144]

Accounting for the foreign exchange shortages, the Reserve Bank and the government coined a new word: 'externalisation'. Soon after coming to power, in December 2017, President Mnangagwa declared a three-month moratorium for 'looters' to repatriate funds that they had allegedly externalised into foreign banks under spurious transactions. "There should be no sacred cows," the President thundered. "My government will have zero tolerance towards corruption."[145] When D-Day arrived a fortnight later, the President made public a list of 1,844 firms and individuals who had apparently externalised an estimated $1 billion. A disenchanted president of the Employers' Confederation of Zimbabwe, Matthew Chimbghandah, said, "This is not what we expected from the new dispensation." To list those companies who had not completed their acquittals as 'externalisers and looters', he said, was a mockery.[146] The old habit of pointing accusatory fingers at phantom economic saboteurs clearly remains an integral part of the new dispensation's toolkit.

4.6 Protection of Investment and Property

- Offer letters

Constitutional Amendment 17 in 2005[147] stated that all commercial farms that had been identified for resettlement purposes in the government gazette were automatically acquired by the state. It specifically abrogated the farmers' constitutional right to challenge the acquisition in court, or on the grounds that the dispossession was discriminatory. Britain was made responsible for compensating dispossessed farmers for the land, while Zimbabwe took responsibility for compensation for farm improvements only. The amendment gave notice that an Act of Parliament would make it a criminal offence for any person, including the former farm owner, to occupy the farm without lawful authority. That Act was the Gazetted Land (Consequential Provisions) Act of 2006. It identifies a government issued

[143] Financial Gazette, 1 March 2018, BAT fails to remit $15 million for dividends and raw materials
[144] Business Daily, 21 May 2018, Failure to remit funds scares away Zimbabwe investors
[145] Fin24, 2 March 2018, No sacred cows in fight against corruption, vows Mnangagwa
[146] The Independent, 29 March 2018, Emcoz blasts externalisation list
[147] Incorporated as Sections 16B of the former Constitution and Section 72 of the revised 2013 Constitution

‘offer letter’ and 99-year leases as ‘lawful authority’ to occupy farms that had become state land.

White commercial farmers could remain on their farms i) in the unlikely event that their farms had not been gazetted; ii) the equally improbable event that they received an offer letter or 99-year lease from the government; iii) keeping a low profile in the hope that a black Zimbabwean was not handed an offer letter over their farm; iv) if their farm was ‘spared’ because it had strategic importance, such as being a dairy. This had no legal basis; only the protection of senior politicians. Supplementary strategies included doing good deeds for workers and the surrounding community, and keeping in the good books of the ruling party.

An offer letter is issued by the Ministry of Agriculture, Lands and Rural Resettlement on ‘gazetted land’ to the person named in the letter. There is no evident that these letters were based and issued on any objective criteria. Multiple land allocations show quite clearly that ministry officials, on the advice of ‘land committees’, issued them to senior party and government officials, including the judges, military officers and senior civil servants on the basis on party affiliation without any transparency, accountability, or due administrative process to ensure land was fairly allocated. A simple ‘offer letter’ was sometimes accompanies by an invasion, with a view to ejecting the owner in order to take over the farm lock, stock and barrel – including crops.

Although the offer letter is the state’s authority for a black Zimbabwean to take over the livelihood, life’s work and assets of another citizen, who happens to be white, it provides no security of tenure at all for the new occupier. The offer letter ends thus:

> The Minister reserves the right to withdraw or change this offer if he deems it necessary, or if you are found in breach of any of the set conditions. In the event of a withdrawal or change of this offer, no compensation arising from this offer shall be claimable or payable whatsoever.

Here we witness a state that justifies its imperious control and arbitrary power over land without any apparent thought for the perverse investment incentives that arise from an absence of property rights. Since the land belongs to the state, there is, of course, no way in which its value can be used as collateral; nor can it be sold so that investors can benefit from the investments sunk into the property; nor can it be passed down to family members to inherit the owner’s accumulated assets. All the incentives for investment, production, innovation and productivity growth have been stripped away.

- Executive Prerogative

The casual exercise of the Executive’s prerogative to acquire, allocate, retake and redistribute agricultural land to whomsoever it chooses only serves to deepen anxieties, especially of those outside the protection of the ruling party, and reduce still further any remnant of secure tenure that would encourage investment.

At a rally in July 2017 in Marondera, President Mugabe first said that remaining white farmers should be removed. “We are going to take those farms and re-distribute them to our youths,” he said. Then, suggesting that there was not enough land for everyone, he turned on small-scale farmers. “We are also going to take away the land from small scale purchase farmers who are not utilising those farms for re-distribution,” he said. Unmindful of his many farms he himself owns, Mugabe then turned on party officials. “Many of you have multiple farms that you are under-utilising. We are doing an audit of those farms and we are going to give them to people who have no land who can utilise those farms,” he said.[148] Nobody is safe. Everybody is insecure. But has anything changed? With the equanimity of his former President, agriculture minister, Perrance Shiri, threatened to repossess land from farmers who let their livestock roam unattended. “Farmers who continue to be a problem,” he said, “risk having their offer letters withdrawn.”[149]

- 99 year lease

Most farmers want secure and transferrable title. The best the Mnangagwa government can offer are state leases, with the unfilled promise of making them transferrable. The problem with 99-year leases is that the state’s rights and duties vis-à-vis those of the lessees regarding are no less one-sided than resettlement permits and offer letters; they grant virtually all the powers and rights to the state, and most of the obligations and duties to the lessee. The lessee, for example, would be required to prepare a five-year development plan that must be approved by the authorities; pay an annual rent for the improvements on the property over 25 years; establish a homestead; fence the property; ensure there are water supplies and accommodation for employees; and to start production. The government, for its part, can increase the annual rental by such ‘reasonable amount’ as it may determine; reserves the right to terminate the lease where, in its opinion, the lessees fails to meet any conditions of the lease, fails to manage the farm properly, or meet their financial commitments. The state, of course, has zero capacity or expertise to properly administer or evaluate the lease. What it possesses, though, is the arbitrary power – that is essential to the patronage system – to threaten recalcitrant political foes or economic ‘saboteurs’ for the slightest infringement of the conditions of the lease: such as ‘roaming cattle’.

The promise to issue bankable 99-year leases have been made for at least a decade. Recognising the central problem, the MDC finance minister, Tendai Biti, said in his 2012 budget statement, ‘Speedy surveying of farm sub-divisions and issuance of bankable leases

[148] News24, 4 June 2017, Mugabe to kick out all remaining white farmers, says Zimbabweans need land. http://www.cfuzim.org/
[149] Daily News, 28 April 2018, Errant farmers risk losing land

creates value for the land, as well as assures farmers of clarity over their property rights and security of tenure.' By 2013, an editorial from the state-media put the issue succinctly:

> The *non-transferability* of 99-year leases remains the single biggest impediment to efforts to the land use contracts acceptable as security for bank loans to fund initiatives aimed at rejuvenating agricultural production and productivity.[150]

But the government steadfastly refused to consider any change to make leases transferrable and bankable.[151] The endless reports of changes, breakthroughs and announcements – including those by finance minister, Patrick Chimasa – that 99-leases have been made bankable, hold no water.

In February 2018, Mnangagwa's investment charm offensive included the announcement that it would extend 99-year leases to the remaining 200 or so white farmers. No sooner had Reserve Bank Governor, John Mangudya, claimed that bankers had agreed to accept 99-year leases after government had apparently 'tweaked' them to be transferable and bankable,[152] when his claim was contradicted. The fact remains that the state owns farms under 99-year leases; that these properties cannot be disposed of to third parties in case of bank loan defaults; that the government can, at its discretion, and at any time, *de facto*, repossess the farm; and, as such, the 99-year leases remain untransferable, unbankable and, ultimately, a highly insecure right in property.[153]

A further question is whether the government has the capacity to issue and administer 99-year leases. During 2017, just two 99-year leases were issued.[154] It would also be assumed that if 99-year leases conferred strong property rights, that many senior officials and politicians who only have 'offer' letters would want 99-year leases. However, this is not the case.

- Protection of investments

The investment guidelines place strong emphasis on streamlining the legal frameworks for investment by applying good international standards and practices to protect foreign investments. These include, on the one hand, Bilateral Investment Promotion and Protection Agreements (BIPPAs) and, on the other, compensation in accordance with international law.

The signing of BIPPAs is, of course, not new. Many of these agreements were signed before the land invasions began in 2000. The finance minister stressed their importance in his 2016

[150] The Herald, 9 December 2013, Resolve the 99-year lease impasse
[151] The Herald, 3 April 2014, Government won't alter 99-year leases: Mombeshora
[152] The Herald, 8 February 2018, 99-year leases now bankable, transferable
[153] The Independent, 9 February 2018, Government's lease somersault no respite for white farmers.
[154] NewsDay, 20 December 2017,

Budget Statement, when he served under the Mugabe administration. In a similar vein to Mr Chinamasa's statement, President Mnangagwa's investment guidelines emphasise the government's exiting treaties with countries and reiterates its firm commitment to continue negotiating BIPPAs with other countries. Their shared aim has been to build investor confidence by demonstrating Zimbabwe's commitment to creating favourable conditions and a secure environment for investment. The investment guidelines promise to respect its obligations under BIPPAs in line with international best practices. To this end, Zimbabwe is a signatory to a number of international investment protection agreements, including the Convention on Settlement of Investment Disputes which established the International Center for the Settlement of Investment Disputes (ICSI D), mentioned earlier.

The government's difficulty when touting Zimbabwe as a safe and secure investment destination is that the ruling party's storm-troopers ran roughshod over foreign farm investments covered by BIPPAs after 2000. The government folded it arms and did nothing to prevent foreign farms being invaded. And, instead of being graciously forthcoming and making *prompt* and *adequate* compensation – as BIPPAs and international law requires – Dutch farmers and a German family, the von Pezolds, had to drag the Zimbabwe government to the very international tribunal, the ICSID, which Zimbabwe's investment guidelines now hold up as an example to foreign investors as proof of its integrity. After six years of failing to honour these international payments, the compensation payable to the Dutch farmers had risen to over $25m.[155] Even as Mnangagwa government tries to woo investors, it is facing the ignominy of fending off Dutch farmers who are seeking to attach Zimbabwe's state assets abroad in the hope of squeezing compensation out of an incorrigible government.

The investment guideline also commits the government to protect all foreign investments from expropriation. In the unlikely but possible event that the investor's property needs to be acquired by government for public purposes, then *prompt, adequate* and *effective* compensation will be paid to the investor in accordance with national laws and the principles of international law. The irony is that the 'prompt' and 'adequate' provision for effective compensation were the very international requirements for compensation that Mugabe constitutionally amended in 1990 – much to the chagrin or the British Foreign Secretary – and replaced with 'fair' compensation in a 'reasonable time'. As the 1990 amendment still stands today in Sections 71 and 72 of Zimbabwe's constitution, it is unclear how the Mnangagwa's investment guidelines can promise 'prompt' payment in terms of international law. It would require another constitutional amendment.

[155] The Source, 5 June 2015, US court upholds $25 million compensation award to Dutch farmers against Zimbabwe banks, firm over seized land

4.7 Property Rights and the Rule of Law

There were scenes of jubilation when Rob Smart and his son, Darryn, and their workers returned to Lesbury Estates in Headlands, ahead of Christmas 2017. News came in early December from the Mnangagwa administration that they could return to their farm. Special advisor to the President, Chris Mutsvangwa said, “These farmers are Zimbabweans and they belong to Manicaland province.” He added that the country now needed direct investments to boost the economy.[156] Mutsvangwa’s assertion that Smart and others had been victims of racial discrimination, greed and abuse of power, and that their farms were acquired outside the parameters of the rule of law, seemed to signal a sea change in the rule of law and property rights.[157] Foreign affairs minister Sibusiso Moyo went on to say that President Mnangagwa’s administration was alive to Zimbabwe’s failure to observe property rights under former President Robert Mugabe, who had precipitated Zimbabwe’s isolation from the world. [158] One report suggested that white farmers were trickling back to their farms.[159]

The publicity surrounding Lesbury farm was greeted with a fervent hope that Mnangagwa would finally address the vexing question of land. As it turns out, though, the return of Smart’s farm was less a change of policy and more the propitious outcome of factional ruling party wars. Following Mugabe’s vitriolic speech in Marondera in early June 2017, when he had threatened to kick out the remaining white farmers, Mandi Chimene, the minister of state for Manicaland Province, flexed her political muscle by instigating the takeover of Smart’s farm. As a leading member and the G40 faction, Chimene’s political ambitions came up against two towering figures: then Vice President Mnangagwa and Chris Mutsvangwa, the chairman of the Zimbabwe National Liberation War Veterans Association (ZNLWVA). Chimene had not only had urged Mugabe to fire Mnangagwa but, in defiance of a court order, purported to have ousted Mutsvangwa and masqueraded as the elected chairperson of ZNLWVA. Despite Chimene’s frantic back-peddling when Mugabe fell, Mnangagwa dismissed her from ZANU-PF and Parliament. As always, the penalty for disloyalty to the party and the President is dispossession. So it was that Chimene’s fellow traveller, Bishop Trevor Manhanga, who had seized Lesbury Estate, was himself dispossessed, and the farm returned to Rob Smart.

Mutsvangwa apparently announced that: “Land reform is over. Now we want inclusiveness. All citizens who had a claim to land by birthright, we want them to feel they belong and we want them to build a new country because this economy is shattered.”[160] Such sentiments,

[156] News24, 7 December 2018, Evicted white Zimbabwe farmer to get land back as Mnangagwa government reverses decision
[157] News24, 8 December 2018, Evicted white Zimbabwe farmer ‘was victim of racial discrimination, greed and abuse of power’
[158] NewsDay, 25 April 2018, Zimbabwe ready for pain – SB Moyo
[159] NewsDay, 8 December 2017, White farmers trickle back
[160] ZimEye, 5 January 2018, Dark day for Mnangagwa as Zimbabweans act angrily over farm invasion

regrettably, do not pass for policy statements if they are contradicted by events on the ground. There has been no ‘trickle back’ of white farmers; only a continuation of further farm seizures. In January 2018, Shane Warth in Triangle was ordered to wind up his farming operations and hand over to a person who is purportedly related to lands and agriculture deputy minister, Davis Marapira.

In the Save Valley – also in January – the ruling party’s provincial leadership resolved to allow more than 15,000 settlers to remain in the Conservancy. ZANU-PF’s Masvingo provincial spokesperson said, “We will never support the prioritisation of animals over people. It is the government that resettled those people and it won’t make sense to reverse that in favour of the European Union position.”[161] Subsequently, the European Union agreed to provide $14.5 million dollars towards the recovery of the wildlife-rich Conservancy. But, in reply, Masvingo provincial affairs minister, Senator Josaya Hungwe, was hardly welcoming of the foreign investors that the President had been so assiduously pursuing in Davos. “I understand there are 27 conservators,” said Hungwe, “and only two of them are indigenous, and the rest are foreigners.”[162]

Elsewhere, Youths, Sports, Arts and Recreation minister Kazembe Kazembe was reported to have taken control of a 1,350-hectare farm belonging to Blackfordby Agricultural College, north-west of Harare.[163] The minister protested his innocence by furnishing an offer letter as proof of ownership. He and 14 other beneficiaries – mainly air force personnel – displaced a white farmer, Pip Madison, who had been contracted by the farm owners, Tetrad Bank. Madison was displaced following Mugabe’s outburst in June 2017 calling for and remaining white farmers be removed. The rump of 400 ha was left for the College’s use.[164]

But the most ominous sign of the Mnangagwa government’s inability or unwillingness to break with the past and uphold the rule of law and property rights came with the seizure of a flourishing ARDA seed farm outside Harare by Vice President Chiwenga’s wife, Mary.[165] Her actions not only fly in the face of Vice the President’s avowals of dealing decisively with corrupt Government and party officials,[166] but sabotaged the very protections that Zimbabwe had guaranteed in its investment guidelines. Few acts of impunity could have done more damage to mow down any emerging green shoots of investor confidence.

[161] NewsDay, 8 January 2018, Zanu-PF protects invades, blasts EU
[162] The Herald, 3 March 2018, $14.5 million for Save Conservancy
[163] Daily News, 25 April 2018, Minister grabs school farm
[164] Zimbabwe Independent, 9 June 2017, Military, Zanu-PF bigwigs invade Tetrad college farm
[165] The Independent, 20 April 2018, Elite corruption continues unabated
[166] The Sunday Mail, 2 April 2018, No sacred cows in fight against corruption: VP Chiwenga

Actually, there are also a few politically-motivated mining incidents that would also make potential investors shudder. The first incident, in January 2018, involved Zvishavane miner, Morgan Graham, who sued mines and mining development minister, Winston Chitando, in his official capacity over the illegal takeover of his 10 gold dump claims at Texas Mine. Graham accused the first respondent, Luckson Zondo, of using 'his political muscle and physical threats to force me to sell him my mine.'[167] In a second incident, in March 2018, former ruling party senator, Japhet Dube, sent a mob of youths to disrupt the operations of the 'West Nick Youth in Mining' (gold-mine) project near Gwanda, in an effort to take over the mine. In a third incident, also in March 2018, a ruling party MP, Mbizo Mupereri violently seized a Gaika gold mine from its owner, Carel Meyer. The owner sought an interdict from the courts against the illegal activities that violated his property rights. An independent press editorial condemned the 'mafia-like' seizure of the Gaika mine by members of the ruling party elite as 'yet another reminder that in Zimbabwe the authorities pay lip service to the rule of law while loudly proclaiming to the whole world that the country is "open for business"'. The government has, for its part, remained silence, never officially condemning any of these flagrant violations of property rights and the rule of law.

- SMM

As a bold demonstration to investors of the Mnangagwa's government goodwill and sense of justice, it could easily have returned Shabanie Mashava Mining (SMM) Holdings to its rightful owner, but refused to do so. In 2004, then justice minister, Patrick Chinamasa, declared SMM and its owner, Mutumwa Mawere, 'specified' persons under the Prevention of Corruption Act on allegations of foreign exchange 'externalisation'. Claiming that SMM was indebted to the government and, in terms of a conveniently enacted Reconstruction of State-Indebted Insolvent Companies Act, the government took control over Mawere's mines. Under government management, the mines had collapsed and ceased operations by 2008 and left 3,000 workers jobless.[168]

When, by 2010, the government could find no evidence against Mr Mawere, it revoked the specification against him and his companies. Mawere then sought the return of SMM at a Parliamentary Committee on Mines and Energy hearing in 2011. Veritas wrote: 'Mr Mawere's case is critical to renewed investor confidence in the rule of law and restoration of jobs in depressed areas.'[169] But, Chinamasa and then Defence Minister Mnangagwa (with whom Mawere fell out of favour) blocked the return, feigning ignorance over Mawere's exoneration. Chinamasa claimed that the state had taken over the companies purportedly

[167] NewsDay, 12 January 2018, Chitando sued over mine grab
[168] VOA, 4 January 2012, SMM pays workers, three years later
[169] Veritas, 2 January 2011, Bill Watch Special: Portfolio Committee on Mines and Energy to hear Justice Minister Chinamasa on 10th January

because SMM had not repaid government loans, which had since been converted into government equity. Mawere vowed not to give up the fight for his companies, saying:

> What I am fighting is a corrupt system that endorses laws that hinder progress in the country and rob what others have worked for. Unless and until such laws are repealed, then we shall continue to witness decay of the economy as well as the closure of companies and organisations, leaving Zimbabweans poorer and jobless.[170]

The Parliamentary Committee on Mines as well as legislators on both side of parliament specifically recommended to then Vice President Mnangagwa that SMM be returned to Mawere. Since Mnangagwa came to power last year, his mines minister, Winston Chitando, reiterated that the state-owned mining enterprise, Zimbabwe Mining Development Corporation (ZMDC), was the major shareholder in SMM; while cryptically refusing to name the minority shareholder.[171]

4.8 Being Zimbabwean

Zimbabwe's history and the ruling party's narrative on land are soaked in ambiguity. Words like 'unity', 'loyalty' and 'Zimbabwean' take on different shades of meaning depending on context and audiences. Section 72(7) of the Constitution refers to the 'people of Zimbabwe' having been unjustifiably dispossessed of their land and their right to regain ownership of it. Although this section makes no reference to race, 'Zimbabweans' does not mean citizens of Zimbabwe, but black Zimbabweans. Referring to Roy Bennett – a Zimbabwean citizen, a dispossessed farmer, and the MDC's former treasurer – Mugabe said to loud applause at a ruling party conference:

> The country belongs to you, not to the white people. It does not belong to Roy Bennett and others. These people are settlers. Even if Bennett and the others were born here, they remain the off-spring of settlers.[172]

Citizens therefore listened attentively to President Mnangagwa's inaugural speech when he said:

> I intend, nay, am required to serve our country as the President of *all citizens*, regardless of *colour*, creed, region, tribe, totem or political affiliation.

The return of Rob Smart's farm, Lesbury Estate, seemed to be a discernable signal of change for which a hopeful people were waiting in anticipation. The visit to Zambia soon afterwards by deputy finance minister, Terence Mukupe, gave credence to their hopes. He said that he had brought a simple message to the dispossessed white Zimbabweans now farming in Zambia. "Your country needs you," he said. "Let's press the refresh button and move forward to rebuild our nation." Having spoken to the farmers, he later added:

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[170] The Independent, 3 May 2012, SMMH grab: Mawere to re-engage Mbeki
[171] The Herald, 1 May 2018, Shabani Mine to create 2,000 jobs
[172] The Zimbabwe Times, 12 December 2009, Mugabe again lambasts UK and USA

> They want to take up our President on his clarion call that all well-meaning Zimbabweans will be given an opportunity in the rebuilding of our great nation. We are truly one Zimbabwe and we all want what's best for our nation.[173]

His use of the word 'Zimbabwean' sounded inclusive of white Zimbabweans. A UK report suggested that the Smarts' return was 'a sign of reform on an issue that had hastened the country's international isolation.' President Emmerson Mnangagwa, it continued, 'has promised to undo some land reforms.'[174] In February 2018 other international media organisation shared the promise to dispossessed farmers living abroad. The Times carried an article quoting agriculture minister, Perrance Shire, saying that white farmers would be offered 99-year leases.[175] A video put out by SA Today News, explicitly claimed that President Mnangagwa had invited exiled white commercial farmers to return home and take up 99-year leases that would be offered by his government.[176] An article by ABC News in Australia read: 'The Zimbabwe Government's message to exiled farmers is clear. Come home.' This statement came with a caption that read: 'Ninety-nine year leases will be offered to white farmers.'[177]

But any optimism was soon dashed. Amid the publicity of the possible return of white farmers, President Mnangagwa assured party supporters that his government would *never* return seized land to former white commercial farmers.[178] "It will never happen," he said in a speech to his party supporters. [179] Later, President Mnangagwa said that 'Zimbabweans' should safeguard the country's independence and never allow foreigners to control their land again.[180] Vice President Chiwenga made the point that war was waged to reclaim the land from a minority. He said 'Zimbabweans' should now utilise their land.[181] White citizens, as the President's and Vice President's comments suggest, are still not *really* Zimbabweans.

- Inevitable and irreversible

These disavowals by Mnangagwa should not come as a surprise. In his inaugural speech he repeated the nationalist narrative on land, calling land seizure both inevitable and irreversible. On both these counts his plea to the international community cannot go unchallenged. On the one score, he said that;

[173] Daily News, 15 December 2017, Government engages evicted farmers
[174] Independent (UK), 22 December 2017, First white farmer gets land back under Zimbabwe's new leader
[175] The Times, 3 February 2018, Zimbabwe invites exiled white farmer s to return
[176] SA Today News: 5 February 2018, https://www.youtube.com/watch?v=dFiywf997js
[177] ABC News (Australia), 3 February 2018, Zimbabwe's exiled farmers urged to return home as agricultural industry struggles
[178] Africa, 10 February, 2018, Mnangagwa's government 'offering incentives to evicted Zimbabwe white farmers in Zambia to return home' – report
[179] eNCA, 10 February, Zimbabwe will not return land to white farmers: Mnangagwa
[180] The Herald, 18 April 2018, Our land is for Zimbabweans: President
[181] The Herald, 13 April 2018, Vice President Chiwenga rallies farmers

> Given our historical realities, we wish the rest of the world to understand and appreciate that policies and programmes related to land reform were *inevitable*.

Here the President tries to close the international community's eyes to his party's unapologetic history of violence and dispossession that were never inevitable. In a single sentence he perpetuates Mugabe's reinvented narrative that there was every justification and no possible alternative to declaring 'war' against unarmed civilians – two decades after Independence – in order to forcibly seize highly productive white farms. Rather than being inevitable, what Mnangagwa's calls 'land reform' was a malevolent and calculated political decision aimed at crushing the opposition MDC; a decision taken against all international pleas and advice. The Rukuni Land Tenure Commission, and subsequent proposals prepared with the support of UNDP in 1999, clearly articulated peaceful, just and transparent land reform proposals. The Rukuni Commission, for example, stated:

> The Commission believes strongly that long-term racial integration in rural areas is more feasible if farm sizes are smaller and if there is greater entry of farmers into the commercial sector. This also means that racial balance should be attained without racial discrimination since it is also possible to maintain or increase the number of white commercial farmers operating smaller farms. (Zimbabwe, 1994:103)

The Commission also proposed that redistribution should rely on land transfers through a market mechanism rather than through the state. These were clear and present alternatives to Mnangagwa's revolutionary party's needless and tragic choice, not just for white farmers and opposition activists, but for every Zimbabwean and for Zimbabwe itself. The evidence is everywhere to see.

The investment guidelines also repeat Mnangagwa's statement that the land reform programme is irreversible:

> Zimbabwe 's historical realities, and the fact that dispossession of ancestral land was the fundamental reason for waging the liberation struggle means that land reform cannot be reversed.

In his speech he went further to justify the wholesale dispossession of Zimbabwean citizens' land based on race, claiming that, "it would be a betrayal of the brave men and women who sacrificed their lives in our liberation struggle if we were to reverse the gains we have made in reclaiming our land." But this is the pure rhetoric of his master's reinvented narrative to justify the unjustifiable. According on Mugabe at Independence, the war of liberation was never fought do deprive white citizens of owning land:

> If ever we look to the past, let us do so for the lesson the past has taught us, namely, that oppression and racism are inequities that must never again find scope in our political and social system. It could never be a correct justification that because

> whites oppressed us yesterday when they had power, the blacks must oppress them today because they have power.

If Mnangagwa's rise to power is a 'new dispensation', then he must look to the past and reverse the oppression and racism of the past two decades. If we are to believe his mantra that 'Zimbabwe is open for business', then he must put aside such redundant phrases as the 'reversal of the gains of the liberation struggle'. For, when he says that land reform cannot be reversed, is he suggesting that white citizens should be denied the same rights to agricultural land as their black compatriots? Is he suggesting that black Zimbabweans who lost their land and mines due to their political affiliation will not be entitled to have their property returned? If he cannot do justice to his own citizen, regardless of their race or political affiliation, what confidence can foreign investors have in his assurances?

- Compensation

One of the government's policy thrusts in its investment guidelines is to compensate farmers whose land was seized. It might seem surprising to the untutored eye that a government would boast about meeting its constitutional obligation to pay compensation. In fact, it is a novel idea for the Zimbabwe Government. While the investment document makes the incredulous claim that the government seized land 'in terms of the laws of the land', for 18 years it simply ignored its duty, under its own constitution and its 'laws of the land' to pay farmers compensation. After all, of what concern were white farmers to a revolutionary government? They were not only an inconsequential political constituency, but a disloyal minority who resisted the government's land reform programme. Worse still, white farmers believed, as citizens, that they could appeal to the country's laws and settle disputes through a regional tribunal to which Zimbabwe was a treaty signatory. In Mugabe's view, as long as these unrepentant settlers had the temerity to challenge the Government of Zimbabwe in any court of law, and refused to negotiate, the government would seize their property – including their equipment and crops – and redistribute their farms. Any suggestion of compensation, regardless of the law, would be dismissed with the contempt it deserved. Since 2000, the government behaved as though its compensation debt simply did not exist.

The government was eventually nudged into a change of thinking when it became desperate for a fresh inflow of funds. The main stumbling block was the $1.8 billion it owed in arrears to the World Bank group. When Zimbabwe was preparing its debt repayment strategy, the European Union – with some of pressure from the Netherlands and Germany – gently reminded Zimbabwe of its obligation to pay farmers compensation. When the government presented its debt clearance plan to the IMF and World Bank in Lima, in October 2015, it not only agreed to pay compensation, but also that further seizures of white land would cease.

To the exasperation of EU Ambassador, Phillipe van Damme, land invasion not only continued, but were encouraged by President Mugabe.[182]

Zimbabwe's promise in its investment guidelines to pay compensation to farmers is not therefore a new initiative, but a restatement of its earlier commitment – two and half years ago – which it failed to honour both in terms of land seizures and repayments. Nor does the government's acceptance to pay compensation convey a sense that the government feels a moral or duty-bound constitutional obligation; but a grudging compliance – a sacrifice, even – that is needed to access investors' money. One report claimed that the government had promised to compensate displaced white commercial farmers by September this year (2018); suggesting an amount payable of $9 billion.[183] Given that this figure probably significantly understates fair, full and effective compensation, and given the near certainty that this payment cannot be met anytime in the near future, the government's unrealistic assurances only serves to further undermine its credibility and, hence, investor confidence.

- Laws of the land

To ensure 'equitable' compensation, the investment guidelines propose the establishment of a special *ad hoc* tribunal based on international good practices in order to determine the value of compensation payable and the modalities for payment. But, as always, there stands the ambiguity of language. Good international practice does not mean international law. In fact, the investment guidelines categorically state that farmers will be compensated 'in terms of the laws of the land'. For the avoidance of doubt, Zimbabwe's minister of foreign affairs and international trade, SB Moyo, reiterated that former farm owners will be compensated in accordance with 'our laws'.[184]

Applying Zimbabwe law is deeply problematic on three counts. First, Zimbabwe's compensation laws fail to meet the standards of 'international good practices', especially in the way they estimate the value of compensation to be paid. This has already been made clear to Zimbabwe by the International Centre for the Settlement of Investment Disputes. Second, as a result of Zimbabwe's faulty methods of valuation, its laws fail to meet the criteria of paying fair, full and effective compensation promptly. But the most serious flaw is, third, that Zimbabwe's compensation laws, including its constitutional provisions on compensation, are void. They have no legal effect.

[182] Financial Gazette, 14 July 2016, EU worried by fresh wave of land seizures
[183] Financial Gazette, 2 May 2018, Zimbabwe to compensate white farmers by September
[184] The Guardian, 24 April 2018, Zimbabwe is confronting its past head-on. We are ready to embrace the world: SB Moyo

To show why, consider the argument based on the following premises:

The first premise is that Zimbabwe is a signatory to the SADC Treaty and to the Protocol establishing the SADC Tribunal. It is axiomatic therefore that Zimbabwe is bound by the Vienna Convention on the Law of Treaties and the rulings of the SADC Tribunal, which arbitrates disputes according to international law.

The second premise it that the SADC Tribunal ruled that the Zimbabwe government and Constitutional Amendment No. 17 were in violation of Article 4(c) and 6(2) of the SADC Treaty. These provisions of the SADC Treaty require member states to respect the rule of law and not to discriminate against any person on the grounds of race. Nor, the Tribunal ruled, can Zimbabwe rely on Amendment 17 to avoid paying compensation to dispossessed farmer for their expropriated land, declaring:

> We hold, therefore, that fair compensation is due and payable to the Applicants by the Respondent in respect of their expropriated lands.[185]

The third premise is that, under the Vienna Convention on the Law of Treaties, Zimbabwe cannot escape its international legal obligation to domestic the SADC Tribunal ruling. This principle is contained in Article 27 of the Vienna Convention on the Law of Treaties, which states that:

> "A party may not invoke provisions of its own internal law as justification for failure to carry out an international agreement."

It therefore follows that being subject to an international treaty to which is a signatory, Zimbabwe is obliged to register the ruling of the SADC tribunal and domesticate that ruling into its national laws. The fact the Zimbabwe has failed to meet this obligation under international law, renders Section 72 of the Constitution void. Put differently, Zimbabwe has an international legal obligation to amend Section 72 of the Constitution (incorporated from Constitutional Amendment 17) to pay dispossessed farmers full, fair and effective compensation based on the genuine value of their land *and* improvements. It must also ensure that they are discriminated against of the basis of their race and that they have access to the courts.

The Government of Zimbabwe cannot 'cherry pick' and implement only those international rulings it agrees with. It cannot decide, as President Mugabe did, to ignore Zimbabwe's own laws and judicial rulings that did not happen to suit his purposes. President Mnangagwa cannot think that he can keep Section 72 of the Constitution, and still maintain – as he has

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[185] *Campbell and Others vs Republic of Zimbabwe* SADC (T) Case No. 2/2007. Campbell had been joined by 77 other commercial farmers in the application to the SADC Tribunal

done in the investment guidelines – that he is committed to abiding scrupulously by international law. Investors' will be wondering whether Zimbabwe and its new President will continue to administer 'laws of the land' that run counter to the principles of the rule of law and international law. Is the 'new dispensation' simply old wine in new bottles, they will ask?

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- Centenary farm

Centenary farm was gazetted for acquisition by the state on 31 January 2003 by virtue of Constitutional Amendment 17 of 2005. Only in June 2014 was Ray Ndhlukula, a senior civil servant, issued an offer letter for the farm. To forestall its seizure, the farmer workers invited the minister of land, Douglas Mombeshora, and the deputy minister of agriculture, Paddy Zhanda, to visit the farm. Noting its high level of productivity, the ministers gave its owner, David Conelly, the green light to continue his operations uninterrupted. Conelly was subsequently granted a High Court order to protect himself and his workers from eviction. But Ndhlukula simply declared, in the presence of the police, that he had no intention of respecting the court order, and evicted Conelly and his workers. In March 2015, the High Court sentenced Ndhlukula to 90 days in prison for defying a court order, but which would be suspended if he complied with the court order within 15 days. In his ruling, the judge noted that contempt of court was a serious infraction that 'struck at the heart of the rule of law'.[186]

Had the rule of law been upheld, Ndhlukula would have served his sentence or complied with the court order to vacate the property; thereby putting himself within the law. But Ndhlukula, knowing that he was above the law, refused to comply. He was not arrested, and while in contempt of court – and hence outside of the law – approached the courts with 'dirty hands'. From his elevated position as Deputy Chief Secretary in the President's Office, he was able to manipulate the justice system to be heard in a sympathetic court that exonerated him. Conelly's appeal to have the original High Court order confirmed was dismissed in May 2018 by the Supreme Court, which has suggested that Ndhlukula was only 'allegedly' in contempt of court.

Although EU Ambassador, Phillipe van Damme, was speaking generally, the seizure of Centenary Farm by Ray Ndhlukula, who owns two other farms, was a case in point when the Ambassador said:

> It's a total anomaly that you invade productive farms when you have others that are idle, oversized and others hold multiple farms. We're concerned by

[186] The Zimbabwean, 22 March 2015, Zimbabwe farmer Dave Conolly picked up by the police for 'contempt of court'

> unconstitutionalism, and lack of respect for due process, or sometimes even worse, contempt of court.[187]

In fact, the core issue in Conelly's case it that Zimbabwean courts are making rulings based on 'laws of the land' that are void. The SADC Tribunal specifically struck down Zimbabwe's land laws because the criteria for land expropriation "are not reasonable and objective but arbitrary and are based primarily on considerations of race."[188] The Mnangagwa government can, of course, continue to ignore international law, treaties and conventions that outlaw such offensive and discriminatory laws. But it cannot then claim, as it does in the investment guidelines, that the Government commits itself to protecting foreign investments in accordance with principles of international law. Mnangagwa can also, of course, proclaim that 'Zimbabwe is open for business', but why would foreign investors have confidence and trust in a government that disregards its own citizens' property rights, and treats the rule of law with such contempt. As Ambassador van Damme also said:

> What investors expect, both domestic as well as foreign investors, is a clear, predictable legal framework, security of tenure and respect of the rule of law. This is true for all sectors of the economy, including the agricultural sector, regardless of the colour or nationality of those who occupy the land.[189]

President Mnangagwa and this government have still not yet fully grasped or met these expectations of investors.

5. CONCLUDING REMARKS

At the outset, two main questions were posed. The first was whether the promises made by the Mnangagwa government are likely to provide investors with the confidence that Zimbabwe is on a path towards genuine change or whether it is business as usual. The second question was whether the government is sufficiently committed to far-reaching institutional, policy and legislative reforms to create a strong and coherent governance framework to quicken the pace of sustainable economic growth.

One of the key lessons that Francis Fukuyama describes in his book, *Political Order and Political Decay*, is that the drive for change rarely comes from those elites with entrenched interests in the existing system. Reforms historically come from coalitions of ethically-grounded social groups demanding clean and efficient government. Hence, expectations of any significant change from the Mnangagwa government are probably misplaced. Mnangagwa, served as Mugabe's fixer and Cabinet colleague for nearly 40 years, while his two architects of economic policy, Chinamasa and Mangudya, were both loyal acolytes of Robert Mugabe. Chinamasa reinvented his unsuccessful 2016 Budget investment proposals

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[187] Zimbabwe Daily, 10 November 2017, EU worried by fresh wave of land seizures
[188] Campbell and Others vs Republic of Zimbabwe SADC (T) Case No. 2/2007.
[189] NewsDay, 5 March 2015, EU warns Mugabe on renewed farm invasion.

as Zimbabwe's guidelines for investors at Davos. Mangudya has doggedly persisted with unworkable foreign exchange policies and the funding of unproductive sectors in the forlorn hope of earning tax revenues. The result on the fiscal side for Chinamasa, as finance minister, is an unsustainable and widening budget deficit. The result on the monetary side for Mangudya, as Reserve Bank governor, is an unsustainable and widening current account (trade-foreign exchange) deficit. It is not more money from reticent investors that Mnangagwa needs most, but bold and imaginative structural reforms driven by those with a sound knowledge of basic economic principles.

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The Economist concluded that 'much more will have to change before Zimbabwe can really be called open for business'.[190] This report concurs. It has demonstrated not just that it is business as usual for the *ancien régime*, but that the Mnangagwa administration's seems so locked into a command and control mentality that it is incapable of conceptualising an alternative reality based on a precepts of a market economy. His party's reinvented nationalist narrative of taking back land from 'settlers' has so blinded his government to its own woeful discriminatory practices based on race and colour, that the Zimbabwe Constitution fails to uphold some basic tenets of the rule of law.

If his government is ever to win the trust and confidence of international investors, Mnangagwa must first embark on a convincing programme of institutional, policy and legal reforms that provide a coherent, consistent and inclusive political and economic framework based on market principle, secure property rights, and the rule of law. These reforms should include:

- The promotion of a national narrative and a political culture based on democracy, inclusiveness, human rights, and the rule of law
- The clear separation of the ruling party from the institutions of state, including state-owned enterprises, parastatal organisations and regulatory authorities
- The restoration of independent, impartial and efficient state institutions that serve all citizen equally and fairly, irrespective of their race, colour or political affiliation
- The restoration of secure and transferable rights to all agricultural land with a view to promoting well-functioning land and capital markets and the efficient allocation of factors of production to drive sustainable economic growth
- The recognition, registration, and enactment of the SADC Tribunal's rulings into Zimbabwe's Constitution and national laws, including the payment of full, fair and effective compensation to dispossessed farmer; the repeal of any clauses that limit citizens access to the courts of law; as well as the repeal of any clauses that discriminate against citizen's on the basis of colour, race of political affiliation.

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Many more proposals for change could be added; but these would make a good start.

[190] The Economist, 19 May 2018, Zimbabwe: In a while, Crocodile, Fixing the Economy will not be easy (p.28)

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